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**From Anthropocentrism to
Ecocentrism**

Rights of Nature, Indigenous Perspectives and the Evolution of
International Environmental Law

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Abstract

This thesis analyses the emergence of ecocentric approaches to the relationship between humans and nature and their growing influence on legal thought and environmental governance. Firstly, it traces the intellectual development of ecocentrism, from Aldo Leopold's 'land ethics' and Arne Naess's 'deep ecology' to Christopher Stone's proposal to recognise legal rights for nature. It then examines related legal concepts, including Earth Stewardship, Earth Trusteeship and Multispecies Justice, highlighting the shift from an anthropocentric conception of nature towards approaches that recognise its intrinsic value and the interests of non-human entities. The thesis then examines ecofeminist perspectives and indigenous contributions to ecocentric thought, focusing on alternative conceptions of the relationship between humans and the natural world. These perspectives are analysed through the recognition of the rights of nature in the Constitution of Ecuador and through several emblematic cases concerning the Whanganui River and Te Urewera in Aotearoa/New Zealand. The third chapter traces the evolution of international environmental law, from the earliest international instruments to key milestones, including the Stockholm Conference, the Rio Conference and the Paris Agreement, examining the extent to which international environmental governance has incorporated more ecocentric approaches. Finally, Finally, the thesis analyses the most recent developments through two case studies: the recognition of the Marañón River as a rights-holder in Peru and the He Whakaputanga Moana declaration concerning whales. These cases illustrate emerging forms of legal recognition that challenge traditional anthropocentric paradigms and rethink the relationship between human communities, ecosystems and non-human beings.

Key words: Ecocentrism; Anthropocentrism; Rights of Nature; Indigenous perspectives; Ecofeminism; International Environmental Law

Riassunto

La tesi analizza l'emergere di approcci ecocentrici e il modo in cui questi hanno messo in discussione la concezione antropocentrica del rapporto tra esseri umani e natura, con particolare attenzione alla misura in cui questo cambiamento si riflette nel diritto internazionale dell'ambiente. La ricerca non sostiene che il diritto internazionale ambientale abbia completato una transizione dall'antropocentrismo all'ecocentrismo; al contrario, mostra come le prospettive ecocentriche abbiano aperto nuove possibilità concettuali e giuridiche all'interno di un sistema che rimane in larga parte fondato sulla centralità degli interessi umani, dello Stato e dello sviluppo sostenibile.

Il punto di partenza è l'antropocentrismo, inteso come una concezione nella quale gli esseri umani occupano una posizione centrale e la natura viene considerata principalmente in funzione dei loro bisogni, interessi e attività. Tale impostazione ha profondamente influenzato il pensiero giuridico moderno, contribuendo alla distinzione tra esseri umani come soggetti di diritto e natura come oggetto di proprietà, uso e protezione. La tesi ricostruisce alcune delle radici filosofiche di questa impostazione e il dualismo tra essere umano e natura sviluppato nella tradizione occidentale. Il diritto moderno ha in larga misura riprodotto tale struttura, riconoscendo la personalità giuridica a un numero limitato di soggetti e attribuendo alla natura una rilevanza soprattutto in relazione agli interessi umani. I principali passaggi di questo sviluppo sono rappresentati dalla Land Ethic di Aldo Leopold, che amplia la comunità morale includendovi il suolo, le acque, le piante e gli animali, dalla Deep Ecology di Arne Næss, fondata sul riconoscimento del valore intrinseco delle forme di vita, e dalla proposta di Christopher Stone di riconoscere diritti e standing agli elementi naturali. A partire da questi contributi, la tesi presenta alcuni dei principali concetti associati agli approcci ecocentrici. Il concetto di Rights of Nature propone di riconoscere ecosistemi ed elementi naturali come soggetti titolari di diritti, superando la loro tradizionale qualificazione come oggetti del diritto. Inoltre, l'Earth Jurisprudence collega tale riconoscimento a una concezione della Terra come comunità interdipendente, mentre l'Earth Stewardship e l'Earth Trusteeship propongono forme differenti di responsabilità nei confronti della Terra. In particolare, la prima pone l'accento sulla gestione responsabile e sulla resilienza dei sistemi socio-ecologici, mentre la seconda mira a tradurre il dovere di proteggere l'integrità ecologica in responsabilità giuridiche e istituzionali. Infine, la Multispecies Justice amplia la nozione di giustizia oltre la dimensione esclusivamente umana, prendendo in considerazione gli interessi e le possibilità di prosperare di esseri umani e non umani.

Un secondo elemento centrale dell'analisi riguarda il contributo delle prospettive ecofemministe e indigene. L'ecofemminismo mette in luce le connessioni tra la dominazione della natura e altre forme di subordinazione, criticando i dualismi gerarchici che contrappongono uomo e donna, umano e natura, ragione ed emozione. Le prospettive indigene, pur nella diversità delle tradizioni considerate, evidenziano invece concezioni relazionali fondate su interdipendenza, reciprocità, responsabilità e appartenenza. Questi approcci mostrano che la critica all'antropocentrismo può essere collegata anche a forme di conoscenza e relazioni con il mondo naturale sviluppate da diverse comunità indigene. La tesi analizza come tali prospettive siano state tradotte in forme di riconoscimento giuridico in diversi ordinamenti. In particolare, l'esperienza dell'Ecuador è significativa per il riconoscimento costituzionale dei diritti della Natura, o Pachamama, compresi il diritto di esistere e di mantenere e rigenerare i propri cicli vitali, mentre In Aotearoa/Nuova Zelanda, il riconoscimento giuridico del Whanganui River e di Te Urewera mostra invece come elementi naturali possano essere inseriti nel sistema giuridico attraverso forme di personalità giuridica e rappresentanza. Questi esempi dimostrano anche che la traduzione di concezioni relazionali della natura in categorie giuridiche richiede un processo di adattamento e può generare tensioni tra diversi sistemi di conoscenza e di autorità.

La terza parte della tesi esamina lo sviluppo del diritto internazionale dell'ambiente, dai primi strumenti internazionali alle Conferenze di Stoccolma del 1972 e di Rio del 1992 e alla successiva evoluzione degli accordi relativi a clima, biodiversità, inquinamento e altre questioni ambientali. Questo sviluppo ha ampliato la protezione ambientale, ma non ha comportato un superamento generale dell'antropocentrismo, in quanto molte norme continuano a collocare la tutela dell'ambiente all'interno di una struttura fondata sul benessere umano, sullo sviluppo sostenibile, sugli interessi degli Stati e sugli obblighi tra Stati. La tesi distingue pertanto tra la protezione della natura e il riconoscimento della natura come soggetto di diritto ed evidenzia come una maggiore protezione giuridica di ecosistemi e specie non implichi necessariamente il riconoscimento di diritti o interessi autonomi della natura. Accanto al diritto internazionale vincolante, vengono esaminati alcuni sviluppi che mostrano l'apertura del sistema internazionale a idee di carattere più ecocentrico. Il programma delle Nazioni Unite Harmony with Nature promuove una concezione della Terra come comunità interconnessa, mentre la Universal Declaration of the Rights of Mother Earth, adottata nel 2010 in un contesto non statale e non vincolante, costituisce un'importante formulazione dei diritti della natura. La tesi analizza inoltre il dibattito sull'introduzione del crimine di ecocidio nello Statuto di Roma,

considerandone il potenziale significato per lo sviluppo di una protezione ambientale più orientata all'integrità degli ecosistemi. Questi sviluppi mostrano l'emergere di elementi ecocentrici nel dibattito internazionale, ma anche la distanza tra tali proposte e il diritto internazionale positivo attualmente vigente.

L'ultima parte della ricerca utilizza due casi di studio per verificare come le idee analizzate vengano tradotte nella pratica giuridica e politica. Il primo riguarda la He Whakaputanga Moana Declaration, firmata a Rarotonga il 28 marzo 2024 da leader indigeni Māori e del Pacifico, che mira a riconoscere diritti e personalità giuridica alle balene. La dichiarazione si fonda anche su principi Māori che esprimono responsabilità, interconnessione, rispetto e relazioni ancestrali tra esseri umani, oceano e altre forme di vita. Il caso evidenzia tuttavia la distinzione tra riconoscimento concettuale e forza giuridica, in quanto la dichiarazione non costituisce, di per sé, uno strumento internazionale vincolante e la sua attuazione dipende da ulteriori iniziative. Il secondo caso riguarda il fiume Marañón in Perù e la sentenza del Tribunale di Nauta del marzo 2024, che ha riconosciuto il fiume e i suoi affluenti come titolari di diritti. Il caso nasce dalla mobilitazione dell'organizzazione di donne Kukama Huaynakana Kamatahuara Kana contro l'inquinamento e gli effetti delle attività estrattive nel territorio. La ricerca mostra come la rivendicazione dei diritti del fiume sia strettamente collegata alla cosmologia Kukama, nella quale il Marañón è considerato un essere vivente con cui gli esseri umani mantengono relazioni di reciprocità, rispetto e responsabilità. La sentenza rappresenta quindi un esempio concreto di traduzione di una concezione relazionale della natura in categorie giuridiche. Allo stesso tempo, il caso evidenzia alcune tensioni, poiché il riconoscimento dei diritti del fiume avviene attraverso istituzioni statali e all'interno del diritto peruviano e internazionale, trasformando necessariamente le concezioni indigene che hanno contribuito alla rivendicazione.

Nel complesso, la ricerca evidenzia una distinzione tra un livello concettuale e un livello strutturale. Sul piano concettuale, gli approcci ecocentrici hanno messo in discussione in modo significativo l'idea che il valore giuridico della natura dipenda principalmente dalla sua utilità per gli esseri umani, e hanno contribuito a sviluppare nuove concezioni di valore intrinseco, interdipendenza, responsabilità, diritti, personalità giuridica e giustizia, oltre a creare nuove possibilità per il riconoscimento giuridico della natura. Sul piano strutturale, tuttavia, il cambiamento rimane più limitato e frammentario. Il diritto internazionale dell'ambiente ha incorporato alcuni elementi e idee ecocentriche, ma continua in larga misura a fondarsi sulla sovranità degli Stati, sulla centralità degli interessi umani, sullo sviluppo sostenibile e sulla

protezione dell'ambiente piuttosto che sul riconoscimento della natura come soggetto autonomo di diritto. La tesi conclude quindi che gli approcci ecocentrici rappresentano una sfida significativa al paradigma antropocentrico, ma che le evidenze analizzate non consentono di parlare di una completa transizione verso l'ecocentrismo nel diritto internazionale dell'ambiente. Emerge piuttosto un processo graduale e frammentato, nel quale elementi ecocentrici convivono con strutture giuridiche ancora prevalentemente antropocentriche. I casi esaminati mostrano inoltre che il riconoscimento giuridico della natura, pur creando nuove possibilità di tutela e rappresentanza, non garantisce automaticamente una protezione effettiva. Future ricerche potrebbero approfondire l'effettiva attuazione di questi strumenti, il rapporto tra diritti della natura e partecipazione indigena e le possibilità di integrare più stabilmente nel diritto internazionale concezioni fondate su interdipendenza, valore intrinseco e responsabilità verso le generazioni future.

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Introduction

The relationship between human beings and the natural world has traditionally been understood through a predominantly anthropocentric framework. Within this approach, human beings occupy the central position, while nature and non-human entities are generally considered in relation to human needs, interests, and activities.¹ Modern legal systems have largely reflected this understanding. Nature has therefore been regulated primarily as an object of human use, ownership, exploitation, and protection, rather than as a subject with interests or rights of its own. Although environmental law has progressively developed to address the degradation of ecosystems and the consequences of human activity, the underlying structure of the legal relationship between humans and nature remains largely human-centred.²

This understanding has deep philosophical roots. Western thought has often constructed a distinction between humanity and nature, associating human beings with characteristics such as reason and rationality and defining them in contrast to the natural world. This human-nature dualism has contributed to hierarchical conceptions in which non-human life is assigned a secondary position.³ Such ideas have also influenced legal thought and the way in which law determines who or what can possess rights, interests, and legal standing. During the twentieth century, however, several philosophical and legal approaches began to challenge the assumption that nature should be valued primarily according to its usefulness to human beings. Aldo Leopold's *Land Ethic*⁴ expanded the moral community to include soils, waters, plants, and animals,⁵ while Arne Næss's *Deep Ecology*⁶ questioned the distinction between human interests and the intrinsic value of non-human life.⁷ Christopher Stone subsequently brought this discussion more directly into the legal sphere by questioning whether natural entities could be recognised as holders of legal rights.⁸ These approaches contributed to the development of a broader ecocentric perspective, in which human beings are understood as part of ecological

¹ Mylius, B. (2018) Three Types of Anthropocentrism, *Environmental Philosophy*, 15(2), p. 161.

² Gear, A. (2015) Deconstructing Anthropos: A Critical Legal Reflection on "Anthropocentric" Law and Anthropocene "Humanity", *Law and Critique*, 26(3), p.2.

³ Plumwood, V. (1991). Nature, Self, and Gender: Feminism, Environmental Philosophy, and the Critique of Rationalism, *Hypathia* 6 (1):3 – 27, p. 292.

⁴ Leopold, A. (1949). *A Sand County Almanac*. Oxford University Press.

⁵ Kuper, S. (2015). Thoreau, Leopold, & Carson: Challenging Capitalist Conceptions of the Natural Environment. *Consilience*, (13), p. 7.

⁶ Naess, A. (1973). The Shallow and the Deep, Long-Range Ecology Movement: A Summary. *Inquiry*, 16(1–4), pp. 95-100.

⁷ Belouahem, A. (2024). Deep Ecology: Towards a New Philosophy of the Environment. *Akofena*. 04.

⁸ Stone, C. D. (1972). *Should trees have standing? Toward Legal Rights for Natural Objects*. Southern California Law Review, pp. 1-4.

systems rather than as separate from or superior to them. Ecocentrism does not constitute a single legal or philosophical theory. Rather, it encompasses different approaches that question the exclusive priority given to human interests and emphasise the intrinsic value and interconnectedness of non-human life and ecological systems. Among the legal and normative approaches associated with this broader development are the Rights of Nature, Earth Jurisprudence, Earth Stewardship, Earth Trusteeship, and Multispecies Justice. Although these approaches differ in their assumptions and objectives, they share an interest in questioning whether existing legal structures are adequate to address the relationship between human societies and the wider ecological community.

The development of these perspectives has also been influenced by ecofeminist and Indigenous approaches. Ecofeminist scholarship has examined the connections between the domination of nature and other forms of social domination, while questioning hierarchical and dualistic structures that separate humans from the natural world.⁹ Indigenous perspectives, meanwhile, have provided important alternative understandings of the relationship between humans and nature,¹⁰ often emphasising interdependence, kinship, reciprocity, and responsibility. These perspectives are particularly relevant to the legal developments examined in this thesis because they demonstrate that challenges to anthropocentric law do not arise only from contemporary environmental philosophy, but can also be connected to longstanding relationships and forms of knowledge concerning the natural world. These developments can be observed in a number of domestic legal systems. Ecuador's 2008 Constitution is a significant example, as it recognises Nature, or Pachamama, as possessing rights, including the right to exist and to maintain and regenerate its vital cycles.¹¹ In Aotearoa/New Zealand, the legal recognition of the Whanganui River and Te Urewera has provided further examples of legal mechanisms through which elements of the natural world have been recognised through concepts such as legal personality.¹² These developments raise important questions concerning the relationship between legal recognition, Indigenous understandings of nature, and existing legal categories.

⁹ Carlarne, C. P. (2020). Environmental law & feminism. Ohio State Legal Studies Research Paper No. 553; The Oxford Handbook of Feminism and Law in the United States, pp. 11-12.

¹⁰ Gauthier, P. E., Chungyalpa, D., Goldman, R. I., Davidson, R. J., & Wilson-Mendenhall, C. D. (2025). Mother Earth kinship: Centering Indigenous worldviews to address the Anthropocene and rethink the ethics of human-to-nature connectedness. *Current Opinion in Psychology*, 64, p. 1.

¹¹ Jones, E. (2021). Posthuman international law and the rights of nature. *Journal of Human Rights and the Environment*, 12(0), p. 12.

¹² Boyd, D. R. (2017). *The Rights of Nature: A Legal Revolution that Could Save the Planet*, ECW Press, p. 131.

At the international level, the development has been more limited and less direct. International environmental law has progressively expanded from early instruments addressing specific forms of resource use and environmental harm towards a broader system of environmental protection.¹³ The 1972 Stockholm Conference¹⁴ and the 1992 Rio Conference¹⁵ were particularly important stages in this development, followed by the growth of international agreements addressing climate change, biodiversity, pollution, and other environmental concerns. Nevertheless, many of these developments continue to operate within a framework in which environmental protection is closely connected to human welfare, development, State interests, and obligations between States. This creates an important distinction between protecting nature and recognising nature as a subject of law. International law provides increasingly extensive protection to species, ecosystems, and the environment, but such protection does not necessarily mean that nature itself is recognised as possessing legal rights or interests. This distinction is particularly relevant to the question of whether the development of environmental law can be understood as reflecting a movement towards ecocentrism. Alongside binding international instruments, a number of more recent international initiatives have explicitly articulated alternative understandings of the human-nature relationship. The United Nations' Harmony with Nature programme¹⁶ and the Universal Declaration of the Rights of Mother Earth,¹⁷ for example, promote an Earth-centred understanding of environmental governance. At the same time, proposals concerning the recognition of ecocide as an international crime¹⁸ have raised the possibility of incorporating stronger forms of environmental protection into international criminal law. These developments illustrate the emergence of ecocentric ideas within international legal and institutional debates, while also raising questions about their current legal status and practical significance.

Against this background, this thesis asks how the emergence of ecocentric approaches has challenged anthropocentric understandings of nature, and to what extent this shift is reflected in international environmental law. The purpose of this thesis is not to argue that international

¹³ Evans, M. D. (Ed.). (2018). *International Law* (5th ed.). Oxford University Press, pp. 675–678.

¹⁴ United Nations, "United Nations Conference on the Human Environment, Stockholm 1972".

¹⁵ United Nations, Rio Declaration on Environment and Development, United Nations Conference on Environment and Development (1992).

¹⁶ United Nations General Assembly, Harmony with Nature, A/RES/64/196 (2010).

¹⁷ "Universal Declaration of the Rights of Mother Earth", Earth Jurisprudence, available at: <https://ecojurisprudence.org/initiatives/universal-declaration-of-the-rights-of-mother-earth/> (accessed 16 July 2026).

¹⁸ Stop Ecocide Foundation. (2021, June). Independent Expert Panel for the Legal Definition of Ecocide: Commentary and Core Text.

environmental law has undergone a complete transition from anthropocentrism to ecocentrism. Rather, it examines the extent to which ecocentric ideas have challenged existing understandings of the human-nature relationship and created openings within legal frameworks that have traditionally treated nature primarily as an object of human use and protection. Particular attention is therefore given to the coexistence of anthropocentric and ecocentric elements within existing legal systems and to the limits of the developments identified.

The analysis combines a conceptual examination of ecocentric thought with an assessment of its expression in legal frameworks and selected case studies. The thesis draws on academic literature, international and domestic legal instruments, judicial decisions, institutional documents, and other relevant legal materials. The analysis first establishes the philosophical and conceptual foundations necessary to distinguish anthropocentric and ecocentric approaches. It then considers the contribution of ecofeminist and Indigenous perspectives before examining the extent to which these developments are reflected in international environmental law. Finally, two recent cases are analysed in order to consider how the recognition of nature through legal rights or legal personality operates in practice.

The first chapter examines the relationship between anthropocentrism and modern law and introduces the emergence of ecocentric thought. It considers the contributions of Aldo Leopold, Arne Næss, and Christopher Stone before examining the main legal concepts associated with ecocentric approaches, including Rights of Nature, Earth Stewardship, Earth Trusteeship, and Multispecies Justice. The second chapter focuses on ecofeminist and Indigenous approaches to the human-nature relationship. It first examines the origins and main arguments of ecofeminism, including some of the criticisms directed towards it. It then considers Indigenous cosmologies and the importance of cultural diversity and Indigenous perspectives in understanding relationships with nature. The chapter subsequently examines the recognition of Indigenous understandings within legal frameworks, with particular attention to Ecuador and Aotearoa/New Zealand, including the legal recognition of the Whanganui River and Te Urewera. The third chapter turns to international environmental law. It traces the development of international environmental regulation from early environmental treaties through the Stockholm and Rio Conferences and subsequent developments in international environmental agreements. The chapter then examines more recent forms of international engagement with ecocentric ideas, focusing on the United Nations Harmony with Nature programme, the Universal Declaration of the Rights of Mother Earth, and the proposal to recognise ecocide as

an international crime under the Rome Statute. The aim is to assess the extent to which these developments challenge the predominantly anthropocentric structure of international environmental law. The fourth chapter examines two recent cases of legal recognition of nature, specifically the recognition of whales as legal persons through the He Whakaputanga Moana declaration in the Pacific and the recognition of the Marañón River as a holder of rights in Peru. The two cases arise from different legal and cultural contexts and concern different elements of the natural world, but their comparison allows the thesis to consider how ideas concerning the legal status of nature are translated into legal and political practice, as well as the role of Indigenous participation and knowledge in these processes. Taken together, these chapters examine the development of ecocentric approaches across philosophical, normative, and legal contexts. The thesis ultimately considers whether these developments represent a broader transformation in the legal understanding of nature or, instead, a more limited and fragmented challenge to an anthropocentric legal framework that remains deeply established.

Chapter 1 – From an Anthropocentric Paradigm to an Ecocentric One

1.1 Premise

This chapter aims to explain the concept of anthropocentrism and its role as one of the fundamental pillars of modern law, while also presenting the concept of the so-called Anthropocene epoch.¹⁹ Particular attention will be devoted to the philosophical foundations of anthropocentrism and their influence on legal thought. The first part of the chapter will therefore analyse how anthropocentric assumptions have shaped modern Western legal systems and their relationship with the natural world. The second part will focus on the development of alternative perspectives, beginning with the Land Ethic formulated by Aldo Leopold²⁰ and continuing with the theory of Deep Ecology developed by Arne Naess.²¹ The discussion will then turn to Christopher Stone and his influential article “Should Trees Have Standing? - Toward Legal Rights for Natural Objects”,²² in which he advanced the groundbreaking argument that natural entities should be granted legal standing and recognised as subjects of rights. Particular attention will be paid to the impact of his work on legal scholarship and jurisprudence, especially in relation to the case of *Sierra Club v. Morton*.²³ Finally, the chapter will introduce some key concepts of ecocentrism, such as Rights of Nature (RoN), Earth Stewardship and Earth Trusteeship, and Multi-species Justice (MSJ), examining how these approaches challenge the dominant legal paradigm and advocate for a transition towards more ecocentric understandings of law and the human–nature relationship.

1.2 Anthropocentrism as the Foundation of Modern Law

Although modern law has evolved significantly over the centuries, it has remained fundamentally anthropocentric. Anthropocentrism has traditionally constituted the foundation of modern legal systems and continues to underpin contemporary law. Nevertheless, in recent decades, certain legal frameworks and scholarly approaches have begun to challenge this strictly anthropocentric perspective, as will be discussed throughout this thesis.

¹⁹ Crutzen, P. J., & Stoermer, E. F. (2000). The “Anthropocene”. IGBP Global Change Newsletter, (41), 17–18.

²⁰ Leopold, A. (1949). *A Sand County Almanac*. Oxford University Press, pp. 202–220.

²¹ Naess, A. (1973). “The shallow and the deep, long-range ecology movement: A summary”. *Inquiry*, 16(1–4), 95–100.

²² Stone, C. D. (1972). *Should Trees Have Standing? Toward Legal Rights for Natural Objects*. *Southern California Law Review*, 45, 450–501.

²³ *Sierra Club v. Morton*, 405 U.S. 727 (1972) (United States Supreme Court).

To understand this development, it is first necessary to define anthropocentrism and examine its meaning within the legal context. It is also important to explore the historical and philosophical factors that led modern legal systems to adopt an anthropocentric approach.

The term *anthropocentrism* derives by the greek words *anthrōpos*, meaning “human being” and the word *kentrikos*, “pertaining to a center”.²⁴ Anthropocentrism has been defined in multiple ways. For instance, as involving “a concern with human interests to the exclusion, or at the expense, of interests of other species”²⁵, or as as a tendency to evaluate the natural world primarily according to its relevance to human needs and interests.²⁶ It has also been characterised as the belief that “the only things valuable in themselves are human beings [and] their desires and needs”²⁷ or that it only recognises harm only when it affects human interests.²⁸ However, Mylius²⁹ goes further by distinguishing three different forms of anthropocentrism within this concept. Specifically, he recognises *perceptual* anthropocentrism, *descriptive* anthropocentrism and *normative* anthropocentrism. In order to draw this distinction, he first introduces the concept of a paradigm, understood as a coherent framework of assumptions, methods, accepted truths and standards of evidence that shape human thought.³⁰ According to Mylius, a paradigm is perceptually anthropocentric “when it is directly or indirectly informed by data received or gathered by the senses of the human body”.³¹ Therefore, all paradigms are perceptually anthropocentric because they can only be based on data received by human beings through their sensory organs. The second type of anthropocentrism he analyses is the descriptive one, which signifies viewing and interpreting reality through a human-centred perspective that places human beings at the centre of the description of the world. This does not imply that human beings possess a higher moral value than other beings; rather, human beings are taken as the primary point of reference for describing and understanding the world. According to Mylius, descriptive anthropocentrism can be considered problematic because, when individuals are only exposed to paradigms centred on human beings, their capacity to engage with and understand the world beyond humanity becomes limited. This, for instance,

²⁴ Harper, D., 2024. Anthropocentric (adj.). Online Etymology Dictionary.

<https://www.etymonline.com/word/anthropocentric> (Accessed: 9 June 2026).

²⁵ Hayward, T., (1997) Anthropocentrism: A Misunderstood Problem, *Environmental Values*, 6(1), p. 52.

²⁶ Mylius, B. (2018) Three Types of Anthropocentrism, p. 161.

²⁷ Donahue, T. J., (2010). Anthropocentrism and the Argument from Gaia Theory. *Ethics and the Environment* 15.2, p. 1.

²⁸ Mylius, B. (2018) Three Types of Anthropocentrism, p. 161.

²⁹ *Ibidem*, p.160.

³⁰ *Ibidem*, p. 162.

³¹ *Ibidem*, p. 166.

can make it difficult for people to understand important phenomena, such as climate change or the lives of non-human natural entities.³² Finally, normative anthropocentrism, which environmental philosophy often identifies as the primary one, can manifest itself passively or actively. Passively normative anthropocentrism arises when a theoretical framework implicitly prioritises human beings not through deliberate argument, but as a structural consequence of having been conceived around human experience as its descriptive baseline. Actively normative anthropocentrism, by contrast, involves frameworks that explicitly assert human superiority compared to nature, and proceed to derive normative or juridical prescriptions from those assertions. For instance, this paradigm is present in views such as “Only humans have value”, “Humans should have legal rights, but other organisms shouldn’t”, “Humans should dominate or subdue nature”, or “Nothing has value unless it has value for humans”. It is this last type of anthropocentrism that is to be challenged in order to develop a non-anthropocentric ethics.³³ In the legal context, the term anthropocentric describes an approach to law that regulates the relationship between human beings, nature, and non-human entities by placing humans in a central position. From this perspective, the legal system is primarily oriented toward the protection of human interests, while other forms of life and ecological systems acquire relevance mainly insofar as they contribute to human well-being and needs.³⁴

Having defined the concept of anthropocentrism, it is now possible to examine its philosophical origins. The philosophical origins of anthropocentrism can be traced to a number of religious and intellectual traditions that have shaped Western conceptions of the relationship between humanity and the natural world. These traditions share a common tendency to construct humans as distinct from and superior to nature. According to Plumwood, Western thought has constructed a deep dualism between humanity and nature, a distinction that has been particularly reinforced within the rationalist philosophical tradition, including thinkers such as Aristotle and Descartes. Within this framework, human beings are defined in opposition to nature. The maintenance of this dichotomy depends on the rejection of the characteristics that connect humans to non-human animals. Qualities shared with the natural world, such as emotionality, reproduction, agency, and sensory experience, are excluded from what is considered genuinely human. Instead, humanity is defined through reason and the capacities derived from it. These capacities are regarded as the defining features of human identity

³² *Ibidem*, pp. 169-170.

³³ *Ibidem*, pp. 183-186.

³⁴ Gear, A. (2015) Deconstructing Anthropos: A Critical Legal Reflection on “Anthropocentric” Law and Anthropocene “Humanity”, p. 2.

because they are believed to distinguish humans from nature and non-human animals. Therefore, humanity is not understood as part of nature but rather as separate from and opposed to it. In this way, the human/nature dualism establishes a hierarchical relationship that privileges reason and its associated capacities over the natural and embodied aspects of existence.³⁵ This separation between humanity and nature is also reflected in Christian theology. White Jr. argues that Christianity played a significant role in shaping an anthropocentric worldview by placing human beings above the rest of creation. In the biblical account of creation, God grants humans dominion over the Earth and its non-human inhabitants, leading nature to be understood primarily in relation to human purposes. White further contends that Christianity encouraged the belief that it is God's will for humanity to use and exploit natural resources for its own ends. Moreover, he contrasts Christianity with pre-Christian pagan traditions, in which natural elements such as trees, rivers, and springs were believed to possess guardian spirits and therefore deserved respect. According to White, the decline of pagan animism removed important cultural and religious constraints on the exploitation of nature, facilitating a more instrumental attitude towards the natural world.³⁶ A similar hierarchical understanding of nature can be found in Aristotelian philosophy. As discussed by Sedley, Aristotle's conception of natural teleology has often been interpreted as anthropocentric insofar as human beings appear to be the ultimate beneficiaries of the natural order. Aristotle argues that plants exist for the sake of animals and animals for the sake of human beings, reflecting his broader view that nothing in nature exists without a purpose or in vain. Consequently, plants and non-human animals are understood as fulfilling functions that contribute to human well-being and flourishing. In this sense, Aristotle's teleological framework has been interpreted as providing an important philosophical foundation for anthropocentric conceptions of the relationship between humans and nature.³⁷ The human/nature divide reached one of its most influential formulations in the philosophy of René Descartes. As Gear explains, Descartes introduced a fundamental ontological distinction between *res cogitans*, the thinking mind, and *res extensa*, the material matter. This distinction establishes a subject-object relationship in which the rational mind occupies the position of knowing subject, while the body and the natural world are reduced to the status of objects.

³⁵ Plumwood, V. (1991). Nature, Self, and Gender: Feminism, Environmental Philosophy, and the Critique of Rationalism., p. 292.

³⁶ White Jr., L. (1967), The Historical Roots of Our Ecological Crisis, *Science* 155(3767): 1203-1207, p.1205.

³⁷ Sedley, D. (1991), Is Aristotle's Teleology Anthropocentric?, *Phronesis*, Vol. 36, No. 2, pp. 179-181.

Through the Cartesian *cogito*, reason becomes the defining condition of human existence. Because Cartesian rationality is conceived as disembodied, the body remains external and subordinate to reason and is ultimately excluded from the production of knowledge. This framework reinforced a profound separation between rationality and nature, objectifying both the non-human world and those beings historically associated with embodiment rather than reason.³⁸ Taken together, these philosophical and religious traditions contributed to the emergence of an anthropocentric worldview in which humans are understood as fundamentally distinct from nature and positioned above it within a hierarchical order.

These philosophical traditions shaped modern legal systems. As Grear argues, the human subject occupies the central position within the juridical order as its primary agent and beneficiary, while non-human forms of life are relegated to the status of objects.³⁹ Expanding on this, Naffine observes that legal systems traditionally recognise only a limited range of entities as legal persons. Consequently, entities that possess clear moral significance, whether due to their sentience or their close connection to human beings, are often denied legal personality. This anthropocentric bias is especially evident in environmental law.⁴⁰ Boyd notes that major international environmental instruments explicitly place humans at the centre of environmental protection; the Declaration of United Nations Conference on the Human Environment, more commonly known as the Stockholm Declaration (1972)⁴¹, describes human beings as “the most precious” element of the world, while the Rio Declaration on Environment and Development (1992)⁴² states that “human beings are at the centre of concerns for sustainable development.” Furthermore, legal systems generally recognise only humans as holders of rights over land, water, wildlife, and ecosystems, reducing natural resources to forms of property owned by human beings.⁴³ However, Christopher Stone argues that the categories of legal personality and rights are not static. He observes that entities whose legal recognition

³⁸ Grear, A. (2015). Deconstructing Anthropos: A Critical Legal Reflection on ‘Anthropocentric’ Law and Anthropocene ‘Humanity’. *Law and Critique*, 26(3), pp. 233-235.

³⁹ *Ibidem*, p. 1.

⁴⁰ Naffine, N. (2003) Who are Law's Persons? From Cheshire Cats to Responsible Subjects, *The Modern Law Review*, 66(3), p. 349.

⁴¹ United Nations, Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration), adopted at the United Nations Conference on the Human Environment, Stockholm, 16 June 1972, available at: <https://www.un.org/en/conferences/environment/stockholm1972> (accessed 10 June 2026).

⁴² United Nations, Rio Declaration on Environment and Development, adopted at the United Nations Conference on Environment and Development, Rio de Janeiro, 14 June 1992, available at: <https://www.un.org/en/conferences/environment/rio1992> (accessed 10 June 2026).

⁴³ Boyd, D.R. (2017) *The Rights of Nature: A Legal Revolution That Could Save the World*. Toronto: ECW Press, pp.21-22.

once appeared inconceivable - such as enslaved persons, women, and corporations - were gradually incorporated into the legal order as rights-bearing subjects.⁴⁴ The exclusion of natural entities from legal personality should therefore be understood not as an inherent, necessary feature of law, but as the product of historically contingent choices.

The consequences of this anthropocentric relationship between humanity and the natural world have become increasingly visible in what many scholars describe as the Anthropocene. The word's etymology drives from the words *anthropos*, meaning "human being", and *kainos*, meaning "new".⁴⁵ It was first defined by Crutzen and Stoermer as an epoch in which human activities have major impacts on the earth and the atmosphere.⁴⁶ In particular, it is an epoch:

where human activities have introduced new biophysical factors into the biosphere and have begun to change the physical parameters that determine the functioning of the major earth system processes, most noticeably the composition of the atmosphere.⁴⁷

The origins of this phenomenon have been traced back by some scholars to the eighteenth-century Industrial Revolution, which marked the transition from an agrarian to an industrialised society. During this period, the widespread exploitation of newly discovered fossil fuels became a key driver of economic growth and industrial development.⁴⁸ Analyses of air trapped in polar ice cores also suggest that this was the period in which global concentrations of carbon dioxide and methane began to rise.⁴⁹ The Anthropocene emphasises the interconnected nature of Earth's systems and the complex cause-and-effect relationships that shape processes at the global level. In this sense, the concept of the Anthropocene captures the human dimension of contemporary environmental change, highlighting the profound influence of human activities on the functioning of the Earth system.⁵⁰ The Anthropocene therefore not only reveals the extent of humanity's influence over the natural world, but also invites reflection on whether

⁴⁴ Stone, C. D. (1972). *Should Trees Have Standing? Toward Legal Rights for Natural Objects*.

⁴⁵ Gear, A. (2015). Deconstructing Anthropos: A Critical Legal Reflection on 'Anthropocentric' Law and Anthropocene 'Humanity', pp. 225-226.

⁴⁶ Crutzen, P. J.; Stoermer, E. F., (2000), 'The Anthropocene', *41 Global Change Newsletter* 17, p. 17.

⁴⁷ Dalby, S., (2007), Ecology, Security, and Change in the Anthropocene. *The Brown Journal of World Affairs*, 13(2), p.157.

⁴⁸ Kotzé, L. J. (2015). Rethinking Global Environmental Law and Governance in the Anthropocene, pp. 128-135.

⁴⁹ Crutzen, P. J. (2002). Geology OF Mankind – The Anthropocene, *415 Nature*, p.23.

⁵⁰ Kotzé, L. J. (2015). Rethinking Global Environmental Law and Governance in the Anthropocene, pp. 128-135.

the anthropocentric assumptions that have long shaped legal thought remain adequate in the face of contemporary environmental challenges.

1.3 The Emergence of Ecocentrism

Ecocentrism is a broad term used to describe worldviews that attribute intrinsic value to all living beings as well as to ecosystems as integrated wholes. It extends moral consideration beyond the human sphere, broadening the ethical community to include all forms of life and both terrestrial and aquatic ecological systems. From this perspective, humans are not separate from nature but deeply embedded within it: all life forms are interdependent, and both human and non-human beings rely fundamentally on the ecological processes that sustain the biosphere.⁵¹ Rowe defines ecocentrism as a “value-shift from *Homo sapiens* to planet Earth,” emphasising that “Earth is the whole of which we are subservient parts.”⁵² In this sense, the focus of moral concern shifts from individual human interests to the integrity and flourishing of the Earth system as a whole. Ecocentrism can be distinguished from biocentrism, which attributes intrinsic value to all living organisms, by its explicit inclusion of ecological systems, including abiotic components and the relationships that structure them; it also goes beyond zoocentrism, which is limited to the moral consideration of non-humans animals, by extending ethical value to plants, ecosystems, and the broader environmental contexts in which organisms exist. Key thinkers in the development of ecocentric thought include Aldo Leopold and Arne Naess,⁵³ whose contributions will be examined in the course of this chapter.

1.3.1 From Leopold to Naess: Foundations of Ecocentric Thought

Aldo Leopold was one of the most relevant advocates for ecocentrism.⁵⁴ In 1949 he published the essay collection *A Sand County Almanac*.⁵⁵ This text contains a section called “The Land Ethic”, in which he presents his ecocentric ethics⁵⁶ and promotes the extension of humanity’s

⁵¹ Washington, H., Taylor, B., Kopnina, H., Cryer, P. and Piccolo, J.J., (2017). Why ecocentrism is the key pathway to sustainability. *The Ecological Citizen*, 1(1), pp. 35-41.

⁵² Rowe J.S. (1994) Ecocentrism and Traditional Ecological Knowledge. Available at <https://is.gd/rkSgP5> (accessed 13 June 2026).

⁵³ Washington, H., Taylor, B., Kopnina, H., Cryer, P. and Piccolo, J.J., (2017). Why ecocentrism is the key pathway to sustainability, pp. 35-41.

⁵⁴ Donev, D., (2019). Ecocentrism or the Attempt to Leave Anthropocentricity. *Trivent Publishing*, pp. 177-186.

⁵⁵ Leopold, A. (1949). *A Sand County Almanac*.

⁵⁶ Guczalska, K., (2023). Ecocentrism. Hopes and concerns. *Scientific Papers of Silesian University of Technology. Organization and Management Series*, (183), pp. 166–187.

moral concern to nature, challenging the predominant anthropocentric values.⁵⁷ At the core of Leopold's thought lies the relationship between human beings and nature. He argues that humans, in addition to being social animals, as described in the Aristotelian tradition, are also biological organisms embedded within the biotic community. As such, they share a common evolutionary history with plants and animals, a connection that establishes a profound bond of belonging among all living beings.⁵⁸ Since everything is interconnected, the disturbance of nature's biotic community has consequences for both human societies and ecological communities.⁵⁹ To explain the biotic community, Leopold introduces the concept of the "biotic pyramid." Plants capture solar energy and transfer it through a complex system known as the biota, which can be represented as a pyramid composed of different levels. At its base lies the soil, followed by plants, insects, birds and rodents, and finally large carnivores at the apex. Each level depends on the levels below it for food and other essential functions while supporting those above. As one moves upward through the pyramid, the number of organisms decreases: every carnivore depends on hundreds of preys, thousands of smaller animals, millions of insects, and vast quantities of plant life. Humans occupy an intermediate position within this structure. These interdependent relationships form food chains, and each species participates in multiple chains simultaneously. The biotic pyramid is therefore a complex network of interconnected food chains whose stability depends on the interactions among its components. According to Leopold, the pyramid was originally simple, with few levels and short food chains. Over evolutionary time, however, new layers and connections emerged, increasing the complexity and diversity of the biota. Human beings are one of the many elements that have contributed to this process. The overall tendency of evolution is thus toward greater complexity and diversification within the living community. Additionally, Leopold argues that land is not merely soil but is composed of energy flowing through a circuit that connects soils, plants, and animals. Within this system, energy moves upward through food chains, while death and decomposition return nutrients to the soil. Because all elements of the biotic community are interconnected, a change in one part of the circuit requires adjustments throughout the entire system. While evolution has always produced changes within nature, these changes are typically gradual and localised. Human intervention, however, differs in both

⁵⁷ Kuper, S. (2015). Thoreau, Leopold, & Carson: Challenging Capitalist Conceptions of the Natural Environment, p.7.

⁵⁸ Guczalska, K., (2023). Ecocentrism. Hopes and concerns. *Scientific Papers of Silesian University of Technology. Organization and Management Series*, (183), pp. 166–187.

⁵⁹ Kuper, S. (2015). Thoreau, Leopold, & Carson: Challenging Capitalist Conceptions of the Natural Environment. *Consilience*, (13), 267–283.

scale and intensity. Through technology, humans can alter natural systems with unprecedented speed, scope, and force. Activities such as industrial pollution, dam construction, and global transportation disrupt natural energy flows and connect previously separate ecological circuits on a worldwide scale. As a result, resources and nutrients are often transferred far from the ecosystems in which they originated. According to Leopold, human-induced changes frequently have consequences that extend beyond what is intended or anticipated. For this reason, the stability of the biotic pyramid depends on limiting the intensity of human interventions: the less disruptive the change, the greater the likelihood that the ecological system can successfully adapt and maintain its balance.⁶⁰

From this ecological understanding of the land pyramid, Leopold develops his concept of the “land ethic”. Before delving into this concept, it is necessary to understand the economic relationship that humans have towards the land according to Leopold. Land continues to be regarded primarily as private property, and the relationship between human beings and the land is largely structured in economic terms, granting rights and benefits to humans without corresponding responsibilities.⁶¹ This perspective is embedded within a broader market-based, anthropocentric framework that places human interests above ecological integrity. As a result, economic actors tend to perceive themselves as separate from and superior to the natural world, treating land primarily as a resource for exploitation. Such an approach contributes to the continuous transformation and depletion of ecosystems, undermining the functioning of the biotic community and disrupting essential processes such as soil fertility, water purification, and natural pest control. Although economic systems depend on the land’s resources, this dependence is rarely accompanied by a sense of ethical responsibility toward it.⁶² This commodification of nature is also reflected in the idea that “we abuse land because we regard it as a commodity belonging to us,” and that “when we perceive the world as a machine we apprehend nothing wrong in treating it like one”.⁶³ According to Frese, the origins of this worldview can be traced to the European encounter with the American continent, where land was seen as abundant, ownable, and primarily valuable in economic terms. This led to the institutionalisation of private property through legal systems that often dismissed Indigenous

⁶⁰ Leopold, A., 1987. ‘The land ethic’. In: A. Leopold, *A Sand County Almanac and Sketches Here and There*. New York: Oxford University Press, pp. 215-220.

⁶¹ *Ibidem*, pp. 215-220.

⁶² Kuper, S. (2015). Thoreau, Leopold, & Carson: Challenging Capitalist Conceptions of the Natural Environment, pp. 267–283.

⁶³ Nelson, M. P. (1998). Aldo Leopold, Environmental Ethics, and The Land Ethic. *Wildlife Society Bulletin* (1973-2006), 26(4), p. 742.

understandings of land, which were generally less possessive and more relational in nature. Over time, industrialisation, urbanisation, and material abundance further reinforced this detachment, weakening humanity's awareness of its ecological dependence and its sense of belonging within the natural world.⁶⁴

Having identified the limitations of a purely economic approach to land use, Leopold argues that human relationships with the land should no longer be understood only in terms of utility or profit, but must instead be evaluated through an ethical perspective. In this view, questions concerning land use cannot be reduced to economic efficiency, since they require a broader moral judgment. According to Leopold, an action is considered right when it contributes to the preservation of the integrity and beauty of the biotic community, while it is considered wrong when it leads to its disruption or degradation. In this way, Leopold emphasises the need for an ethic that governs and redefines humanity's relationship with the natural world.⁶⁵ He defines an ethic as "a limitation of freedom of action in the struggle for existence",⁶⁶ which means that ethics arise as a way of enabling social cooperation; since life in society is not possible without some restriction on individual freedom, ethical rules function as a necessary framework for collective survival.⁶⁷ Leopold argues that, in his time, no ethical framework adequately addresses the relationship between human beings, the land, and the non-human animals that inhabit it. This absence of an appropriate ethical framework leads him to formulate a new moral principle, the "land ethic". This concept broadens the idea of community to encompass soils, water, plants, and non-human animals, in other words, the land as a unified whole. A land ethic affirms the intrinsic value of natural elements and their right to continue existing, and recognises the necessity of loving, respecting and admiring the land.⁶⁸ In this sense, the land ethic can be understood as the ethical response to the perception of nature as a biotic community.⁶⁹ Crucially, "a land ethic changes the role of *Homo sapiens* from conqueror of the land-community to plain member and citizen of it," implying respect for other members of the community as well as for the community as a whole.⁷⁰

⁶⁴ Frese, S. J. (2003). Aldo Leopold: An American Prophet. *The History Teacher*, 37(1), 99–118.

⁶⁵ Leopold, A., 1987. The land ethic, pp. 215–220.

⁶⁶ *Ibidem*, p. 202.

⁶⁷ Nelson, M. P. (1998). Aldo Leopold, Environmental Ethics, and The Land Ethic, pp. 741–744.

⁶⁸ Leopold, A., 1987. The land ethic, pp. 215–220.

⁶⁹ Nelson, M. P. (1998). Aldo Leopold, Environmental Ethics, and The Land Ethic, pp. 741–744.

⁷⁰ Leopold, A., 1987. The land ethic, p. 204.

Another important figure in the emergence of ecocentrism was Arne Naess, a Norwegian philosopher and ecologist. His work is one of those that paved the way for ethical discussions about the environment. Through his philosophy of *ecosophy*, a term combining “eco”, referring to ecology, and “sophy”, referring to philosophy, Naess seeks to redefine the relationship between humans and nature and promote a more sustainable way of life in harmony with the environment. Naess emphasises the interconnectedness of ecological systems and valued the diversity and complexity of ecosystems. Rejecting the hierarchy created by human centrality throughout history, he argues that the world should not be understood as a collection of separate and independent parts, some of which are considered superior to others. Also, central to Naess’s philosophy is the belief that nature should be appreciated for its own sake rather than viewed for its resources available for human uses.⁷¹ Consistent with this perspective, Naess argues that all entities, including human beings, should be allowed to develop and flourish according to their own ways of being, free from the different forms of human domination that constrain them.⁷² He further maintains that every living being possesses intrinsic value independent of its utility to humans and therefore has an equal right to exist and thrive regardless of its instrumental worth. The richness and diversity of life are themselves worthy of respect, with each being occupying its own distinctive place within the broader ecological community. Nevertheless, acknowledging the intrinsic value of a tree, for instance, does not preclude its practical use, such as providing timber for the construction of a house. Rather, what changes is the way in which the tree is perceived: instead of being regarded simply as a quantity of lumber, it is recognised as a unique living being possessing value in its own right. From this standpoint, no living being can be considered more or less alive than another, and all forms of life deserve moral consideration regardless of their usefulness to human beings.⁷³

In 1972, Arne Naess presented a paper at the World Future Research Conference in Bucharest entitled “The Shallow and the Deep, Long-Range Ecology Movement,” which was later summarised and published in *Inquiry* in 1973. In this work, Naess introduces for the first time the distinction between a “shallow” and a “deep” approach to environmental issues.⁷⁴ The shallow ecology movement is oriented toward the protection of nature primarily for human

⁷¹ Belouahem, A. (2024). Deep Ecology: Towards a New Philosophy of the Environment.

⁷² Fox, W. (1990) The Meanings of “Deep Ecology”, *The Trumpeter*, 7(1).

⁷³ Haukeland, P. (2023). Becoming Home: Revisiting Arne Naess toward an Ecophilosophy and a Depth Ecology for the 22nd Century. *The Trumpeter*, 39(1), pp. 21–44.

⁷⁴ Drengson, A., Devall, B. (2009). The Deep Ecology Movement: Origins, Development & Future Prospects *The Trumpeter* Vol 26 N.2, pp. 48-69.

benefit, adopting an anthropocentric perspective that regards the environment mainly in terms of its instrumental value. From this point of view, solutions to the ecological crisis are sought mainly through technological innovation, economic incentives, and political reforms, without questioning the structural framework of contemporary industrial society. By contrast, the deep ecology movement is based on an ecocentric perspective that recognises the intrinsic value of nature independently of its usefulness to human beings. It argues that the ecological crisis can only be addressed through a radical transformation of values, beliefs, and ways of life, rather than through merely technical or institutional measures. The deep approach therefore challenges dominant assumptions and aims at changes that reach the level of fundamental principles and worldviews, whereas the shallow approach remains limited to reforming the existing system, particularly in relation to pollution and resource depletion in industrialised societies. Although this distinction is sometimes criticised for appearing to label positions as “shallow” and “deep,” Naess clarifies that he does not refer to people, but rather to different levels of argumentative and philosophical depth.⁷⁵ It is important to note that both approaches recognise the negative impact of human activity on the natural environment and agree on the need to reduce it, even if they differ in their underlying motivations and proposed solutions.⁷⁶

In order to better explain what he means by deep ecology, Naess outlines eight foundational principles. The first asserts that all life on Earth, human and nonhuman alike, holds intrinsic value, entirely independent of its usefulness to human beings; this applies to the ecosphere as a whole, encompassing individuals, species, populations, habitats, and cultures. The second principle holds that the richness and diversity of life-forms are valuable in themselves, meaning that all species, including the simplest and most primitive ones, contribute essentially to the richness of life and possess their own inherent value. Third, humans have no right to diminish this richness and diversity except to meet vital needs. This is a deliberately flexible term, since what counts as a vital need varies according to differences in climate, culture, and social structure: the same action can be a necessity for one person and a luxury for another, as in the case of an Eskimo who depends on a snowmobile to survive, compared to a tourist who uses one for recreation purposes. According to the fourth principle, the flourishing of nonhuman life requires a substantial reduction of the human population, though Naess acknowledges this will

⁷⁵ Haukeland, P. (2023). *Becoming Home: Revisiting Arne Naess toward an Ecophilosophy and a Depth Ecology for the 22nd Century*, pp. 21–44.

⁷⁶ Drengson, A., Devall, B. (2009). *The Deep Ecology Movement: Origins, Development & Future Prospects*, pp. 48–69.

necessarily be a gradual process. The fifth principle affirms that current human interference with the nonhuman world is already excessive and rapidly worsening, meaning that humans should work toward reducing it. The sixth principle states that policies must change, requiring deep transformations in economic, technological, and ideological structures. This is because the model of economic growth pursued by industrial states today is incompatible with the first five principles, as it tends to measure the value of things purely in commercial terms. The seventh principle entails an ideological shift away from the endless pursuit of higher material standards of living and toward an appreciation of life quality, understood as living in accordance with the inherent value of every component of the ecosystem. Lastly, the eighth principle states that those who accept the previous seven principles have an obligation to actively work toward implementing the necessary changes, whether directly or indirectly.⁷⁷

Naess further illustrates the difference between shallow and deep ecology through a series of practical situations. On the question of pollution, shallow ecology seeks technological solutions to purify air and water, while deep ecology, by contrast, evaluates pollution from the perspective of the biosphere as a whole, considering its effects on all life-forms and systems rather than centering solely on human health. Moving to the question of resources, shallow ecology treats the Earth's resources as belonging to those with the technology to exploit them, valuing animals, plants, and natural objects only insofar as they are useful to human beings. Deep ecology, on the other hand, recognises the intrinsic worth of all living things and refuses to conceive of any natural object as merely a resource. Similarly, on the question of population, shallow ecology tends to view overpopulation as a problem confined to developing countries and accepts the destruction of wild habitats as an inevitable consequence of human growth. Deep ecology, however, acknowledges that human population pressure is excessive and calls for a long-term reduction through gradual political and economic measures, so as to allow thousands of other species to flourish. Turning to land and sea, shallow ecology treats landscapes, ecosystems, and rivers as the property of individuals or states, whereas deep ecology holds that the Earth does not belong to human beings, who are merely its inhabitants and should use its resources only to satisfy vital needs. On the matter of education, shallow ecology focuses on training experts to reconcile economic growth with environmental management, while deep ecology instead calls for a shift toward greater sensitivity to non-

⁷⁷ Naess, A. (2005). The deep ecology movement: Some philosophical aspects. In A. Drengson & H. Glasser (Eds.), *Selected Works of Arne Naess*, X (pp. 33–55). Dordrecht, the Netherlands: Springer. This article was first published in 1986 in *Philosophical Inquiry*, 8, 10–31., pp. 4–7.

consumptive values and an emphasis on local culture and global cooperation. Ultimately, what underlies all of these distinctions is the decisive difference that Naess himself identifies, namely the willingness to question, and to appreciate the importance of questioning, every economic and political policy in public.⁷⁸ What ultimately separates the two, then, is not a disagreement about methods but about values: shallow ecology seeks to manage the natural world for human benefit, whereas deep ecology demands a fundamental rethinking of the place of human beings within it.

1.3.2 Stone and the legal standing of natural objects

A fundamental contribution to questioning the anthropocentric paradigm in law came from Christopher Stone, who, in his article *Should Trees Have Standing? Toward Legal Rights for Natural Objects* (1972),⁷⁹ argued for the first time in a systematic manner that nature itself should be recognised as a subject of rights. His proposal emerged in the same period as the development of deep ecology.

Stone's intuition soon found a concrete opportunity to be developed and made public, when, in the late 1960s, the Walt Disney Company proposed the construction of a large ski resort in Mineral King Valley, a wilderness area in the Sierra Nevada located at the headwaters of the Kaweah River. The project involved the construction of a new access road, power lines, hotels, restaurants, swimming pools, and ski facilities extending across a vast area. The proposal received approval from the United States Forest Service in 1969. In response, the Sierra Club brought legal proceedings seeking to halt the project and arguing that the permits granted should be invalidated. The government, however, challenged the organisation's standing to sue, since under the traditional approach of United States law, a party seeking judicial relief must demonstrate that it has suffered a direct, personal, proprietary, or economic injury. Initially, the trial court recognised the Sierra Club's standing on the basis of its longstanding commitment to the protection of natural environments and granted an injunction preventing construction from proceeding. On appeal, however, this decision was overturned. The appellate court held that there was no evidence that the Club's members would suffer any direct injury as a result of the project, and the injunction was lifted, effectively clearing the way for the resort's construction. The Sierra Club therefore decided to bring the case before the Supreme Court of the United States in 1971. At the same time, Christopher Stone, then a young law

⁷⁸ *Ibidem*, pp. 7-9.

⁷⁹ Stone, C. D. (1972). *Should Trees Have Standing? Toward Legal Rights for Natural Object*.

professor, began reflecting during a property law course on the possibility that nature itself, and not only human beings, could be the holder of rights. He developed this intuition in an academic article, arguing that there was no technical or legal obstacle to attributing rights to non-human entities, since subjects such as ships and business corporations already enjoyed legal personality. Anticipating the objection that natural entities could never gain access to justice because they lacked a voice of their own, Stone responded that corporations, public bodies, and legally incapacitated persons are likewise unable to speak directly, yet their interests are routinely represented before courts by lawyers. By the time Stone completed his article, the Sierra Club case had already been argued before the Supreme Court, and it appeared too late for his work to influence the outcome. However, among the nine Justices was William O. Douglas, who was deeply committed to the protection of natural environments. As early as 1950, Douglas had published the book *Of Men and Mountains*,⁸⁰ in which he argued that human beings are not separate from nature but rather an integral part of it. Fifteen years later, in 1965, in *A Wilderness Bill of Rights*,⁸¹ he advocated for the need to legally protect those for whom rivers, lakes, valleys, and mountains represent an irreplaceable spiritual value. By a fortunate coincidence, Justice Douglas had agreed to edit a special issue of the *Southern California Law Review*, and it was through this role that he received Stone's article while drafting his opinion in the case. In his dissenting opinion, Douglas directly embraced Stone's arguments, maintaining that environmental disputes should be brought before the courts in the name of the natural object itself, and suggesting that the case should more appropriately have been named *Mineral King v. Morton*. Drawing on the precedent of ships and business corporations, which also possess procedural standing despite being inanimate entities, Douglas argued that the same principle should apply to valleys, alpine meadows, rivers, lakes, estuaries, beaches, and forests.⁸² Douglas's reasoning is worth quoting directly,

Contemporary public concern for protecting nature's ecological equilibrium should lead to the conferral of standing upon environmental objects to sue for their own preservation. [...] This suit would therefore be more properly labeled as *Mineral King v. Morton*. Inanimate objects are sometimes parties in litigation. [...] The ordinary corporation is a "person" for purposes of the adjudicatory processes, whether it represents proprietary, spiritual, aesthetic, or charitable causes. So it should be as respects valleys, alpine meadows, rivers, lakes, estuaries, beaches, ridges, groves of trees, swampland, or even air that feels the destructive pressures of modern technology and modern life. The river, for example, is the living symbol of all the life it sustains or nourishes – fish, aquatic insects, water ouzels, otter, fisher, deer, elk, bear, and all other animals, including man, who

⁸⁰ Douglas, W. O. (1950). *Of men and mountains*. Harper.

⁸¹ Douglas, W. O. (1965). *A wilderness bill of rights*. Little, Brown and Company.

⁸² Boyd, D.R. (2017) *The Rights of Nature: A Legal Revolution That Could Save the World*. Toronto: ECW Press, pp. 104-107.

are dependent on it or who enjoy it for its sight, its sound, or its life. The river as plaintiff speaks for the ecological unit of life that is part of it. Those people who have a meaningful relation to that body of water - whether it be a fisherman, a canoeist, a zoologist, or a logger - must be able to speak for the values which the river represents and which are threatened with destruction. Mineral King is doubtless like other wonders of the Sierra Nevada such as Tuolumne Meadows and the John Muir Trail. Those who hike it, fish it, hunt it, camp in it, frequent it, or visit it merely to sit in solitude and wonderment are legitimate spokesmen for it, whether they may be few or many. Those who have that intimate relation with the inanimate object about to be injured, polluted, or otherwise despoiled are its legitimate spokesmen.⁸³

Although he failed to secure the support of a majority of the Court, Douglas nevertheless obtained partial agreement from Justices Blackmun and Brennan regarding the desirability of recognising standing for organisations capable of adequately representing the interests of the environment. Ultimately, the majority dismissed the Sierra Club's claim, holding that there was insufficient evidence of a direct injury suffered by either the organisation or its members, while leaving open the possibility that similar claims might succeed in the future upon proof of such injury. However, Walt Disney's ski resort was never built, and the Mineral King Valley was added to Sequoia National Park in 1978 by the U.S. Congress.⁸⁴

Having examined the origins of Stone's argument, it is now possible to turn to the content of his article and the reasoning he developed to support the recognition of legal rights for natural objects. Christopher Stone argues that human beings should recognise legal rights for so-called "natural objects", such as forests, oceans, and rivers, as well as for the natural environment as a whole. He acknowledges that this proposal may appear surprising to many people and jurists, however, he points out that the history of law is characterised by a continuous expansion of rights to new entities, and that each of these developments was initially regarded as unusual or unacceptable. Legal history shows that the category of rights holders has progressively broadened over time. For example, children, who are now considered natural holders of rights, were once denied any legal status of their own. In Roman law, the father possessed extensive authority over his children: he had the power of life and death over them, could transfer them to another family through adoption, divorce his children of either sex, or even sell them. Children were therefore regarded as less than persons; they were treated as objects rather than subjects of rights. Over time, rights have been extended not only to children but also to other groups that had long been excluded from legal protection, including prisoners, aliens, women, Black people, and Indigenous peoples. Furthermore, the category of legal rights holders has

⁸³ *Sierra Club v Morton* 405 US 727 (1972) (US Supreme Court), pp. 6-7.

⁸⁴ Boyd, D.R. (2017) *The Rights of Nature: A Legal Revolution That Could Save the World*.

expanded beyond human beings to include non-human entities such as corporations, joint ventures, trusts, municipalities, and nation-states. Stone emphasises that, throughout legal history, proposals to extend rights to previously excluded entities have generally been met with disbelief and have often appeared difficult to conceive within existing legal frameworks. According to him, this reaction occurs partly because “until the rightless thing receives its rights, we cannot see it as anything but a thing for the use of ‘us’ – those who are holding rights at the time”⁸⁵. Until an entity can be perceived and valued for its own sake, and recognised as possessing intrinsic value, there will inevitably be resistance to granting it rights.⁸⁶

Stone recognises that granting rights to the natural environment would not mean, for instance, that no one could ever cut down a tree. Arguing that nature should have rights does not imply assigning to it every conceivable right, nor the same set of rights enjoyed by human beings. Likewise, it does not mean that every element of the environment should possess identical rights. Stone first clarifies what he means by the concept of a "legal right". According to him, an entity can be regarded as a holder of legal rights only if a public authoritative body is willing to review actions that appear to be inconsistent with those rights. However, this condition alone is not sufficient: Stone argues that an entity can only be considered a genuine holder of legal rights if three further criteria are met. First, legal actions must be capable of being brought on its behalf, so that its interests can be represented before a court. Second, when deciding whether to grant legal relief, the court must take into account the injury suffered by that entity itself. Third, any relief granted must operate for the benefit of the entity whose rights have been infringed. Together, these requirements define what it means, for Stone, to be a subject of legal rights. On this basis, Stone identifies three legal-operational advantages that the environment lacks, illustrating the first one through the example of stream pollution. The first sense in which a stream is not a rights-holder concerns standing: the stream itself has none. So far as the common law is concerned, there is generally no way to challenge a polluter's actions except at the request of a lower riparian owner, another human being, able to show an invasion of her or his own rights. Yet such riparians may simply not care about the pollution, may themselves be polluting and prefer not to draw attention to the matter, or may be economically dependent on their polluting neighbour; and even when they do care, the costs and uncertain outcome of bringing suit may make the action not worth undertaking. The second sense in which the

⁸⁵ Stone, C. D. (1972). *Should Trees Have Standing? Toward Legal Rights for Natural Objects*. Southern California Law Review, p. 455.

⁸⁶ *Ibidem*, pp. 450-456.

common law denies rights to natural objects concerns how courts decide cases once a plaintiff has actually managed to bring one to court. In the earliest stages of legal development, the law protected landowners almost without limit, giving little weight to anyone else's interests. Over time, courts moved toward a different approach, weighing competing interests against one another whenever a dispute arose, for example between a factory wishing to continue polluting and the landowners affected downstream. The problem, however, is that this balancing only ever takes human economic interests into account: the harm suffered by the river itself, by its fish and other forms of life, never enters into the equation, since the river has no rights of its own that a court could weigh. The third sense in which the common law treats natural objects as rightless concerns who actually benefits from a favourable judgment, since it is never the natural object itself that is recognised as mattering in its own right. Stone argues, however, that it is entirely reasonable to speak of legal damage to a natural object, at least insofar as one can identify what it would mean to restore it with respect to the most obvious and tangible factors. Repairing a forest, for instance, would involve the costs of replanting trees, restoring watersheds, and reintroducing wildlife, much like the work undertaken by forestry services after a fire; repairing a polluted river would similarly involve restocking fish and other species, dredging the riverbed, and removing pollutants. Yet under the current legal system, even when a riparian landowner wins a pollution lawsuit, the damages awarded are never used to repair the river itself, but go entirely to the human plaintiff. This creates a significant practical problem, since polluters are only required to pay an amount sufficient to compensate the affected landowners, which may be far lower than the actual damage caused to the river. If, for example, a company causes ten thousand dollars worth of harm to a river annually, but the combined claims of the landowners amount to only three thousand dollars, the company may simply find it cheaper to pay this sum and continue polluting rather than change its practices. A further problem arises even where a court issues an injunction rather than awarding damages, since nothing prevents the plaintiffs from later agreeing not to enforce it in exchange for a payment from the polluter. In other words, as long as the river itself has no independent legal standing, it remains entirely at the mercy of whatever private agreements the human parties involved choose to make. Taken together, these three deficiencies mean that no natural object currently satisfies any of Stone's criteria for being a rights-holder: natural objects have no standing in their own right, their distinct injuries do not factor into a court's decision, and they are never the beneficiaries of an award. As a result, the common law has traditionally treated such objects as things for humans to conquer, master, and use; even where special measures

have been taken to conserve them, the dominant motive has been to do so for the benefit of human beings, rather than for the natural objects themselves.⁸⁷

Against this background, Stone addresses the common objection that natural entities cannot have standing because they are unable to speak. He notes that corporations cannot speak either, nor can states, infants, or municipalities, yet all of these are routinely represented in court by lawyers acting on their behalf. On this basis, Stone suggests that the legal problems of natural objects should be handled in the same way as those of human beings who are no longer capable of managing their own affairs and have therefore been declared legally incompetent. In such cases, the court designates someone with the authority to manage the incompetent person's affairs, and this guardian then represents them in all legal matters. By the same logic, Stone proposes that a system be established in which, when a friend of a natural object perceives it to be endangered, that person could apply to a court for the creation of a guardianship over it.⁸⁸ Stone acknowledges that this guardianship approach is likely to raise two objections, though he does not consider either particularly persuasive. The first is that a guardian would be unable to judge the actual needs of the river or forest under their charge. Stone responds that natural objects are in fact capable of communicating their needs, and human beings of understanding them. The second objection is that such a system would not differ significantly from existing arrangements. Addressing this, Stone acknowledges that in the United States the Department of the Interior was conceived as a sort of guardian of public lands, but points out that its authority extends only to federal public lands, and that the Department itself, in his view, has historically been regarded as one of the principal adversaries of the environmental movement.⁸⁹ Finally, Stone attempts to justify why granting rights to the environment should be adopted in the first place. He observes that the impact of human activity on the planet has become so significant that humanity is depleting energy and food sources at an alarming rate, and that these problems can only be addressed through a willingness to curb the rising standard of living in the so-called advanced nations, alongside efforts to stabilise the global human population. Ultimately, Stone argues that a radically new conception of humanity's relationship to the rest of nature would represent a crucial step toward resolving these material, planetary problems.⁹⁰ Overall, Stone's argument marks a foundational shift in environmental legal thought by

⁸⁷ *Ibidem*, pp. 457-464.

⁸⁸ *Ibidem*, pp. 457-464.

⁸⁹ *Ibidem*, pp. 471-472.

⁹⁰ *Ibidem*, p. 495.

challenging the anthropocentric basis of law and opening the possibility of recognising nature as a rights-bearing subject.

1.4 Key Legal Concepts

Understanding ecocentric approaches to environmental law and justice requires familiarity with a set of key legal and normative concepts that have emerged in response to the limitations of anthropocentric frameworks. This section introduces three such concepts: Rights of Nature, which proposes recognising ecosystems as legal subjects endowed with rights; Earth Stewardship and Earth Trusteeship, which offer distinct but complementary frameworks for how humanity should relate to and care for the natural world; and Multispecies Justice, a normative lens that extends the scope of justice beyond human beings to include non-human animals, ecosystems, and other non-human entities. Together, these concepts reflect a broader shift in legal and political thought, one that challenges the long-standing separation between humans and nature, and calls for a more inclusive understanding of who and what deserves protection, recognition, and moral consideration.

1.4.1 Rights of Nature: definition and genealogy

Rights of Nature (RoN) is a key concept for understanding ecocentric approaches to international environmental law. In order to fully appreciate its significance, it is important to distinguish between the two related dimensions encompassed by the term. As explained by Kauffman and Martin, Rights of Nature refers both to a legal philosophy and to the legal provisions that give effect to that philosophy by recognising ecosystems as subjects endowed with rights. The legal philosophy underlying RoN is commonly referred to as Earth Jurisprudence. Earth Jurisprudence asserts that there is a lawful order to the universe that sustains the web of relationships connecting all elements of nature, each of which exists in a condition of interdependence with the others. According to this perspective, the Earth itself is the ultimate source of the laws that govern all life. Consequently, human beings should shape their legal, political, economic, and social systems in ways that are consistent with the functioning of the natural world, rather than attempting to force nature to conform to human interests and desires. Advocates of RoN argue that such a transformation is essential if humanity is to respond effectively to the climate and biodiversity crises currently affecting the planet.⁹¹ The RoN approach views all beings, both organic and inorganic, including organisms,

⁹¹ Kauffman, C. M., & Martin, P. L. (2021). *The politics of rights of nature: Strategies for building a more sustainable future*. MIT Press.

ecosystems, air, water, all species, and the Earth itself, as members of a single community. Furthermore, it recognises these entities as holders of rights and therefore as subjects, rather than objects, of law. RoN understands all beings, including humans, as existing within relationships of interdependence with one another. However, this interdependence is asymmetrical, since humans depend on nature for their survival, whereas nature can continue to exist without humans.⁹² Advocates of RoN further argue that contemporary legal systems are grounded in a mechanistic understanding of the world that emerged during the Scientific Revolution of the sixteenth and seventeenth centuries. This worldview conceptualised nature as a machine composed of separate and independent parts, leading to the perception of the natural world as a collection of discrete resources available for extraction and exploitation in the pursuit of economic growth. However, the Earth is composed of complex and interconnected ecosystems, in which actions affecting one component inevitably produce consequences for the others. Intensive exploitation of a single element of an ecosystem therefore has repercussions that extend throughout the entire ecological system.⁹³ Accordingly, Earth Jurisprudence seeks to transform legal, socio-economic, and governance systems by adopting a paradigm that prioritises the maintenance and flourishing of ecological systems. It is founded on the belief that nature possesses intrinsic value and an inherent right to exist independently of its usefulness to humans. Human governance systems should therefore recognise that the universe constitutes the primary source of law and should organise themselves in accordance with the relationships that govern the Earth community, while respecting and taking into account the interests of all its members. This perspective implies that the lawfulness of human conduct should be assessed according to whether it strengthens or weakens the relationships that sustain and constitute the Earth community. Similarly, human societies should seek to maintain an appropriate balance between the rights and interests of humans and those of other members of the community, considering what is beneficial not merely for humanity but for the Earth as a whole. In practical terms, this means that human beings bear responsibilities towards other members of ecosystems and of the “biotic community”⁹⁴, as Leopold famously described it, precisely because all members are connected through relationships of interdependence. Earth Jurisprudence therefore prioritises the

⁹² Wood, S. (2023), *Rights of Nature: What Are They?*. *Centre for Law and the Environment*. 10.

⁹³ Kauffman, C. M., & Martin, P. L. (2021). *The politics of rights of nature: Strategies for building a more sustainable future*.

⁹⁴ Leopold, A., 1987. *The land ethic*, pp. 215-220.

maintenance of balance and equilibrium within ecosystems, recognising that ecosystems provide the conditions necessary for all life to exist and flourish.⁹⁵

The second dimension of RoN concerns the legal provisions that recognise ecosystems as rights-bearing subjects. What most clearly distinguishes RoN legal provisions from conventional environmental law is the fundamentally different understanding of the relationship between humans and nature on which they are based. Laws inspired by RoN challenge the values underpinning the dominant political and economic system, which is fundamentally anthropocentric in character. Such a system conceives of humans as separate from the natural world and treats natural entities primarily as resources available for human exploitation, prioritising economic growth over the proper functioning and integrity of ecosystems.⁹⁶ RoN advocates argue that environmental law has proven largely ineffective in preventing the widespread destruction of ecosystems precisely because it remains grounded in this anthropocentric paradigm, which is incompatible with the laws governing the natural world. Traditional environmental law generally treats ecosystems and their non-human components as legal objects rather than legal subjects, thereby failing to recognise either the interests of ecosystems or their rights. By contrast, RoN legal frameworks promote a deeper recognition of the interdependence and interconnectedness that exist between human and non-human entities.⁹⁷ The range of rights attributed to natural entities in legal systems inspired by RoN varies across different jurisdictions and legal frameworks. Nevertheless, certain rights appear consistently across many examples of RoN legislation. These include the right to life and existence, the right to be respected, the right to health and wellbeing, and the right to maintain ecological integrity and natural cycles. Other frequently recognised rights include the right to water, the right to remain free from contamination and pollution, and the right not to have genetic structures altered or disrupted in ways that threaten an entity's integrity, vitality, or healthy functioning. Some RoN frameworks also recognise the right to flourish and the right to live free from torture, cruel treatment, or degradation. Several of these rights are analogous to widely recognised human rights. However, rights traditionally attributed to human beings – such as freedom of expression, assembly, association, thought, and religion – are generally absent from rights of nature frameworks, reflecting the distinct characteristics and interests of

⁹⁵ Kauffman, C. M., & Martin, P. L. (2021). 'The politics of rights of nature: Strategies for building a more sustainable future'.

⁹⁶ *Ibidem*.

⁹⁷ Jones, E. (2021). Posthuman international law and the rights of nature. *Journal of Human Rights and the Environment*. *University of Essex Repository*.

non-human entities. Many of these rights draw inspiration from the non-binding Universal Declaration of the Rights of Mother Earth (UDRME), adopted in 2010 at the People's Conference in Cochabamba, Bolivia. Although the Declaration was neither adopted by states nor made legally binding, it remains one of the most influential global articulations of the rights of nature and is frequently used as a model or template for RoN legislation.⁹⁸

According to Kauffman and Martin, the transformative potential of Rights of Nature lies in their capacity to embed the principles of Earth Jurisprudence within human legal, socio-economic, and governance systems. RoN laws that successfully incorporate these principles create the conditions for a profound transformation towards systems that operate in harmony with nature. Conversely, when RoN legislation is detached from the normative foundations of Earth Jurisprudence, it risks becoming counterproductive to the broader objectives of the movement. Ultimately, the central ambition of the RoN movement is to bring about a paradigm shift in the way humans understand their relationship with nature. This involves transforming behaviours towards more ecologically sustainable practices and reshaping both formal and informal rules so that they reinforce these behavioural changes. In this sense, legal recognition of the rights of nature is viewed not as an end in itself but as an instrument for achieving broader systemic transformation.⁹⁹

Although the Rights of Nature is often traced back to Stone's influential argument for granting legal standing to nature, Tănăsescu suggests that its intellectual foundations have also been shaped by another scholar, Godofredo Stutzin. Stone argued that the environment could be granted legal rights, and the Rights of Nature developed within this framework. His main concern was giving natural entities legal standing so they could appear in court as "persons" before the law. For Stone, legal standing for nature is closely linked to moral standing: if nature is morally deserving, then it should also be granted legal recognition. Another key figure in this genealogy is Godofredo Stutzin, who was developing environmental advocacy in Chile around the same time Stone was writing. Stutzin argues that giving nature rights necessarily means overcoming the law's anthropocentric bias. He calls for a shift toward ecocentrism, believing that environmental problems can be addressed through recognising the rights of nature. In his view, these rights are not created or granted by humans, but already exist and

⁹⁸ Wood, S. (2023), *Rights of Nature: What Are They?*, p.6.

⁹⁹ Kauffman, C. M., & Martin, P. L. (2021). 'The politics of rights of nature: Strategies for building a more sustainable future'.

must be acknowledged. Human law should therefore not invent rights for nature, but translate into legal form what is already morally the case. For Stutzin, moral and legal standing are inseparable: if nature has moral worth, it must also have legal standing. On this basis, ecological crises could be resolved by aligning law with this moral reality. While Stone uses legal standing as a pragmatic tool to extend legal personality to nature, Stutzin instead treats nature's personality as something real that law must recognise. According to Tănăsescu, the genealogy of rights of nature developed by Stutzin differs significantly from Stone's approach. Stone adopts a pragmatic legal framework, whereas Stutzin is less focused on legal technique and more on a broader philosophical vision in which nature already possesses fundamental rights that humans must recognise rather than create.¹⁰⁰

1.4.2 Earth trusteeship and stewardship: operative differences

Two concepts are central to understanding how humanity can and should relate to the natural world: Earth Stewardship and Earth Trusteeship. While they share a common concern for the long-term health of the planet, they approach this goal from different angles, one grounded in ethical responsibility, the other in legal obligation.

Earth Stewardship is an initiative of the Ecological Society of America,¹⁰¹ which provides a scientific foundation for actively guiding trajectories of social-ecological change in ways that strengthen ecosystem resilience and promote human well-being. More specifically, it identifies the knowledge and science required to actively influence social-ecological transformations in order to ensure the long-term integrity of the biosphere and support human well-being. Here, resilience refers to the capacity of social-ecological systems to adapt to unexpected shocks and stresses while maintaining their essential functions, structures, identities, and feedback mechanisms through recovery or reorganisation within a new context; well-being refers to quality of life, including basic material needs for a good life, freedom and choice, positive social relations, and personal security.¹⁰² It also describes the actions undertaken by stewards,

¹⁰⁰ Tănăsescu, M. (2022). Understanding the Rights of Nature: A Critical Introduction. (*New Ecology*, 6). Bielefeld: transcript Verlag, pp. 20-30.

¹⁰¹ The Ecological Society of America (ESA) is a nonpartisan, nonprofit scientific organization founded in 1915. Its mission is to promote ecological science, raise public awareness of its importance, and ensure that ecological knowledge informs environmental policy and decision-making (ESA, <https://esa.org/about/>, accessed 28 June 2026).

¹⁰² Chapin, III, F. S., M. E. Power, S. T. A. Pickett, A. Freitag, J. A. Reynolds, R. B. Jackson, D. M. Lodge, C. Duke, S. L. Collins, A. G. Power, and A. Bartuska. (2011). Earth Stewardship: science for action to sustain the human-earth system. *Ecosphere* 2(8):art89.

who may be individuals, groups, or networks of actors with different motivations and varying levels of capacity, to protect, care for, or responsibly manage the environment in order to generate benefits for nature, society, or both, depending on the particular social and ecological context in which they operate.¹⁰³ The key features of Earth Stewardship include the recognition that human beings are an integral part of nature, and that climate-related challenges are widespread, globally interconnected, and pose a threat not only to ecosystems but also to human societies and human survival.¹⁰⁴ Within Earth Stewardship, environmental goals may serve as a primary motivation for stewardship actions; however, these goals are often closely intertwined with, or directly linked to, the aim of generating positive impacts on society. In this sense, the emphasis is placed on the well-being and integrity of the environment, understood as essential for sustaining and supporting human life.¹⁰⁵ Among the objectives of Earth Stewardship is the promotion of equitable access to the fundamental requirements for a good quality of life, including food, clean water, and healthcare, regardless of country, social group, or gender. It also seeks to guarantee fair opportunities for self-realisation and for active participation in social and environmental stewardship. Another important aim is to reduce unnecessary patterns of consumption while fostering economic activities and institutions that are both sustainable and equitable. Earth Stewardship further strives to maintain the resilience of social-ecological systems and to secure the continued provision of ecosystem services for both present and future generations. Finally, it encourages the advancement of sustainability research by integrating scientific knowledge with local and traditional forms of knowledge.¹⁰⁶ Earth stewardship actions may take the form of environmental conservation, ecosystem restoration, or the sustainable use and management of natural resources. They can be implemented at different scales, from local to global, and in both rural and urban settings. These actions include, for example, the establishment of protected areas, replanting of trees, the reduction of resource overexploitation and pollution, as well as the development of community gardens. More precisely, at the individual level, stewardship is reflected in everyday decisions related to resource use, such as maintaining soil quality, managing vegetation, controlling

¹⁰³ Bennett, N.J., Whitty, T.S., Finkbeiner, E. et al. (2018) Environmental Stewardship: A Conceptual Review and Analytical Framework. *Environmental Management* 61, p. 597.

¹⁰⁴ Chapin, F. Stuart III. 2024. Transformative Earth Stewardship: Principles for Shaping a Sustainable Future for Nature and Society. *Earth Stewardship*1(1): e12023.

¹⁰⁵ Bennett, N.J., Whitty, T.S., Finkbeiner, E. et al. (2018) Environmental Stewardship: A Conceptual Review and Analytical Framework, p. 605.

¹⁰⁶ Chapin, III, F. S., M. E. Power, S. T. A. Pickett, A. Freitag, J. A. Reynolds, R. B. Jackson, D. M. Lodge, C. Duke, S. L. Collins, A. G. Power, and A. Bartuska. (2011). *Earth Stewardship: science for action to sustain the human-earth system*.

invasive species, adjusting the number of marine resources harvested, choosing environmentally sensitive agricultural practices, or determining where harvesting should occur based on the vulnerability of ecosystems. At the collective level, stewardship is undertaken by communities or groups that cooperate in the management of shared natural areas and common-pool resources.¹⁰⁷ Overall, Earth Stewardship is based on scientific understanding of social-ecological systems and aims to protect the Earth in a way that maintains ecosystem functioning while supporting human health, well-being, and long-term survival.

Another important concept is Earth Trusteeship. Earth Trusteeship is the institutionalisation of the duty to protect the integrity of Earth's ecological systems.¹⁰⁸ In other words, it is a legal and political framework in which natural entities are not owned by anyone, but are managed under a trusteeship arrangement to ensure their long-term sustainability. This can apply to specific natural features such as rivers, lakes, mountains, forests, and national parks, as well as to shared transnational spaces – the global commons – which include the oceans, the atmosphere, outer space, the seabed, and Antarctica.¹⁰⁹ The concept builds on the legal notion of trusteeship, in which one party, the trustee, is responsible for acting in the interest of another party, the beneficiary. According to Bosselmann, this logic is already familiar in governance: states exist to act on behalf of their citizens, which means they already function as trustees of the people they represent. From this, he argues that just as states have a duty to protect human rights, they can equally be understood as having a duty to protect the Earth's ecological systems, acting as trustees not just for their citizens, but for the Earth itself. What makes Earth trusteeship distinctive is that it combines the moral obligation to care for the planet with the binding force of law. Framing this responsibility in legal rather than purely ethical terms matters because it creates enforceable obligations, making it possible to hold states accountable when they fail to protect ecological systems. In this way, Earth trusteeship bridges the gap between what states ought to do for the planet and what they can actually be required to do under international law. Importantly, according to Bosselmann, Earth trusteeship does not mean abolishing state

¹⁰⁷ Bennett, N.J., Whitty, T.S., Finkbeiner, E. et al. (2018) Environmental Stewardship: A Conceptual Review and Analytical Framework. *Environmental Management* 61, pp. 597-599.

¹⁰⁸ Sobion, J. (2025). Earth trusteeship: Unraveling the mysteries of an ecological trust. In *Ecological integrity and international law* (1st ed., pp. 15). Routledge, p.1.

¹⁰⁹ MEGA. (2023, November 12). Earth trusteeship initiative. Movement for Earth Governance and Action, from <https://earthgovernance.org/campaigns/earth-trusteeship/> (accessed 26 June 2026).

sovereignty. Instead, it reframes it: the authority states hold over their territories comes with ecological responsibilities that cannot be set aside in the name of national interest alone.¹¹⁰

The concept was formally introduced on 10 December 2018 at the Peace Palace in The Hague, where civil society representatives launched the Hague Principles for a Universal Declaration on Responsibilities for Human Rights and Earth Trusteeship.¹¹¹ The date was deliberately chosen to mark the seventieth anniversary of the Universal Declaration of Human Rights, reflecting the idea that protecting the Earth and protecting human rights are deeply connected. The Hague Principles identify three categories of responsibility: the duties humans owe to one another to safeguard human rights; the duties humans bear toward the Earth; and the duties of states to protect both. All three rest on the same foundation – the recognition that humans are part of a broader community of life that extends beyond our own species. Trusteeship is the legal mechanism through which these responsibilities are expressed and enforced, meaning both individuals and states can be held accountable when they fail to honour their obligations toward other humans and toward the Earth.¹¹² Finally, Earth trusteeship requires the present generation to hold the Earth in trust for those who come after, so its focus remains the wellbeing of the planet for the benefit of the people who inhabit it, now and in the future. This aligns with the principle of intergenerational equity, which holds that each generation is entitled to inherit a planet at least as healthy as the one the previous generation received.¹¹³

What earth trusteeship and earth stewardship share is a focus on the wellbeing of the Earth, both for the planet itself and for people, who depend on it being safe and healthy in order to inhabit it sustainably and enjoy it. What differs is how they approach this objective. Earth Trusteeship aims to establish formal arrangements governed by legal and institutional mechanisms, in which designated actors, most commonly states, though potentially also international bodies or representatives of future generations, are bound to care for the

¹¹⁰ Westra, L., Bosselmann, K., & Fermeiglia, M. (Eds.). (2020). Ecological integrity in science and law. *Springer*, p. 242-250.

¹¹¹ Sobion, J. (2025). Earth trusteeship: Unraveling the mysteries of an ecological trust. In *Ecological integrity and international law* (1st ed., pp. 15). Routledge, p.1.

¹¹² Westra, L., Bosselmann, K., & Fermeiglia, M. (Eds.). (2020). *Ecological integrity in science and law*, p. 242-250.

¹¹³ Reflections on Earth Trusteeship: Mother Earth and a New 21st Century Governance Paradigm (2023). Innovation Network International Books, Thailand, as cited in Earth Trusteeship Campaign – Earth Governance for Humanity, Earth Governance for Humanity website, available at: <https://earthgovernance.org/campaigns/earth-trusteeship/> (accessed 26 June 2026).

environment on behalf of others. Earth Stewardship, by contrast, focuses on the ethical disposition and responsible behaviour of humans toward nature, encouraging individuals, communities, and nations to act with care and restraint, without necessarily requiring formal legal structures to enforce that responsibility.

1.4.3 Multi-species Justice as a normative framework

The concept of Multi-species Justice (MSJ) has developed because scholars and activists believe that the harm done to animals and the environment should be seen not just as worrying, but as a matter of injustice, placing the wellbeing of all living beings at the centre.¹¹⁴ At its core, MSJ recognises the many different kinds of beings that should be included in questions of justice, as well as the many different ways in which they exist.¹¹⁵ This also means acknowledging the countless daily interactions that link people and societies to both nearby and distant others, human and non-human: animals, plants, rivers, seas, and more. In this way, MSJ goes beyond traditional, individual-centred ideas of justice in two important ways: by widening the circle of responsibilities toward all those whose ability to thrive is threatened, and by moving the focus of justice away from the single human individual toward a much broader range of living and non-living beings and their relationships.¹¹⁶ This also means rejecting the idea that humans are the only beings worthy of ethical or political attention. More specifically, MSJ challenges three connected assumptions: firstly, that humans are separate from nature and other species, secondly, that humans are unique because they have minds, consciousness, and agency, and lastly that this makes humans more important than everything else. Rather, MSJ values the diversity of all kinds of beings, each understood on their own terms and as part of complex webs of relationships and each having their own intelligence, consciousness, emotions, intentions, desires and knowledge. The aim is to figure out what kinds of connections humans should build with non-human beings in order to reach fair and just outcomes for all.¹¹⁷

¹¹⁴ Winter J. C. (2022) Introduction: What's the value of multispecies justice?, *Environmental Politics*, 31:2, pp. 251-257.

¹¹⁵ Chao, S., & Celermajer, D. (2023). Introduction: Multispecies justice. *Cultural Politics*, 19(1), 1–17, p. 2.

¹¹⁶ Tschakert, P, Schlosberg, D, Celermajer, D, Rickards, L, Winter, C, Thaler, M, Stewart-Harawira, M & Verlie, B 2021, Multispecies justice: Climate-just futures with, for and beyond humans, *Wiley Interdisciplinary Reviews: Climate Change*, vol. 12, no. 2, e699, pp. 1-10.

¹¹⁷ Celermajer, D, Schlosberg, D, Rickards, L, Stewart-Harawira, M, Thaler, M, Tschakert, P, Verlie, B & Winter, C 2021, Multispecies justice: Theories, challenges, and a research agenda for environmental politics, *Environmental Politics*, vol. 30, no. 1-2, pp. 3-4.

For centuries, at least within the Western tradition, justice has been conceived in fundamentally anthropocentric terms. The philosopher David Hume, for instance, maintained that humans bear no obligations of justice toward animals. This position implied that what non-human beings are owed, if anything, is determined by human interests and concerns, which are treated as inherently more important. Underlying this view is the assumption that non-human beings do not directly contribute to the collective pool of social goods, and are therefore not entitled to draw from it. A related argument holds that being a subject of justice requires moral personhood, a status traditionally reserved for humans alone. However, many scholars have challenged these arguments as problematic. First, many non-human beings do in fact contribute to the flourishing of human societies. Second, one may question whether social contribution should be a condition for deserving justice at all – human infants, for example, are clearly entitled to justice, yet they do not visibly contribute to any shared pool of resources, which suggests that contribution cannot be the decisive factor. This has led some scholars to argue that justice should not depend on social contribution or capacity, but should rest solely on the possession of ‘well-being’, understood as having a life that can go better or worse for the one living it. On this view, sentience, meaning the capacity to be aware of one's own experience, is sufficient to ground a claim to justice.¹¹⁸

The foundations for extending justice beyond human beings have been laid by several strands of environmental and political thought, including Animal Rights, Environmental Justice and Political Ecology, Post-Humanism, Feminist theory, and Indigenous philosophies. First, Animal Rights theory has been central in creating a break with anthropocentric conceptions of justice. By challenging the traditional claim that humans uniquely deserve to be recognised as rights-holders by virtue of their rationality and self-awareness, animal rights theorists and movements have called into question the sharp distinction that has long been drawn between humans and non-human animals. Second, Environmental Justice and Political Ecology have contributed by moving beyond a narrow focus on the unequal distribution of environmental burdens, drawing attention to the role of the natural world in sustaining life, the interdependence of species, and the deep connection between justice and the health of a functioning ecosystem. Third, posthumanist scholarship, which places emphasis on the inextricable embeddedness of human beings within biological and ecological worlds, has also

¹¹⁸ Celermajer, D, Chatterjee, S, Cochrane, A, Fishel, S, Neimanis, A, O'brien, A, Reid, S, Srinivasan, K, Schlosberg, D & Waldow, A (2020), Justice Through a Multispecies Lens, *Contemporary Political Theory*., pp.1-2.

played a significant role in unsettling anthropocentric assumptions across a range of disciplines. Fourth, feminist scholarship has further enriched the development of Multi-species Justice by challenging the traditional and supposedly universal image of "the human" as white, male, cisgender, heterosexual, and able-bodied. Drawing on ecofeminist thought, feminist scholars have argued that systems of oppression are rooted in a Western tendency to organise the world through hierarchical oppositions – such as man/woman, human/nature, white/non-white, mind/body, reason/emotion – in which one side is always valued over the other. As a result, women, non-human animals, and other groups associated with the devalued side of these binaries have historically been excluded from the protections granted to those deemed fully "human", and feminist theory has therefore sought to dismantle this logic of dualism by demonstrating that humans are not separate from nature or other species, but deeply entangled with and dependent upon them. Finally, Indigenous philosophies and decolonial approaches have been equally important, as many Indigenous traditions have long understood humans, animals, plants, land, and water as relational and interconnected rather than separate entities. While Indigenous perspectives vary across communities and cultures, recurring themes include reciprocity, respect, sustainability, and a close connection between the spiritual and material dimensions of life.¹¹⁹

Lastly, a key aspect of Multi-species Justice is the attention it gives to the ways non-human beings communicate. This goes beyond learning to read animal body language or using technology to study how different species interact, it also includes recognising subtler forms of expression, such as the way plants release chemicals to warn of nearby threats. More broadly, MSJ challenges the idea that communication is an exclusively human ability, and invites us to reconsider what counts as a meaningful message. When we do, it becomes evident that the non-human world has never been silent. Ecosystems are already sending urgent signals, through increasing extinctions, wildfires, droughts, and collapsing marine environments.¹²⁰ From a Multi-species Justice perspective, these are not merely environmental crises, but the expressions of a world under pressure, one that deserves to be listened to and taken seriously.

¹¹⁹ Celermajer, D, Schlosberg, D, Rickards, L, Stewart-Harawira, M, Thaler, M, Tschakert, P, Verlie, B & Winter, C 2021, *Multispecies justice: Theories, challenges, and a research agenda for environmental politics*, pp. 5-13.

¹²⁰ Celermajer, D., Schlosberg, D., Rickards, L., Stewart-Harawira, M., Thaler, M., Tschakert, P., Verlie, B. & Winter, C. (2021), *Multispecies justice: Theories, challenges, and a research agenda for environmental politics*, p. 17.

Chapter 2 – Critical Perspectives: Ecofeminist and Indigenous Approaches

2.1 Premise

This chapter examines two critical perspectives that challenge the dominant approach to the relationship between humans and nature: ecofeminism and indigenous cosmologies. Although they stem from different intellectual traditions and historical experiences, both perspectives identify a link between the exploitation of nature and the oppression of certain human groups, and propose relational models, based on reciprocity and interdependence, as alternatives to the conception of nature as a resource or property. The first part of the chapter traces the origins and central arguments of ecofeminism, a movement that identifies a connection between the subordination of women and the exploitation of nature, by reviewing some of the contributions of fundamental authors such as Carolyn Merchant, Vandana Shiva, and Val Plumwood, while also mentioning decolonial interpretations of the movement, which link patriarchy, colonialism, and ecology. This section also examines the critiques raised against this movement in the 1990s, as well as its marginal status within international law, despite the insights it could offer toward an ecocentric and intersectional approach to the subject.

The second section focuses on Indigenous cosmologies and the relational conception of nature that characterises them, in which the Earth is understood not as property or as a resource, but as a living entity bound to humanity through a system of reciprocal duties and responsibilities. The section also shows how Indigenous peoples are often disproportionately exposed to the effects of climate change, a vulnerability that stems both from the geographic areas they inhabit and from their socio-economic condition. It then examines the international instruments that protect cultural diversity, and therefore Indigenous peoples and their cosmologies, including the 2001 UNESCO Universal Declaration on Cultural Diversity, the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, and the United Nations Declaration on the Rights of Indigenous Peoples of 2007. Finally, it presents two concrete cases in which Indigenous peoples and their worldviews have directly influenced the law, granting legal recognition to nature itself: the 2008 Constitution of Ecuador, and the New Zealand legislation granting legal personhood to the Whanganui River, through the Te Awa Tupua Act of 2017, and to Te Urewera, through the Te Urewera Act of 2014.

2.2 Ecofeminism

2.2.1 Origins and core arguments

Ecofeminism took shape at the intersection of feminist thought and social movements concerned with social justice and environmental protection, movements that tried to understand how oppression along lines of gender, ecology, race and species reinforced one another.¹²¹ It was Françoise d'Eaubonne who first thought of the name 'ecofeminism' to explain this phenomenon, coining the term in 1974 within her work *Le féminisme ou la mort*¹²². There she highlighted the environmental cost inflicted by development, and proposed that global overpopulation could itself be traced back to a patriarchal system that denied women authority over their own reproductive choices. She went further still, arguing that the subjugation of women and the degradation of the natural world were not separate phenomena but two faces of a single structure, bound together so tightly that neither could be undone without the other.¹²³ In her view, male power was responsible both for environmental damage and for pollution that risked leaving the earth unfit for future generations.¹²⁴ Although the movement as such is said to have its origins in the 1970s, its intellectual groundwork had already been laid earlier by Rachel Carson, whose 1962 book *Silent Spring*¹²⁵ influenced, according to some scholars, the rise of the modern environmental movement.¹²⁶ Carson's was able to make the public confront a frightening picture of pollution, one that stirred enough concern to spark real change and effectively set the 1960s environmental movement into motion.¹²⁷ Beyond this, she warned that humans and the natural environment were drifting apart, opening a path that ecofeminist scholarship would later follow.¹²⁸ Carlarne also mentions another figure whose life illustrated a convergence between environmentalist and feminist concerns, that is Wangari Maathai, a Kenyan woman who, upon returning to her country, was struck by how much the environment had deteriorated. From this experience she drew a link between the state of the environment and the wellbeing of those most reliant on it, women in particular, recognising that as natural resources diminished, women's rights eroded alongside them. This realisation led her to launch

¹²¹ Gaard, G. (2011). Ecofeminism Revisited: Rejecting Essentialism and Re-Placing Species in a Material Feminist Environmentalism. *Feminist Formations*, 23(2), p. 27.

¹²² D'Eaubonne, F. (1974). *Le féminisme ou la mort*. Pierre Horay.

¹²³ De Vido, S. (2021). A Quest for an Eco-centric Approach to International Law: the COVID-19 Pandemic as Game Changer. *Jus Cogens* 3, p. 109.

¹²⁴ Howell, N., (1997) Ecofeminism: What One Needs to Know, *Zygon: Journal of Religion and Science* 32(2), 231-232.

¹²⁵ Carson, R. (1962). *Silent spring*. Houghton Mifflin.

¹²⁶ Gaard, G. (2011). Ecofeminism Revisited: Rejecting Essentialism and Re-Placing Species in a Material Feminist Environmentalism, p. 27.

¹²⁷ Carlarne, C. P., (2020) Environmental Law & Feminism. *Ohio State Legal Studies Research Paper No. 553, The Oxford Handbook of Feminism and Law in the United States*, pp. 3-4.

¹²⁸ De Vido, S. (2021). A Quest for an Eco-centric Approach to International Law: the COVID-19 Pandemic as Game Changer, p. 109.

a tree-planting initiative that would become the ‘Green Belt Movement’, a worldwide effort that brought women together to cultivate land collectively. The movement led to more than 50 million trees planted globally, while also deepening public understanding of how environmental quality, women’s rights, and broader questions of social and economic justice were all interconnected. In this way, she gave concrete form to the bond between environmentalism and feminism.¹²⁹

As Gain describes it, ecofeminism investigates how the subjugation of women intersects with that of nature and of other non-human “others” beings that find themselves undervalued, or exploited within relational systems built on domination and subordination, a pattern she identifies as the driving force behind environmental destruction under patriarchal rule.¹³⁰ Beyond this, ecofeminism draws attention to the deep interconnection between human society and the natural order, and between the exploitation of the environment and the subjugation of women. In doing so, it borrows from ecology its attention to how human activity affects the non-human world, while drawing from feminism a recognition that gender itself structures humanity in ways that leave women exposed to exploitation and oppression.¹³¹ Puleo also suggests that ecofeminism attempts to outline a possible future in which environmental questions are approached through categories such as patriarchy, androcentrism, care, sexism and gender.¹³² Agarwal likewise holds that ecofeminism uncovers meaningful ties between the subjugation of women and the exploitation of the natural world.¹³³ Gaard, in turn, points out that part of what gave force to the ecofeminist movement was the recognition that women’s freedom and nature’s freedom were closely connected, so much so that neither could be fully realised without the other.¹³⁴ Ecofeminist thinkers approach ecology and feminism from many different angles, yet there are some convictions that are common for the whole movement. The first is the conviction that meaningful social change requires rebuilding human relationships around equality, cultural diversity and nonviolence, so relationships grounded not in hierarchy but in mutual reciprocity and open participation. The second is that such social change cannot happen without a parallel shift in how we think, moving away from dualistic and hierarchical

¹²⁹ Carlarne, C. P., (2020) *Environmental Law & Feminism*, pp. 11-12.

¹³⁰ Gain, K. (2026) Decolonial ecofeminism: a paradigmatic contribution to critical research of gender, ecology and coloniality, *Journal of Gender Studies*, 35:2, p. 290.

¹³¹ Carlarne, C. P., (2020) *Environmental Law & Feminism*, p. 6.

¹³² De Vido, S. (2021). A Quest for an Eco-centric Approach to International Law: the COVID-19 Pandemic as Game Changer, p. 109.

¹³³ Agarwal, B. (1992). The Gender and Environment Debate: Lessons from India. *Feminist Studies*, 18(1), p. 120.

¹³⁴ Gaard, G. (1997). Toward a Queer Ecofeminism. *Hypatia*, 12(1), p. 114.

patterns of reasoning. The third is a call to stop valuing nature merely for its usefulness and instead to recognise the worth it holds in and of itself.¹³⁵

During the 1970s, Gaard notes, two texts proved foundational for ecofeminist thought: Susan Griffin's *Woman and Nature* (1978)¹³⁶ and Carolyn Merchant's *The Death of Nature* (1980).¹³⁷ Some other important thinkers are Vandana Shiva, Maria Mies and Val Plumwood, that will be explored later. Griffin's contribution lays in showing how women, animals, the natural world, and other "others", such as children, people of colour, enslaved populations, as well as the body, emotion and sexuality themselves, had historically been cast as separate and lesser categories, a classification that served to justify their subjection within an elite, often violent, and militarised order dominated by men. Merchant, for her part, argued in *The Death of Nature* that the oppression of women and of nature originated from a common source rooted in the logic of science and capitalism, a connection between economic reasoning and rationalism that she traces across the period from 1484 to 1716. She further points to the decline of midwifery, brought about by the rise of Western medical science, as an instance of how self-determination, power and wealth were stripped away from indigenous peoples, women, queer people, animals and nature alike.¹³⁸ Looking more closely at Merchant's argument, she holds that prior to 1500 most Europeans experienced nature through the lens of organic communities, meaning that nature was conceived as a kind of organism, with individual interests subordinated to the collective purposes of family, community and state. Central to this organic worldview was the figure of nature as a nurturing mother, a benevolent female presence sustaining human needs. Yet alongside this ran a second, competing image, that of an untamed, unpredictable female nature capable of causing violence, storms and disorder. Both images cast nature in female terms, functioning as projections of human perception onto the external world. Over time, the image of the nurturing mother lost ground, a shift Merchant attributes to the Scientific Revolution, which set about mechanising and rationalising how the world was understood. The alternative image, that of chaotic nature, gave rise instead to the notion of mastery over nature, a notion that would become central to modernity. This shift in imagery, in turn, reshaped human conduct and attitudes toward the earth. Merchant also observes that as Europeans expanded

¹³⁵ Howell, N., (1997) "Ecofeminism: What One Needs to Know", *Zygon: Journal of Religion and Science* 32(2), pp. 233-234.

¹³⁶ Griffin, S. (1978). *Woman and nature: The roaring inside her*. Harper & Row.

¹³⁷ Merchant, C. (1980). *The death of nature: Women, ecology and the scientific revolution*. Harper & Row.

¹³⁸ Gaard, G. (2011). *Ecofeminism Revisited: Rejecting Essentialism and Re-Placing Species in a Material Feminist Environmentalism*, p. 28.

into new territories and markets, their impact on the natural world intensified accordingly. She notes, too, that so long as the earth was still regarded as a living, nurturing being, that is, before the Scientific Revolution, this belief imposed a cultural restraint on human conduct, since “one does not readily slay a mother, dig into her entrails for gold or mutilate her body” .¹³⁹ In other words, treating the earth as sentient and alive made destructive acts against it a violation of ethical conduct.¹⁴⁰

A further strand within ecofeminism was set in motion by Vandana Shiva, in her 1988 work *Staying Alive: Women, Ecology and Development*. Shiva believes that violence against nature is built into the dominant model of development, and travels hand in hand with violence against women. This pattern of violence, characteristic of development, shapes how both nature and women come to be perceived. Like Merchant, Shiva singles out the Scientific Revolution, arguing that it turned nature from *terra mater* into mere machinery and raw material, stripping away the ethical limits that had once restrained its exploitation. She also stresses the role of the Industrial Revolution in transforming economic life. Whereas economics had once been oriented toward managing resources to meet basic needs, it became instead a system oriented toward producing commodities for a profit. Industrialism, in her account, generated an insatiable appetite for extracting natural resources, and modern science was what rendered such extraction doable, legitimate and even desirable. More precisely, Shiva locates the drive to dominate and master nature not in humanity as a whole but specifically in men, linking it to patterns of control over women and to their exclusion as equal participants in science and development.¹⁴¹ Her analysis centres on development itself, which she regards as a model of progress modelled on the colonising West. She draws on Rosa Luxemburg’s insight that industrial growth in Western Europe depended on colonial powers seizing territory and dismantling local economies as the foundation of capitalist expansion. Development, in this reading, simply continued the work of colonisation, extending the wealth-generating project of Western patriarchal economics through the exclusion of women, the degradation of nature, and the erosion of other cultures. Much like colonialism before it, economic growth takes resources away from those most in need of them. Shiva also highlights how the privatisation of land for revenue generation weighs more heavily on women than on men; specifically, the spread of cash crops undermined subsistence farming, leaving women without adequate means to feed

¹³⁹ Merchant, C. (2020). *The death of nature: Women, ecology, and the scientific revolution* (40th anniversary ed.). HarperOne, p. 3.

¹⁴⁰ *Ibidem*, pp. 3-7.

¹⁴¹ Shiva, V. (1988). *Staying alive: Women, ecology and development*. Zed Books, introduction.

and care for children, elders and the infirm. Development thus eroded women's productive capacity both by removing land, water and forests from their control and by degrading the soil, water and vegetation systems on which nature's own renewal depended. On this basis, Shiva labels such development as maldevelopment, a form of progress stripped of both the feminine and the ecological principle, built on disregard for nature's self-renewal and for women's role in sustaining life. Maldevelopment treats any activity that fails to generate profit or capital as unproductive, and becomes in turn a new source of inequality between the sexes, imposing Western, male-centred notions of power onto women, non-Western peoples and nature alike, casting them all as deficient and in need of development. It disrupts the harmony between humanity and nature and between women and men, positioning man above both and separate from both. Within this framework, nature and women alike are relegated to the status of passive "other", and qualities once associated with the feminine are appropriated and reassigned as masculine traits, while nature and women themselves become passive objects for the use and exploitation of an alienated masculine subject.¹⁴² Turning to scientific knowledge itself, Shiva argues that it, too, constitutes a form of violence. Specifically, modern science operates as a patriarchal system that shuts women out as knowledge-holders while dismissing ecological, holistic modes of understanding attentive to nature's interconnected processes. This science, that was born with the Scientific Revolution, was fundamentally a Western masculine and patriarchal undertaking that subjugated both women and nature, benefiting European male entrepreneurs, and resting at its core on a rigid dichotomy between man and woman.¹⁴³ Shiva also draws on a concept developed by Maria Mies concerning the figure of man-as-hunter. In prehistory, she argues, men related to nature through violence and destruction as hunters, while women, as gatherers and cultivators, maintained a much different relationship with the natural world. Mies suggests that humanity could not have survived had the hunter model been the sole basis of early subsistence, however, patriarchal ideology elevated the hunter into the model for human evolution, embedding violence and domination as structural features and thereby laying the groundwork for a fundamentally violent relationship with nature.¹⁴⁴

Val Plumwood offers another key contribution to ecofeminist thought, and to critical ecological feminism specifically, in her 1993 book *Feminism and the Mastery of Nature*. She argues that historical patterns of oppression have woven together a web of dualisms and dichotomies

¹⁴² *Ibidem*, pp. 2-5.

¹⁴³ *Ibidem*, pp. 14-15.

¹⁴⁴ *Ibidem*, pp. 47-48.

within Western culture, one that underlies the connections between different forms of domination.¹⁴⁵ Among the dichotomies she identifies as central to Western thought are culture/nature, reason/nature, male/female, mind/body, master/slave, rationality/animality, reason/emotion, human/nature, subject/object, and self/other.¹⁴⁶ For Plumwood, Western culture has framed the relationship between humans and nature in dualistic terms, which accounts for how nature has been treated in the West particularly through the construction of human identity as fundamentally distinct from nature. She further argues that the conceptual force behind racism, colonialism and sexism stems from associating racial, sexual and ethnic difference with animality and the body, placing such difference within a sphere of inferiority, a form of humanity lacking full rational and cultural standing. Within this framework, nature is imagined as passive, lacking agency or subjectivity, serving merely as the backdrop against which the achievements of reason and culture, credited to the white, Western, male expert or entrepreneur, unfold.¹⁴⁷ Plumwood also pushes back against the image of woman as an “angel in the ecosystem”¹⁴⁸ – a woman that is empathetic, nurturing, cooperative, bound to others and to nature – arguing that while this image acknowledges real strengths in how women relate to the world, it obscures the power dynamics underlying it. Applying such traits universally to all women, she contends, denies the real differences among women, since not all women are empathetic, nurturing or cooperative, and some are capable of conflict, domination and violence, or have even supported and participated in assaults on nature.¹⁴⁹ Accordingly, Plumwood observes, women provide the background against which male achievement is highlighted, yet what women themselves do is rarely counted as achievement, and their labour is routinely left out of dominant historical narratives. The masculine, she notes, functions as the default model to such a degree that traits conventionally linked to masculinity, such as rationality, intervention, and control over nature, come to define humanity itself.¹⁵⁰

Gain also discusses what she terms decolonial ecofeminist theory, an approach linking colonialism, gender and ecology, which holds that the exploitation of both women and nature is central to neo-colonial capitalist violence. She maintains that systems of neocolonialism and patriarchal violence are not isolated phenomena but interconnected structures of oppression,

¹⁴⁵ Plumwood, V. (1993). *Feminism and the mastery of nature*. Routledge, pp. 2-4.

¹⁴⁶ *Ibidem*, p. 43.

¹⁴⁷ *Ibidem*, pp. 2-4.

¹⁴⁸ *Ibidem*, p. 8.

¹⁴⁹ *Ibidem*, pp. 8-9.

¹⁵⁰ *Ibidem*, pp. 21-25.

arguing more specifically that gender binaries themselves emerged out of colonialism, with patriarchy and misogyny functioning as instruments of colonial violence. The colonisation of the Americas and the Caribbean, she explains, rested on a distinction between human and non-human imposed on colonised populations for the benefit of Western men, a distinction accompanied by further binary divisions, including that between women and men. Gain also draws on Federici's analysis, which links the oppression of women, of other human "others", and of ecology, emphasising how central the suppression of women's power was to the emergence of capitalism. For Federici, the origins of capitalism and the intertwined oppression of women and nature lie in the enclosure of the commons, a process that disproportionately harmed women. More precisely, privatising land pushed women into the margins and confined them to reproductive labour, work that was increasingly devalued, while women's labour itself came to be treated as a freely available natural resource.¹⁵¹ Gaard, meanwhile, traces a connection between Christianity and the exploitation of women, indigenous cultures, animals, the natural world, and queer people. Many feminists and ecofeminists locate the separation of humans from nature as far back as 4000 BCE, when matrifocal, agricultural, goddess-centred cultures were overtaken by militaristic, nomadic societies worshipping a male god. The earlier worldview, which saw spirit as present throughout nature and treated reproduction and the earth's fertility as sacred, gave way to one that placed divinity outside of nature altogether, positioning both humans and nature as God's creations rather than as equal expressions of the divine. The female or hermaphroditic deity was substituted by a male, heterosexual god, a father, and ecofeminists regard this shift as having reinforced the subordination of women, nature, and all those associated with them.¹⁵²

2.2.2 Critiques to ecofeminism

Having gained momentum through the 1970s and 1980s, ecofeminism found itself increasingly under attack by the 1990s, accused of gender essentialism and of reinforcing conventional norms around sex and gender.¹⁵³ One clear illustration of this backlash occurred in 1992, when *Signs*, the leading academic journal in feminist studies, rejected a review essay on ecofeminism. Its editors explained that, according to them, ecofeminism tried to encompass so many concerns at once, so much so that feminism itself risked disappearing within it. The essay had traced how ecofeminists connected the oppression of nature and women through issues

¹⁵¹ Gain, K. (2026) Decolonial ecofeminism: a paradigmatic contribution to critical research of gender, ecology and coloniality, pp. 290-293.

¹⁵² Gaard, G. (1997). Toward a Queer Ecofeminism, pp. 122-123.

¹⁵³ Carlarne, C. P., (2020) Environmental Law & Feminism, pp. 7-8.

ranging from global economics and Third-World debt to maldevelopment, industrial animal agriculture, food insecurity, reproductive rights, militarism and environmental racism, and the editors felt that these connections were insufficiently tied to women specifically. The *NWSA Journal* likewise declined the piece, objecting to its treatment of toxic waste dumped in communities of colour and insisting that ecology had nothing to do with sexism, racism or classism. The essay eventually was published in *Society and Nature*, a journal of social ecology. In the early 1990s, feminist scholars broadly continued to treat social justice, inter-species ethics and environmental concerns as unrelated fields. A separate controversy centred on animal ecofeminists, who argued that women's socially mandated reproductive labour was similar to the exploitation of female reproductive capacities in dairy cows and egg-laying hens. These thinkers also examined animal experimentation, industrial food production's reliance on undocumented labour, and the links between hunting and masculine identity, but their arguments were met with criticism. A reviewer for *The Women's Review of Books* dismissed the idea that meat consumption posed an environmental threat comparable to ozone depletion, even though some links between industrial animal agriculture and global warming had already been established, and judged ecofeminism to have become so all-encompassing as to be meaningless. Some mainstream feminism rejected the animal-focused strand. Criticism came, too, from deep ecologists. Across the 1980s and into the 1990s, ecofeminists argued that what deep ecology identified as anthropocentrism was more accurately androcentrism, since women and people of colour had only ever been marginally implicated in elite white male domination over nature. They also rejected deep ecology's idea of becoming one with nature, arguing that it was narcissistic, male-centred, and colonising, and also criticised its romanticised view of hunting as a way of connecting with nature and its lack of attention to feminist perspectives. Deep ecologists, for their part, tended to treat ecofeminism as merely a branch of their own framework, dismissing it outright whenever the two diverged. Taken together, these disputes intensified the criticism ecofeminism faced, and by the latter half of the 1990s, the backlash against perceived essentialism had grown severe enough that graduate students were being discouraged from pursuing ecofeminist approaches in their dissertations, and scholars were advised against using the word "ecofeminism" in titles or keywords. Much of 1990s feminism thus reduced ecofeminism to a mere equation of women with nature, ignoring the diversity of

its arguments to the point that, by 2010, work explicitly engaging feminism and ecology together had practically vanished from view.¹⁵⁴

One issue that several scholars have highlighted regarding ecofeminism is the absence, within the international legal order, of the concerns central to women's issues and to ecofeminist thought more broadly. International law, they note, has been built around a dichotomy that separates humans from nature and positions humans as dominant over it. De Vido argues that any genuinely ecocentric approach to international law would need to draw on ecofeminist insights, particularly the need to dismantle patterns of oppression and the human/nature divide itself.¹⁵⁵ Other scholars stress that climate change compounds existing forms of discrimination, including gender discrimination, and should be understood not as a discrete crisis but as an emergency embedded within social structures that reproduce inequality.¹⁵⁶ The exchange between feminist and environmental thought brings into focus both the gendered impact of environmental harm and what women themselves can contribute to addressing it. Women who sit at the intersection of multiple forms of marginalisation, such as women of colour, displaced women, indigenous women, women from minority groups, low-income women, women with disabilities, among others, bear a disproportionate share of ecological degradation's effects. Yet ecofeminism remains largely absent from legal scholarship and has rarely been adopted as a method of international legal analysis. De Vido suggests that ecofeminism could nonetheless be productively applied to international law, since it challenges rigid legal categories by putting attention to the interdependence among all species, human and non-human, and nature itself, emphasising the perspectives of communities most affected by climate change and ecological harm yet least often heard. An intersectional ecofeminist approach to law, in this view, would advance environmental justice by recognising how overlapping systems of oppression, like racism, gender discrimination, environmental degradation, reinforce one another.¹⁵⁷ Tramontana extends this analysis further, showing that women face the greatest burden of environmental degradation's adverse effects not because of any biological difference between the sexes, but because of gendered stereotypes, norms and social practices that leave women more exposed and less able to cope than men. This disproportionate impact comes mainly from

¹⁵⁴ Gaard, G. (2011). *Ecofeminism Revisited: Rejecting Essentialism and Re-Placing Species in a Material Feminist Environmentalism*, pp. 31-41.

¹⁵⁵ De Vido, S. (2021). A Quest for an Eco-centric Approach to International Law: the COVID-19 Pandemic as Game Changer, pp. 108-112.

¹⁵⁶ De Vido, S., Russo, D., & Tramontana, E. (Eds.). (2026). *Gendering international legal responses to environmental chronic emergencies*. Edward Elgar Publishing, pp. 9-12.

¹⁵⁷ *Ibidem*, pp. 9-20.

the fact that stereotyped gender roles assign women a much greater share of unpaid domestic labour. In rural settings, for instance, women are typically responsible for securing food, water and fuel for their households, and climate change frequently forces them to travel further to obtain these resources, costing them time that might otherwise go toward leisure, education or income-generating activity, while also exposing them to greater risk. Women also tend to have fewer resources for adapting to environmental degradation, a burden felt more strongly by those facing multiple, intersecting forms of discrimination. Finally, women have fewer opportunities to shape environmental policy and decision-making, and face greater obstacles in securing reparations for losses caused by environmental harm.¹⁵⁸

Overall, ecofeminism shows that the exploitation of nature cannot be fully understood without also considering the social structures and forms of domination that shape human relationships with the natural world. By drawing attention to the connections between the oppression of women, the exploitation of nature, and other forms of inequality, ecofeminist thought challenges the idea that environmental degradation can be separated from broader systems of social and economic domination. In this sense, it offers a broader understanding of the relationship between humans and nature, one that places greater emphasis on interdependence, equality, and the need to move beyond hierarchical ways of thinking.

2.3 Indigenous cosmologies

2.3.1 Indigenous worldviews and the human-nature relationship

Indigenous understandings of the natural world differ sharply from the dominant Western tendency to treat the Earth as a commodity, as property, or as a resource. Instead, Indigenous worldviews conceive of the Earth as something that is alive and has a spirit, bound to humanity through a reciprocal set of duties and responsibilities. If these obligations are consistently honoured, relations between human and non-human entities remain in a healthy balance.¹⁵⁹ Central to this understanding is an ecology of reciprocity, in which the Earth itself is regarded as possessing personhood and rights, and humanity is understood as merely one part of something bigger. This worldview carries with it an obligation to protect and sustain relationality, shaping practices that steward and safeguard the natural world.¹⁶⁰ While

¹⁵⁸ *Ibidem*, pp. 43-44.

¹⁵⁹ McGregor, D., Whitaker, S., & Sritharan, M. (2020). Indigenous environmental justice and sustainability. *Current Opinion in Environmental Sustainability*, 43, p. 35.

¹⁶⁰ Gauthier, P. E., Chungyalpa, D., Goldman, R. I., Davidson, R. J., & Wilson-Mendenhall, C. D. (2025). Mother Earth kinship: Centering Indigenous worldviews to address the Anthropocene and rethink the ethics of human-to-nature connectedness, p.1.

Indigenous cultures are far from uniform, and any attempt to describe a single, unified Indigenous view would be reductive, certain commonalities nonetheless recur across them.¹⁶¹ Foremost among these is a deep respect and reverence for the Earth, understood not as property to be owned but as a being possessing its own personhood, one that must be shared with the whole of creation. Positioning humanity in relation to the natural world in this way invites reflection on human purpose within a broader cosmology. By placing the Earth's personhood above considerations of economic wellbeing, Indigenous peoples have developed an interdisciplinary, empirically grounded body of nature-based practices, among them kincentrism and sustainability, which are rooted in observation, experimentation, and adaptation. Humans, on this view, exist in relation to the natural world and bear an obligation to steward and care for its other beings, as part of a wider ecological whole. The natural world is understood to sustain valuable social relations that shape identity, governance, and resistance to harm done to the Earth. Knowledge, in turn, is understood as something relevant to the needs of all creation. It comes as a gift, revealed through observing the Earth's own story, and so belongs to the place and context from which it emerged. Humanity's purpose, in this framework, lies in the stewardship of the natural world, in which human beings, motivated by love and gratitude, bear the responsibility to protect the rights of all their relations, living and non-living alike, who exist as people within the natural world. Furthermore, everyday practices such as empathy and compassion are understood to matter precisely because they contribute to the world with something valuable.¹⁶²

This relational understanding extends to how Indigenous peoples conceive of kinship itself, specifically they see both themselves and the natural world as belonging to an extended ecological family, sharing common ancestry and origins. Life within any given environment, on this view, is sustainable only when humans regard the life around them as kin. Indigenous peoples are shaped by, and in turn shape, the life surrounding them, and it is precisely this kincentric ecology that sustains and enhances the ecosystem over time. Moreover, where humans fail to recognise their role within the complexity of a given place, that place's life

¹⁶¹ Hird, C., David-Chavez, D. M., Gion, S. S., & van Uitregt, V. (2023). Moving beyond ontological (worldview) supremacy: Indigenous insights and a recovery guide for settler-colonial scientists. *Journal of Experimental Biology*, 226(12), p. 2.

¹⁶² Gauthier, P. E., Chungyalpa, D., Goldman, R. I., Davidson, R. J., & Wilson-Mendenhall, C. D. (2025). Mother Earth kinship: Centering Indigenous worldviews to address the Anthropocene and rethink the ethics of human-to-nature connectedness, pp. 2-4.

suffers as a result. In Indigenous cultural models of nature, humans thus figure as merely one strand within a far larger web of life.¹⁶³

This relational worldview is expressed differently across Indigenous languages than it is in English, since abstract concepts tied to land do not translate easily between linguistic traditions. Salmón, writing from within the Rarámuri culture of the eastern Sierra Madre in Chihuahua, Mexico, illustrates this through the concept of kincentric ecology as expressed in the Rarámuri notion of *iwígara*. The Rarámuri understand themselves as an integral part of the life and place they inhabit, and *iwígara* captures a range of ideas and ways of thinking unique to that particular landscape. Rituals, ceremonies, language, and thought itself are all shaped by the land, the animals, and the winds among which the Rarámuri live. *Iwígara* thus denotes the total interconnection and integration of all life across the Sierra Madre, encompassing both the physical and the spiritual. A related concept, *iwi*, refers to the soul, understood as that which sustains the body through the breath of life; everything that breathes is understood to possess a soul, plants, animals, humans, stones, and the land alike, all sharing in the same breath. Upon death, the souls of humans and animals are believed to become butterflies who visit the living, and who travel onward to the Milky Way, where the souls of past ancestors reside. *Iwígara*, in this sense, expresses the belief that all life shares a single breath, and that every being is related to, and plays a part in, the broader complexity of life.¹⁶⁴ This interdependence between the Earth and human beings also shapes human health and identity. Indigenous peoples believe that their spiritual, physical, social, and mental wellbeing depends on living in harmony with the natural world. Identity, language, connection to land, belief, and history together reflect a culture that shapes the health of both human beings and the natural world. Harming the natural world, in this sense, is understood as harming oneself. Kincentric ecology, in this sense, describes the way Indigenous peoples situate themselves within an extended ecological family sharing common ancestry and origin.¹⁶⁵ This extends into Indigenous kinship systems more broadly, which encompass relationships not only among human beings but with the environment and the animals, plants, and spirits alike, thereby challenging the strict separation between nature and culture that characterises settler-colonial modes of thought. Indigenous systems of kinship are, in this respect, constituted by histories, forms of knowledge, and a

¹⁶³ Salmón, Enrique. (2000). Kincentric Ecology: Indigenous Perceptions of the HumanNature Relationship. *Ecological Applications - ECOL APPL.* 10., p. 1327.

¹⁶⁴ *Ibidem*, pp. 1327-1328.

¹⁶⁵ *Ibidem*, 1131-1132.

shared life force connecting Indigenous peoples to their lands, their creators, all living entities, and their ancestors.¹⁶⁶

Academic and scientific knowledge systems, according to some authors, have long preserved a power imbalance in relation to Indigenous ways of knowing and being, often omitting, misinterpreting, extracting from, or otherwise devaluing Indigenous knowledge. Scientists working on natural systems frequently engage with the natural world as an object, a view that stands in contrast to the relational ethics underpinning Indigenous ways of knowing. According to Hird, scientific institutions themselves reflect a settler-colonial design, resting on knowledge traditions built upon the dispossession, genocide, and erasure of Indigenous ancestors.¹⁶⁷ This dynamic extends to the disproportionate climate risks faced by Indigenous peoples, who number roughly 400 million worldwide and who, prior to invasion, colonisation, or settlement, exercised collective self-determination according to their own cosmological and political systems.¹⁶⁸ These risks stem largely from the way colonialism, in conjunction with capitalist economics, has shaped both the geographic spaces Indigenous peoples inhabit and their broader socio-economic conditions. Indigenous peoples' own accounts of climate risk describe settler and other colonial societies as imposing rapid environmental change that generates otherwise preventable harm, and for many communities, these changes are experienced not as a new phenomenon but as a continuation of the colonialism they have endured for generations.¹⁶⁹ In the North American context, specifically, Indigenous peoples arguably began raising concerns over ecosystem destruction from the moment of European arrival, more than five centuries ago, long before such destruction was officially recognised by dominant society as a crisis. From this perspective, environmental injustice, including the climate crisis itself, is inseparable from, and symptomatic of, ongoing processes of colonialism, dispossession, capitalism, imperialism, and patriarchy. Some indigenous scholars accordingly describe the present ecological crisis as an intensification of colonialism, arguing that decolonisation is a necessary condition for any viable and sustainable path forward.¹⁷⁰ This form of colonialism, Smith argues, has its roots in the European Enlightenment, a period that supplied the intellectual spirit, confidence, and political and economic structures underpinning the search for new knowledge. The

¹⁶⁶ Hird, C., David-Chavez, D. M., Gion, S. S., & van Uitregt, V. (2023). Moving beyond ontological (worldview) supremacy: Indigenous insights and a recovery guide for settler-colonial scientists, p.2.

¹⁶⁷ *Ibidem*, pp. 1-2.

¹⁶⁸ Whyte, K. (2016). Is it Colonial Déjà Vu? Indigenous Peoples and Climate Injustice, p.1.

¹⁶⁹ *Ibidem*, p.8.

¹⁷⁰ McGregor, D., Whitaker, S., & Sritharan, M. (2020). Indigenous environmental justice and sustainability. *Current Opinion in Environmental Sustainability*, 43, p.36.

Enlightenment is often seen as the driving force behind the industrial revolution, the philosophy of liberalism, the development of the sciences as distinct disciplines, and the emergence of public education, a project based on the idea that knowledge existed to be discovered, extracted, appropriated, and distributed. This same project of modernity also marked the beginning of the modern state, whose formation was shaped by the demands of an expanding economy built on major improvements in production. The development of scientific thought, European exploration and “discovery” of other territories, the expansion of trade, the establishment of colonies, and the systematic colonisation of Indigenous peoples across the eighteenth and nineteenth centuries were all aspects of this same modernist project. Within it, Indigenous peoples were frequently classified alongside flora and fauna, regarded as “nearly human”, “almost human”, or “sub-human”, classifications often based on whether they were thought to possess a soul, and thus be capable of salvation, or to be educable, and thus capable of schooling. Imperialism and colonialism were, in this sense, the very mechanisms through which the West came to see, name, and know Indigenous communities. At a cultural level, colonialism operated through ideas and images of “the other” that helped construct and reinforce a perceived essential difference between Europe and the rest of the world. Indigenous forms of knowledge across Asia, the Americas, the Pacific, and Africa, including systems of classification, technologies, and codes of social life, began to be documented in detail from the seventeenth century onward, only to be reframed as new discoveries of Western science and commodified as property belonging to the West’s own body of knowledge. Through this process, the globalisation of Western knowledge and culture continually reaffirmed the West’s self-image as the centre of legitimate knowledge, the arbiter of what counted as knowledge, and the source of civilisation itself. The most visible mechanisms of this discipline were exclusion, marginalisation, and denial, patterns clearly visible in the treatment of Indigenous conceptions of land; through the forced imposition of individualised title, through the confiscation of land as punishment for forms of opposition, and through the redefinition of land as an empty territory, a redefinition that then served to justify its seizure.¹⁷¹

Many scholars stress that, while climate change poses a threat to all peoples, its impact falls disproportionately on Indigenous communities. This is because many Indigenous people continue to practise traditional ways of life, and many of the regions they inhabit are the ones most exposed to the effects of climate change. These effects of climate change are especially

¹⁷¹ Smith, L. T. (1999). *Decolonizing methodologies: Research and Indigenous peoples*. Zed Books, pp. 58-68.

visible in the Pacific Islands and the Arctic, given the degree to which these populations depend on their local environments, and given that traditional livelihoods remain central to basic survival in both regions. Although these two environments differ radically from one another, the harms experienced by Indigenous communities within them are strikingly similar, both because each environment is highly susceptible to climate change and because of the close, mutually reinforcing relationship between these communities and their surroundings.¹⁷² More broadly, the areas most exposed to acute climate impacts, such as melting ice, eroding coastlines, flooding, and drought, tend to be located far from the centres of media and political power, and are frequently inhabited by Indigenous peoples whose livelihoods remain intrinsically tied to environmental conditions.¹⁷³ One example of this phenomenon is visible, along the Pacific coast of North America, where warming waters and receding glaciers have disrupted fish habitats relied upon by numerous Tribal nations for both economic and cultural purposes, notably through the harvesting of salmon.¹⁷⁴ Indigenous people's vulnerability operates on two levels. Geographically, many Indigenous communities happen to live in places especially susceptible to rising global temperatures. Economically, a frequent lack of resources and limited mobility leaves these communities less able to remove themselves from life-threatening conditions. This combination of geographic and economic vulnerability is particularly unjust given that the communities affected bear little to no historical responsibility for causing climate change in the first place.¹⁷⁵ Indeed, according to McGregor, Indigenous peoples are disproportionately affected by environmental degradation even when compared to other marginalised groups, and any failure to account for the depth and continuity of colonialism, both historical and ongoing, in understanding these injustices risks producing remedies that are destined to fail. At the same time, an Indigenous environmental justice framework offers a counter-narrative to the tendency, common in international forums and scholarship alike, to portray Indigenous peoples solely as passive victims of environmental harm. While undeniably vulnerable to disruption on this scale, Indigenous communities also carry with them forms of knowledge born from centuries of surviving historical and ongoing imperialism, capitalism, and colonialism, knowledge that has prepared them to navigate

¹⁷² Tsosie, R. (2007). Indigenous people and environmental justice: The impact of climate change. *University of Colorado Law Review*, 78, pp. 1625–1636.

¹⁷³ Roosvall, A., & Tegelberg, M. (2015). Media and the geographies of climate justice: Indigenous peoples, nature and the geopolitics of climate change. *tripleC: Communication, Capitalism & Critique*, 13(1), p. 39.

¹⁷⁴ Whyte, K. (2016). Is it Colonial Déjà Vu? Indigenous Peoples and Climate Injustice, p. 7.

¹⁷⁵ *Ibidem*, pp. 13-15.

catastrophic environmental change. Indigenous peoples have adapted to, and survived, such change for centuries, drawing on their own systems of knowledge and law to do so.¹⁷⁶

2.3.2 The right to cultural diversity and its protection of Indigenous cosmovisions

These cosmologies, central to Indigenous peoples and to their worldview, are protected under some international instruments as a form of culture. In particular, international law protects cultural diversity, including the elements that are central to Indigenous identity. This protection first took shape in 2001, when the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO) adopted the Universal Declaration on Cultural Diversity. In particular, Article 1 of the Declaration recognises cultural diversity as necessary for humankind, both for present and future generations. Article 4 goes further, linking the defence of cultural diversity to respect for human dignity and to a broader commitment to human rights and fundamental freedoms, with explicit reference to the rights of persons belonging to minorities and to Indigenous peoples. Article 5, in turn, underlines the importance of enabling individuals to express themselves in their mother tongue or in the language of their choice.¹⁷⁷ Four years later, in 2005, UNESCO adopted the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, which defines cultural diversity, in Article 4, as the “manifold ways in which the cultures of groups and societies find expression”. The Convention’s preamble affirms cultural diversity as a defining characteristic of humanity, one to be cherished and protected, while acknowledging that culture varies across places and periods and is expressed through the distinctive identities, traditions, and cultural expressions of different peoples and societies. It further recognises the importance of traditional knowledge, particularly that of Indigenous peoples, and calls for measures to safeguard it, while identifying linguistic diversity as a component of cultural diversity and stressing the need to sustain the vitality of the cultures of minorities and Indigenous peoples alike. Article 2.3 specifies that protecting and promoting cultural diversity entails recognising the equal dignity and respect owed to all cultures, including those of persons belonging to minorities and Indigenous peoples, while Article 7 requires parties to foster an environment in which individuals and social groups can create, produce, disseminate, distribute, and access their own cultural expressions, with particular attention to the circumstances and needs of women and other social groups, including

¹⁷⁶ McGregor, D., Whitaker, S., & Sritharan, M. (2020). Indigenous environmental justice and sustainability, pp. 36-37.

¹⁷⁷ UNESCO. (2001) UNESCO Declaration on Cultural Diversity. Available at <https://www.unesco.org/en/legal-affairs/unesco-universal-declaration-cultural-diversity> (accessed 20 August 2026).

minorities and Indigenous peoples.¹⁷⁸ Kugelmann regards this Convention as one of the most significant expressions of efforts to promote cultural diversity at the international level.¹⁷⁹ These instruments thus recognise Indigenous cosmovisions as protected expressions of cultural diversity.

A further instrument, adopted by the UN General Assembly in 2007 and dedicated specifically to Indigenous peoples, is the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), a non-binding instrument. Its preamble first affirms the equality of Indigenous peoples with all other peoples, while recognising that they, like everyone else, contribute to the diversity and richness of civilisations and cultures. It further acknowledges that Indigenous peoples have suffered historic injustices, including colonisation and the dispossession of their lands, territories, and resources, and calls for the respect and promotion of rights deriving from their cultures, spiritual traditions, histories, and philosophies, particularly those concerning their lands, territories, and resources. Several articles emphasise the significance of Indigenous culture specifically. For instance, Article 8 protects Indigenous peoples' culture against destruction, while Article 11 grants the right to practise cultural traditions and customs, and Article 12 the right to manifest, practise, develop, and teach spiritual and religious traditions, customs, and ceremonies. Article 13 further guarantees the right to transmit culture, including histories, languages, oral traditions, philosophies, and literatures, to future generations, as well as the right to maintain distinctive names for communities, places, and people. Article 15 recognises the right to the dignity and diversity of Indigenous cultures, traditions, and histories, which must be appropriately reflected in education and public information, while Article 24 guarantees the right to traditional medicines, and Article 31 the right to maintain, control, protect, and develop cultural heritage, traditional knowledge, and traditional cultural expressions. Other provisions address Indigenous peoples' relationship to land: Article 10 prohibits forcible removal from their lands, and Article 25 recognises their right to maintain and strengthen their distinctive spiritual relationship with the lands, territories, waters, and coastal seas they have traditionally owned or otherwise occupied and used. Article 26, then, recognises Indigenous peoples' right to the lands, territories, and resources they have traditionally owned or otherwise occupied and used, calling on states to afford these legal

¹⁷⁸ UNESCO. (2005). Convention on the protection and promotion of the diversity of cultural expressions. Available at <https://www.unesco.org/en/legal-affairs/convention-protection-and-promotion-diversity-cultural-expressions> (accessed 20 August 2026).

¹⁷⁹ Kugelmann, D. (2007). The Protection of Minorities and Indigenous Peoples Respecting Cultural Diversity. *Max Planck Yearbook of United Nations Law Online*, 11(1), p. 241.

recognition and protection with due regard for the customs, traditions, and land tenure systems concerned, while Article 28 provides for redress regarding such lands, territories, and resources. Article 29 recognises Indigenous peoples' right to the conservation and protection of the environment, encouraging states to establish assistance programmes to this end and requiring measures to ensure that hazardous materials are not stored or disposed of on Indigenous lands or territories without the free, prior, and informed consent of the peoples concerned. Article 30, finally, discourages military activity on Indigenous lands or territories, except where agreed with the Indigenous peoples involved.¹⁸⁰ Taken together, these instruments recognise and protect Indigenous cultures, traditions, knowledge, and identities, providing a framework for the preservation and expression of Indigenous worldviews.

2.3.3 The legal recognition of indigenous cosmovisions: the cases of Ecuador and New Zealand

Indigenous peoples have inhabited the territory of present-day Ecuador for more than 11,000 years. Many were later conquered by the Incan Empire, which was in turn overthrown by Spanish conquistadors, but despite this history of successive colonisation, a substantial Indigenous population remains in Ecuador today.¹⁸¹ Indigenous cosmology in the Andean region is expressed through traditional narratives describing how present-day peoples descend from, and remain genealogically related to, the natural world. In their vision, all elements of nature are understood to share a common ancestor and to be interrelated, each guided by the spiritual assistants of the gods, who themselves inhabit and animate the natural world while also watching over human beings. In turn, Indigenous peoples treat animals, plants, and other natural features as kin, deserving of respectful care.¹⁸²

Ecuador's Constitution, adopted in 2008, is the first constitution that recognises the rights of nature. It was Indigenous peoples, and in particular the Confederation of Indigenous Nationalities of Ecuador (CONAIE), who played a central role in securing recognition of the rights of nature within the legal text.¹⁸³ This recognition emerged from a broader political

¹⁸⁰ United Nations General Assembly. (2007). United Nations Declaration on the Rights of Indigenous Peoples (A/RES/61/295). Available at <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html> (accessed 20 August 2026).

¹⁸¹ Boyd, D. R. (2017). The rights of nature: A legal revolution that could save the planet, p. 166.

¹⁸² Iorns, C., (2015) Nature as an Ancestor: Two Examples of Legal Personality for Nature in New Zealand *VertigO - la revue électronique en sciences de l'environnement*, Victoria University of Wellington Legal Research Paper No. 54/2020, pp. 3-4.

¹⁸³ Jones, E., (2021) Posthuman International Law and the Rights of Nature, p. 12.

process. Specifically, during his 2006 election campaign, then-presidential candidate Rafael Correa promised to draft a new constitution, and upon taking office, one of his first acts was to convene a Constitutional Assembly for this purpose. Alberto Acosta, an economist and university professor close to Correa, played a leading role in advocating for the inclusion of rights of nature within the new constitution.¹⁸⁴ His arguments found a natural ally in CONAIE and the broader Indigenous movement, for whom the concept of rights of nature aligned closely with the aspiration to live in harmony with the natural world. Natalia Green, an Ecuadorian environmentalist, further advanced this cause, drawing on the work of Latin American scholars as well as that of Christopher Stone.¹⁸⁵ The Constitution that emerged from this process is organised around the concept of *Sumak kawsay*, which is referred to as *buen vivir* in Spanish, and roughly translates as harmonious coexistence between people, nature, and society. According to Acosta, this vision stands opposed to industrial capitalism, the subjugation of nature, the pursuit of unlimited economic growth, and the influence of consumerism, promoting instead organic agriculture, renewable energy, ecotourism, and recycling as the foundations of an economy in which people, communities, and nature alike might flourish. The Constitution's preamble reflects this vision directly, declaring that the people of Ecuador, "celebrating nature, the Pachamama (Mother Earth), of which we are a part and which is vital to our existence"¹⁸⁶, resolve to build a new form of public life in harmony with nature, in pursuit of *Sumak Kawsay*. Pachamama, the goddess whose creative power is understood to sustain life on Earth, lies at the heart of Andean Indigenous cosmology, and from this perspective nature cannot be reduced to a mere collection of resources. As former Ecuadorian foreign minister and Quechua leader Nina Pacari has put it, all beings of nature possess an energy known as *samai*, and are, therefore, living beings. This is true for rocks, rivers, mountains, the sun, and plants alike.¹⁸⁷ The principle of *Sumak kawsay* rests on the idea that nature is a living entity, indispensable to life itself. It consists of living in harmony with one's community, respecting one's neighbours and nature alike, and recognising that everything is alive and that human beings form part of that greater whole, a communal way of life lived in and through Pachamama. It denotes a state of fulfilment not only for human beings but for every element that makes up Mother Nature

¹⁸⁴ Boyd, D. R. (2017). The rights of nature: A legal revolution that could save the planet, pp.166-169

¹⁸⁵ Tănăsescu, M. (2020). Rights of Nature, Legal Personality, and Indigenous Philosophies. *Transnational Environmental Law*, 9(3), pp. 434-435.

¹⁸⁶ Constituent Assembly of Ecuador. (2008). Constitution of the Republic of Ecuador. Available at https://www.asambleanacional.gob.ec/es/noticia/constitucion_de_la_republica_del_ecuador_version_e_n_ingles (accessed 15 August 2026).

¹⁸⁷ Boyd, D. R. (2017). The rights of nature: A legal revolution that could save the planet, pp. 171-172.

and enables the continuity of life, shaped by a recognition of the interaction between human beings and nature within a framework of equality and reciprocity. In this respect, *Sumak kawsay* breaks with anthropocentric thought, which rests on human domination and hierarchy, proposing instead a harmonious duality in which all living beings are regarded as equals. It also invites an intercultural reading of constitutional principles, calling for a rethinking of Western philosophical categories through the incorporation of harmony, complementarity, communal life, reciprocity, and relationality between people, society, and nature. Rather than displacing classical rights theory altogether, it complements it, responding to diversity and to the need for an inclusive framework capable of giving concrete expression to an open, pluralist constitution. *Sumak kawsay*, in this sense, reflects a distinctly Indigenous way of being, seeing, and acting, drawn from centuries of accumulated knowledge and experience, and expressing a form of communal life defined by harmony and by balance between human and natural life.¹⁸⁸ Practically, it implies using no more than is necessary to live, so that nature, society, the community, and the individual alike retain the time and space needed to regenerate. Human beings are expected to integrate themselves into these processes of renewal rather than obstruct them through overexploitation, misuse, or waste, since, on this relational view, every action carries consequences for one's surroundings, whether human, natural, or supernatural. As a post-capitalist proposal, *Sumak kawsay* seeks to subordinate the economy to the service of humanity and nature, rather than the reverse, breaking with a logic of accumulation and profit. In doing so, it also calls into question Western, Eurocentric epistemology itself, proposing instead the revaluation and reappropriation of traditional knowledge within a framework of intercultural exchange and mutual respect.¹⁸⁹

The Ecuadorian Constitution's provisions on the rights of nature form part of this broader framework intended to protect Pachamama. It establishes that both human beings and nature hold rights, that neither set of rights takes precedence over the other, and that the state bears a duty to respect and enforce them. Individuals are granted the right to live in an environment that is pollution-free, healthy, and ecologically balanced, alongside a corresponding obligation, shared with the state, to respect the rights of nature, preserve a healthy environment, and use natural resources sustainably. Even the Constitution's provisions on economic development

¹⁸⁸ Barahona Néjer, A., & Añazco Aguilar, A. (2020). La naturaleza como sujeto de derechos y su interpretación constitucional: Interculturalidad y cosmovisión de los pueblos originarios. *FORO: Revista de Derecho*, (34), pp. 49-51.

¹⁸⁹ Altmann, P. (2016). Buen Vivir como propuesta política integral: Dimensiones del Sumak Kawsay. *Mundos Plurales - Revista Latinoamericana de Políticas y Acción Pública*. 3, pp. 59-63.

make repeated reference to the rights of nature and to living in harmony with it.¹⁹⁰ This general framework finds its clearest expression in Articles 71 and 72 of the Constitution, which construct nature as a legal person in terms that closely resemble the human person at the heart of human rights discourse. More specifically, Article 71 grants nature, or Pachamama, “the right to integral respect for its existence and for the maintenance and regeneration of its life cycles, structure, functions and evolutionary processes”¹⁹¹. This right can be invoked before public authorities by any person, community, people, or nation, and it is to be enforced and interpreted in accordance with the Constitution's own principles. The same article further commits the state to incentivising individuals, legal entities, and communities to protect nature and to promote respect for the elements that make up an ecosystem. Article 72, in turn, recognises nature’s right to be restored, independently of any parallel obligation on the state, or on natural or legal persons, to compensate individuals and communities that depend on the natural systems affected. Moreover, in cases of severe or permanent environmental harm, including that caused by the exploitation of non-renewable resources, the state is required to establish the most effective means of achieving restoration and to adopt adequate measures to eliminate or mitigate the resulting environmental consequences.¹⁹² Taken together, these provisions have been described as marking a significant cultural and legal shift away from an anthropocentric worldview and towards an ecocentric one, grounded in the interdependence of all species and the ecosystems that sustain life on Earth.¹⁹³ At the same time, it should be noted that the Ecuadorian Constitution is not ecocentric in any pure sense, since it contains both ecocentric and anthropocentric provisions side by side. Indeed, the rights of nature it recognises, framed as inherent not only to Ecuador’s own ecosystems but to the earth’s ecosystems more broadly, closely echo the logic of human rights advocacy, which similarly treats rights as inherent to the human person regardless of location. Legal personality for nature within the Ecuadorian Constitution thus appears, in this respect, to be modelled on that of the human person.¹⁹⁴

¹⁹⁰ Boyd, D. R. (2017). *The rights of nature: A legal revolution that could save the planet*, p. 172.

¹⁹¹ Constituent Assembly of Ecuador. (2008). *Constitution of the Republic of Ecuador*, Article 71.

¹⁹² Tănăsescu, M. (2020). *Rights of Nature, Legal Personality, and Indigenous Philosophies*, p. 436.

¹⁹³ Boyd, D. R. (2017). *The rights of nature: A legal revolution that could save the planet*, p. 174.

¹⁹⁴ Tănăsescu, M. (2020). *Rights of Nature, Legal Personality, and Indigenous Philosophies*, p. 447.

2.3.4 Legal personhood in Aotearoa/New Zealand: the Whanganui River and Te Urewera

A comparable, though distinct, recognition of Indigenous conceptions of nature can be found in New Zealand, where Māori peoples have played a central role in extending legal personality to the elements of the natural world. Aotearoa is the name that Māori people have given to the country of New Zealand, and it means “land of the long white cloud”.¹⁹⁵ Māori had lived in Aotearoa for roughly a thousand years before the arrival of European explorers and settlers,¹⁹⁶ developing over that time a body of cosmology and law grounded in a profoundly different relationship to the land than that which would later be imposed by British colonisation. This relationship came under direct pressure in 1840, when the Treaty of Waitangi led to the Crown’s assertion of sovereignty over the islands, a moment that would set in motion more than a century and a half of dispossession, land confiscation, and loss of Māori control over ancestral territories, waters, and resources.¹⁹⁷ It is against this backdrop that Aotearoa/New Zealand has since become, in more recent decades, a pioneer in recognising the legal rights of ecosystems.¹⁹⁸

To Māori, nature is not simply property, nor a source of resources to be extracted. Central to their worldview are two interrelated concepts profoundly different from Western philosophical categories: *whanaungatanga* and *kaitiakitanga*, loosely translated as kinship and stewardship. *Whanaungatanga* describes a broad web of relationships linking people, both living and dead, to the land, waters, flora, fauna, and the spiritual world of the *atua* (gods), all bound together through *whakapapa*, or genealogy. Māori people believe that all things in the universe, living and dead, animate and inanimate, are related in this way, such that every element of nature is *kin*, infused with *mauri*, meaning a life force or a living essence, and deserving the same respect owed to fellow human beings. Within this system, an individual’s own *mauri* is understood to be linked to that of everyone and everything to which they are related, which is why *iwi* (tribes) speak of mountains, rivers, and lakes in the same terms they would use for other people. This idea, that all life is connected through genealogy, bears some resemblance to evolutionary theory, in that it too traces a lineage back through previous generations and recognises how the environment shapes the interactions between generative

¹⁹⁵ Boyd, D. R. (2017). *The rights of nature: A legal revolution that could save the planet*, p. 131.

¹⁹⁶ *Ibidem*, p. 132.

¹⁹⁷ Iorns, C., (2015) Nature as an Ancestor: Two Examples of Legal Personality for Nature in New Zealand, pp. 1-2.

¹⁹⁸ Jones, E., (2021) Posthuman International Law and the Rights of Nature, p.12.

forces. Unlike Western science, however, the Māori worldview understands much of what is conventionally classed as non-living as possessing its own *mauri*, and as personified and perceived relationally rather than as inert matter. Māori conceptions of wellbeing reflect this same pluralism, situating the individual not only within the human collective but within the wider environment as a whole.¹⁹⁹ This is reflected, also in the Māori values of *tiakitanga*, which can be rendered in English as caring, and *hauora*, translated as wellbeing. These values are shared broadly across Māori communities, even if the particular ways they are interpreted and practised vary from group to group.²⁰⁰ Every kinship bond of this kind carries reciprocal obligations, an intergenerational duty of respect flowing directly from *whanaungatanga* and the web of kin relationships it describes. Māori people feel the responsibility to nurture the *mauri* of the people, plants, animals, and waterways that together make up one's genealogy. For them, fulfilling these mutual rights and responsibilities is considered a precondition for healthy relationships, both among human beings and between human beings and nature. A further concept, *whenua*, meaning both "land" and "placenta" or afterbirth, reflects the belief that, much as a placenta nourishes a child, the land nourishes those who live upon it, who are in turn understood as its children, bound by obligations of care and responsibility towards it. Within this hierarchy, human beings hold no right, nor even any real capacity, to dominate or own nature outright, their role is instead that of its guardians.²⁰¹

The first of the two legal cases that were pursued by Indigenous people in Aotearoa/New Zealand concerns the Whanganui River, considered as a living ancestor from whom the people are inseparable. This view is expressed in the Māori words "*Ko au te awa, ko te awa ko au*" ("I am the river and the river is me"). Looking at the river's history, it must be noted that, in 1840, fourteen Māori chiefs from along the river signed the Treaty of Waitangi, which guaranteed Māori continued possession and control over their lands, estates, forests, and fisheries. The Crown nonetheless breached these guarantees over time, and the Whanganui tribes progressively lost legal and practical control over the river, including its navigation and the use of its resources. Works undertaken to improve navigability, extract gravel, and divert water for a hydroelectric scheme were strongly opposed by the Whanganui Māori for many years.

¹⁹⁹ Iorns, C., (2015) Nature as an Ancestor: Two Examples of Legal Personality for Nature in New Zealand', pp. 2-4.

²⁰⁰ Celermajer, D., & McKibbin, P. (2023). Reimagining Relationships: Multispecies Justice as a Frame for the COVID-19 Pandemic. *Journal of bioethical inquiry*, 20(4), p. 660.

²⁰¹ Iorns, C., (2015) Nature as an Ancestor: Two Examples of Legal Personality for Nature in New Zealand, pp. 3-4.

Notably, while such interventions would, in a Western liberal-democratic framework, be treated merely as breaches of ordinary property rights, for the Whanganui Māori they also violated the river's own spirits and the tribes' duties as its guardians. Because water is understood to possess its own spirit and life force, which must be carefully preserved from diminishment, Māori observe strict rules against mixing human waste with water used as a source of food or drink, since the mixing of an unclean spirit with a clean one is understood to diminish the life-giving force of the latter, even where modern science would regard the resulting mixture, once diluted and dispersed, as clean by measurable standards. This explains why even treated municipal sewage discharged into an ancestral river breaches a tribe's cultural relationship with it. The spirit of a river, similarly, can be adversely affected by being forced to mingle with the spirit of another river.²⁰² The grievances related to the river were eventually addressed through a treaty settlement, Te Awa Tupua²⁰³, reached in 2011 and given legislative effect in early 2017, recognising the river's indivisible unity and its status as a living being, incapable of being owned in any absolute sense.²⁰⁴ The river, its surrounding ecosystem, and its associated metaphysical elements hold legal rights, standing, and an independent voice, and its own inherent values, interests, and status must be explicitly considered, respected, and upheld, consistent with the Māori understanding that rivers and other elements of nature possess intrinsic value and cannot, in principle, be owned in the Western sense. The Act establishes a new office, Te Pou Tupua, comprising two guardians, one appointed by the Māori and one by the Crown, who can act and speak on the river's behalf, and are empowered, on its behalf, to pursue legal action, including injunctions to halt harmful conduct or claims for compensation arising from negligent damage caused by corporations or individuals.²⁰⁵

The second case concerns Te Urewera, a region of wild beauty encompassing primeval forests and blue lakes, home to rich biodiversity, including threatened species such as the kiwi, kōkako, kākā, and the distinctive blue duck, or whio. Designated a national park in 1954 and significantly expanded in 1957, the land had traditionally belonged to the Tūhoe people, who, unlike other Māori groups, refused to sign the Treaty of Waitangi. Despite this refusal, they were nonetheless forcibly subjected to New Zealand law, much of their land was confiscated,

²⁰² *Ibidem*, pp. 5-9.

²⁰³ Te Awa Tupua (Whanganui River Claims Settlement) Act 2017, No. 7 (N.Z.).

²⁰⁴ Boyd, D. R. (2017). *The rights of nature: A legal revolution that could save the planet*, p. 134

²⁰⁵ Boyd, D. R. (2017). *The rights of nature: A legal revolution that could save the planet*, p.141; Iorns, C., (2015) ‘

Nature as an Ancestor: Two Examples of Legal Personality for Nature in New Zealand, pp. 5-9.

and their authority over their own affairs removed. Although Tūhoe retained a deep spiritual attachment to the land, they were neither consulted when the national park was created and later expanded, nor recognised as holding any special interest in its governance, and their customary use of Te Urewera, as well as of their own adjoining lands, was restricted.²⁰⁶ While the Crown was unwilling to transfer outright ownership of the park to the Tūhoe, it instead proposed granting the park legal personality, owned by no one but itself, remaining open to public use much as a national park would be, while maintaining its own distinct identity and being governed in a manner that better reflected Tūhoe cosmology and their relationship with the land, with significant Tūhoe input. This settlement was finalised in March 2013, and implementing legislation, the Te Urewera Act²⁰⁷, passed in July 2014, marking a significant step towards reconciliation between the Tūhoe and the other New Zealanders, alongside the legal recognition of the rights of nature. The Act declares that Te Urewera “has an identity in and of itself, inspiring people to commit to its care”²⁰⁸, that it “expresses and gives meaning to Tūhoe culture, language, customs, and identity”²⁰⁹, and that it is equally valued by all New Zealanders “as a place of outstanding national value and intrinsic worth”²¹⁰, reflecting a view shared by both Tūhoe and the Crown that Te Urewera merited legal recognition in its own right. As with the Whanganui River, Te Urewera now owns itself and holds “all the rights, powers, duties, and liabilities of a legal person”²¹¹; it is technically no longer a national park, though the public may continue to enjoy its trails, lakes, and campgrounds.²¹² Notably, some of the concepts embedded in the legislation are expressed only in the Māori language, owing to concerns that they could not be adequately defined in English without risking misinterpretation.²¹³ Whereas Te Urewera’s former status as a national park had imposed a strict preservationist mandate, prohibiting activities such as hunting or the harvesting of native plants, the reformed legal regime permits such activities under certain conditions: where there is no adverse effect on a species’ status, where the impact on Te Urewera is minor, where its guardians support the activity, and where it serves to maintain customary practices connected to their relationship with the land. This regime reflects the Māori understanding that human

²⁰⁶ Boyd, D. R. (2017). The rights of nature: A legal revolution that could save the planet, pp. 148-150.

²⁰⁷ Te Urewera Act, (2014). Available at <https://www.legislation.govt.nz/act/public/2014/51/en/latest/#DLM6183601> (accessed 15 August 2026).

²⁰⁸ Te Urewera Act. (2014), s. 3(3).

²⁰⁹ Te Urewera Act. (2014), s. 3(6).

²¹⁰ Te Urewera Act. (2014), s. 3(8).

²¹¹ Te Urewera Act. (2014), s. 11(1).

²¹² Iorns, C., (2015) Nature as an Ancestor: Two Examples of Legal Personality for Nature in New Zealand, pp. 12–18.

²¹³ Boyd, D. R. (2017). The rights of nature: A legal revolution that could save the planet, p. 152.

use and the flourishing of the natural world are not incompatible, provided such use is properly managed.²¹⁴

It is worth noting that New Zealand's approach does not confer inherent rights upon nature as such, but rather instils legal personality in the river and the forest themselves, granting them, through their guardians, procedural standing within Aotearoa/New Zealand's legal system, rather than free-standing rights of their own.²¹⁵ Even so, these reforms have functioned to better protect the natural environment and to give legal expression to an alternative model of the relationship between humans and nature.²¹⁶ Taken together, these legal developments underscore an understanding of people as part of, and dependent upon, nature, rather than separate from and dominant over it. The Whanganui River and Te Urewera laws recognise the rights of nature while equally emphasising the corresponding human responsibilities that accompany them, signalling that Aotearoa/New Zealand's government and wider society have begun to embrace, or at least accept, a Māori, ecocentric view of nature as kin, possessing intrinsic value and legal rights of its own, rather than as an endless storehouse of resources to be exploited.²¹⁷

Although both Ecuador and New Zealand draw on Indigenous cosmologies to extend legal recognition to nature, the two models diverge in some respects. First, in terms of scope, Ecuador's rights of nature extend to nature as a whole, whereas the New Zealand cases apply only to specific, individually designated entities. Second, the two models derive their legal force differently, since Ecuador's rights of nature draw much of their strength from being enshrined in a constitutional provision, while Te Urewera's standing rests instead on the existence of appointed representatives acting on its behalf. Additionally, in Ecuador, anyone may act as an advocate for nature outside a courtroom setting, whereas in New Zealand, only specific, designated groups are recognised as morally, politically, and legally entitled to represent the legal entities in question.²¹⁸ Despite these differences, both models illustrate the growing influence of Indigenous perspectives in advancing more ecocentric approaches to law.

²¹⁴ Boyd, D. R. (2017). *The rights of nature: A legal revolution that could save the planet*, p. 154; Iorns, C., (2015) *Nature as an Ancestor: Two Examples of Legal Personality for Nature in New Zealand*, pp. 12-18.

²¹⁵ Jones, E., (2021) *Posthuman International Law and the Rights of Nature*, pp. 12-14.

²¹⁶ Iorns, C., (2015) *Nature as an Ancestor: Two Examples of Legal Personality for Nature in New Zealand*, p. 2.

²¹⁷ Boyd, D. R. (2017). *The rights of nature: A legal revolution that could save the planet*, p. 156.

²¹⁸ Tănăsescu, M. (2020). *Rights of Nature, Legal Personality, and Indigenous Philosophies*, p. 446-447.

Chapter 3 – International Environmental Law: Binding Instruments and Soft Law between Anthropocentrism and Ecocentrism

3.1 Premise

International environmental law has evolved over time, particularly during the twentieth and now the twenty-first centuries. In the first period of its development, there was little genuine environmental awareness, since environmental protection during this era was treated as incidental to what were essentially economic concerns, such as the exploitation of living natural resources for economic objectives. This first period, developing through, for example, the 1900 Convention for the Preservation of Wild Animals, Birds and Fish in Africa, the 1911 Fur Seal Convention, and the 1946 Whaling Convention, among others, up to the 1972 Stockholm Declaration, is characterised by piecemeal, reactive responses to specific issues, including resource use and exploitation, transboundary resource issues between neighbouring states, and problems of pollution.²¹⁹ The first part of this chapter is dedicated to the analysis of these legal instruments, focusing also on the introduction of the principle according to which states should not cause serious environmental harm across their borders. This section also shows the importance of the 1972 Stockholm Conference, while still recognising its anthropocentric character.

The second section then follows the evolution of legal instruments between the Stockholm Conference and the Rio Conference, held twenty years later. This section demonstrates that international environmental law grew more ambitious and comprehensive, from the Rio Declaration's broadened concern with equity, gender, and Indigenous peoples, to the increasingly differentiated, and then increasingly universal, climate regimes of the 1997 Kyoto Protocol and the 2015 Paris Agreement. Yet, as the chapter demonstrates, these instruments continue to justify environmental protection primarily by reference to human welfare, economic development, and the interests of states.

The third section then turns to a markedly different body of law, namely the United Nations' Harmony with Nature programme and the 2010 Universal Declaration on the Rights of Mother Earth, instruments that demonstrate an ecocentric vision, in which nature possesses intrinsic value and rights independent of its usefulness to human beings. These instruments, however, remain soft law: a set of resolutions and a civil society declaration that do not create enforceable obligations. Their significance, nonetheless, remains considerable.

²¹⁹ Evans, M. D. (Ed.). (2018). *International law* (5th ed.), pp. 675-678.

Finally, the last section examines the ongoing proposal by the Independent Expert Panel to criminalise ecocide under the Rome Statute of the ICC. It considers whether this institution would be capable of adjudicating such a crime, and examines the proposal in detail.

3.2 The origins of International Environmental Law: from early environmental treaties to Stockholm

As already noted, the period preceding the 1972 Stockholm Conference was primarily characterised by responses to specific issues related to resource use and exploitation, as well as concerns over the management of transboundary resource issues and the growing problem of environmental pollution. Several treaties illustrate these developments: the 1900 Convention for the Preservation of Wild Animals, Birds and Fish in Africa, the 1911 North Pacific Fur Seal Convention, and the 1946 International Convention for the Regulation of Whaling exemplify the exploitation of natural resources; the 1909 Treaty between the United States and Great Britain Respecting Boundary Waters Between the United States and Canada exemplifies transboundary resource issues; and the 1954 International Convention for the Prevention of Pollution of the Sea by Oil exemplifies the problem of pollution.²²⁰

The Convention for the Preservation of Wild Animals, Birds and Fish in Africa, known as the London Convention, was signed in 1900 by the United Kingdom, Germany, Spain, France, Congo, Italy and Portugal. Its stated objective is the desire to preserve the various forms of animal life existing in a wild state in Africa. The treaty specifies that the non-human animals subject to protection are those “either useful to man or harmless”, underlining that these species are to be preserved because of their usefulness to human beings. The treaty goes on to identify which animals are to be preserved, either because of their usefulness or because of their rarity and threatened extermination. It also describes the means by which this preservation is to be achieved: the prohibition of the hunting and destruction of the animals, of young animals and females of the listed species; the establishment of reserves in which it is unlawful to hunt, capture, or kill the protected creatures; the prohibition of instruments such as explosives and poisons; the imposition of export duties on the skins of certain animals; and the application of measures to prevent the transmission of contagious diseases between animals.²²¹ Hickling, writing on this treaty and its relevance, notes that it emerges from a period marked by the

²²⁰ Evans, M. D. (Ed.). (2018). *International law*, pp. 675-678.

²²¹ Convention for the Preservation of Wild Animals, Birds and Fish in Africa, signed at London, 19 May 1900, British Parliamentary Papers, 1900, Cd. 101, vol. 56, pp. 825–837, available at <https://www.iea.ulaval.ca/en/treaty-text/2594/174293> (accessed 8 July 2026).

growing recognition that humanity is part of an interconnected network of species, and that biodiversity contributes to the stability and productivity of natural systems, while human agency can upset the balance of nature and cause species extinction. He argues that this ecological understanding influences, and is reflected in, the London Convention.²²² However, this reading sits in tension with the treaty's own operative language: despite this ecological framing, the Convention's provisions, from its definition of protected species as those "useful to man or harmless" to its imposition of export duties on animal skins, suggest that the protection of these animals remains justified primarily by their usefulness to humans, rather than by any intrinsic ecological value.

A related but structurally distinct response to the problem of shared, exploitable wildlife emerges in 1911 with the North Pacific Fur Seal Convention, signed by the United States, Great Britain, Russia and Japan. The Convention prohibits the contracting parties' citizens and vessels from engaging in pelagic sealing, that is, hunting seals at sea, across a large area of the North Pacific Ocean. Notably, this prohibition does not extend to Indigenous peoples dwelling along the coasts of these waters, who are permitted to continue hunting seals by traditional methods and for non-commercial purposes, such as food and shelter; the Convention specifies that such hunting must be carried out using small canoes propelled only by oars, paddles, or sails, without the use of motorised boats, and manned by no more than five people, provided it is not undertaken commercially on behalf of others. The Convention's central innovation lies in what follows from this prohibition. Since pelagic sealing is now banned outright, only the states possessing seal breeding grounds on their own territory, principally the United States, are permitted to harvest seals on land. Rather than retaining the full profit from this harvest, however, each such state is required to share a fixed percentage of the skins taken annually with the other treaty parties.²²³ In this respect, the Convention departs from the regulatory model of earlier agreements such as the 1900 London Convention, since rather than each state independently regulating hunting within its own waters, it prohibits hunting at sea altogether and replaces it with a negotiated system of resource-sharing between sovereign states.

²²² Hickling, J. (2025). The Role of Science and Historiography in the Development of Transnational Environmental Law: A New History of the 1900 London Convention for the Preservation of African Wildlife. *Transnational Environmental Law*, 14(1), 171–197.

²²³ Convention between the United States, Great Britain, Russia and Japan for the Preservation and Protection of Fur Seals, signed at Washington, 7 July 1911, Treaty Series No. 564, 37 Stat. 1542, (accessed 11 July 2026).

The 1946 International Convention for the Regulation of Whaling clearly states its recognition of “the interest of the nations of the world in safeguarding for future generations the great natural resources represented by the whale stocks”. This preambular language underlines the importance of preserving whales for the sake of future generations, and thus, ultimately, for the benefit of human beings. The treaty recognises that regulating whaling would allow whale populations to increase, so that they could be harvested without endangering the resource itself; its stated objective is to achieve the optimum level of whale stocks as rapidly as possible without causing widespread economic and nutritional hardship to the industries and communities dependent on whaling. To this end, the Convention establishes a system of international regulation for whale fisheries, intended to ensure the proper and effective conservation and development of whale stocks. Specifically, the contracting parties agree to establish an International Whaling Commission, composed of one member from each contracting government.²²⁴ The 1946 Convention was not the first attempt to regulate whaling, as it was preceded by the 1931 Geneva Convention for the Regulation of Whaling and the 1937 Agreement for the Regulation of Whaling, neither of which proved particularly effective, though both provided a legal framework upon which the 1946 Convention could build. The drafters of the 1946 Convention sought to reconcile the needs of the whaling industry with the conservation of whale stocks, treating whales as a shared resource requiring collective management, and the Convention explicitly emphasises the need for cooperation in the use of this resource. As Fitzmaurice observes, the treaty pursues the dual objective of conserving whale stocks while simultaneously preserving the whaling industry itself. This dual character is significant for the present discussion: like the 1900 London Convention and the 1911 Fur Seal Convention before it, the 1946 Whaling Convention frames the protection of a wild species largely in terms of its long-term economic utility to humans, rather than as an end in itself, while nonetheless marking a further institutional advance through the creation of a standing body, the International Whaling Commission, tasked with the ongoing management of a shared global resource.²²⁵

Another important treaty for the development of International Environmental Law is the 1909 Treaty between the United States and Great Britain Respecting Boundary Waters Between the United States and Canada, signed by the two countries to regulate the use of the waters along

²²⁴ International Convention for the Regulation of Whaling, signed at Washington, 2 December 1946, 161 UNTS 72.

²²⁵ Fitzmaurice, M. (2017). International Convention for the Regulation of Whaling. *United Nations Audiovisual Library of International Law*.

their shared border. Boundary waters are defined as the lakes, rivers, and connecting waterways through which the US-Canada border actually runs. The contracting parties agree that navigation of all navigable boundary waters is to remain free and open for purposes of commerce, both to the inhabitants and to the ships, vessels, and boats of both countries. More significantly, Article IV of the treaty provides that these waters “shall not be polluted on either side to the injury of health or property on the other”.²²⁶ This provision underlines a concern not with the protection of the water as such, but with preventing harm to the health or property of the other state, a concern rooted in the relationship between neighbouring sovereigns rather than in the environment as an object of protection in its own right. Article VII further establishes an International Joint Commission composed of representatives of the United States and Canada, vested with jurisdiction over cases involving the use, obstruction, or diversion of boundary waters.²²⁷ In this respect, the treaty represents an early instance of a permanent bilateral institution created to manage a shared resource and adjudicate disputes arising from its use, a mechanism that anticipates the institutional models later adopted in agreements such as the already mentioned 1946 Whaling Convention.

The mechanism established by Article VII of the Boundary Waters Treaty was soon put to the test. In December 1927, the United States proposed that a dispute concerning fumes emitted by a smelter in Trail, in British Columbia, be referred to the International Joint Commission (IJC). The Trail Smelter Arbitration that followed is regarded as one of the most significant judgments on transboundary pollution in international law,²²⁸ and has become the leading articulation of the transboundary harm principle, a rule of customary international law addressing the consequences when activity within one state's territory causes harm across the border in the territory of another. The dispute arose from sulfur dioxide fumes released by the Trail smelter, which were carried by wind down the Columbia River valley into northern Washington State, damaging crops, woodlands, and fisheries.²²⁹ By 1931, the IJC had issued a series of non-binding recommendations, including that Canada pay the United States \$350,000 in

²²⁶ Treaty between the United States and Great Britain Respecting Boundary Waters Between the United States and Canada, signed at Washington, 11 January 1909, 36 Stat. 2448, available at <https://www.ijc.org/en/who/mission/bwt> (accessed 8 July 2026).

²²⁷ *Ibidem*.

²²⁸ Parrish, A. L., (2005) Trail Smelter Déjà Vu: Extraterritoriality, International Environmental Law and the Search for Solutions to Canadian-U.S. Transboundary Water Pollution Disputes. *Articles by Maurer Faculty*. 891, p. 420.

²²⁹ Miller R. A. (2023) Pandemic as Transboundary Harm: Lessons from the Trail Smelter Arbitration, 55 N.Y.U. J. Int'l L. & Pol. 259, pp. 268-270.

indemnification, but when the parties could not agree on the adequacy of this compensation, they concluded a further convention in 1935 establishing a special arbitral tribunal to resolve the matter.²³⁰ The tribunal issued a preliminary decision in 1938 and its final decision in 1941, holding that:

[U]nder the principles of international law, as well as of the law of the United States, no State has the right to use or permit the use of its territory in such a manner as to cause injury by fumes in or to the territory of another [...] when the case is of serious consequence and the injury is established by clear and convincing evidence.²³¹

The transboundary harm principle articulated in Trail Smelter goes on to shape the development of international environmental law well beyond this bilateral dispute, as it is subsequently codified in the 1972 Stockholm Declaration on the Human Environment, as well as in later instruments such as the 1992 Convention on Biological Diversity and the 1992 Framework Convention on Climate Change.²³²

Before turning to the Stockholm Declaration, one final treaty from this period deserves attention, that is the 1954 International Convention for the Prevention of Pollution of the Sea by Oil, which exemplifies the problem of pollution as a distinct concern from resource exploitation. The Convention was ratified between 1956 and 1958 by the United Kingdom, Mexico, Sweden, the Federal Republic of Germany, Denmark, the Netherlands, Canada, Norway, Ireland, Belgium, and France. Its stated objective is to take action, by common agreement among the contracting states, to prevent the pollution of the sea by oil discharged from ships. The scope of this prohibition is, however, limited: Article III restricts the ban on discharge to specific zones designated in an annex to the Convention, rather than extending it to the sea in its entirety. The prohibition is further qualified by exceptions under Article IV, which permit the discharge of oil where necessary to secure the safety of the ship, where it resulted from accidental leakage, or where it consisted of residue left over from the cleaning of fuel or lubricating oil. As for enforcement, Article VI leaves this task to the contracting states themselves: any breach of the discharge rules is to be treated as an offence under each state's

²³⁰ Parrish, A. L., (2005) Trail Smelter Déjà Vu: Extraterritoriality, International Environmental Law and the Search for Solutions to Canadian-U.S. Transboundary Water Pollution Disputes, p. 420.

²³¹ Trail Smelter Case (United States v. Canada), Award of 11 March 1941, III Reports of International Arbitral Awards 1905, 1965 (1941), available at https://legal.un.org/riaa/cases/vol_III/1905-1982.pdf (accessed 11 July 2026).

²³² Miller R. A. (2023) Pandemic as Transboundary Harm: Lessons from the Trail Smelter Arbitration, pp. 271-272.

own domestic law, with states merely required to set penalties severe enough to discourage illegal dumping.²³³

The treaties examined thus far, addressing the exploitation of species, transboundary harm between neighbouring states, and pollution as a discrete problem, illustrate a period of international law characterised by fragmented, reactive responses to specific and narrowly defined problems. So, according to some researchers, these early environmental conservation agreements, had a limited scope and were primarily shaped by utilitarian and anthropocentric considerations. As a result, any environmental protection they provided was largely incidental rather than a central objective. Furthermore, these treaties were designed mainly to govern the equitable allocation and exploitation of environmental resources among a relatively small group of influential European states.²³⁴ It is against this backdrop that the 1972 Stockholm Conference on the Human Environment marks a turning point, drawing together these separate strands into a single, shared framework of principles.

This turning point took concrete form in June 1972, when representatives of 113 states gathered in Stockholm for the United Nations Conference on the Human Environment, the first global conference dedicated exclusively to environmental issues. The Conference was convened following a resolution adopted by the General Assembly, which recognised the urgent need for stronger action at both the national and international levels to limit and, where possible, eliminate the degradation of the human environment. Its primary objective was to encourage coordinated efforts among UN Member States to implement effective measures, domestically and internationally, aimed at preventing further environmental deterioration.²³⁵ The conference's outcome, the Stockholm Declaration, comprised 26 principles that brought environmental concerns into the mainstream of international affairs and opened a dialogue between industrialised and developing states on the relationship between economic growth, the pollution of air, water, and oceans, and human well-being more broadly. Alongside the Declaration, the Conference adopted an Action Plan for the Human Environment, an environmental assessment programme, environmental management activities, and international measures in support of assessment and management at both the national and

²³³ International Convention for the Prevention of Pollution of the Sea by Oil, signed at London, 12 May 1954, 327 UNTS 3, available at <https://treaties.un.org/doc/Publication/UNTS/Volume%20327/volume-327-I-4714-English.pdf> (accessed 11 July 2026).

²³⁴ Kotzé, L. J., Du Toit, L. and French, D. (2021) "Friend or foe? International environmental law and its structural complicity in the Anthropocene's climate injustices", *Oñati Socio-Legal Series*, 11(1), p. 189.

²³⁵ Zainol, M. J. (2004). State's responsibility over its neighbouring states' environment: A customary international law? *INSAF: The Journal of the Malaysian Bar*, 33(3), p. 90.

international level, which together were translated into 109 specific recommendations. Among the Conference's most enduring institutional legacies was the establishment of the United Nations Environment Programme (UNEP),²³⁶ created to monitor the state of the global environment and coordinate responses to the world's most pressing environmental challenges. On 15 December 1972, Nairobi was designated as UNEP's headquarters by the General Assembly, making it the first United Nations agency based in the Global South, a decision that responded directly to calls from developing states to locate the institution within the developing world itself.²³⁷

The Stockholm Conference and its outcomes were shaped by markedly different perspectives held by developed and developing states on the relationship between environment and development. The conference's initial impetus came from industrialised states' growing concern over transboundary pollution and hazardous waste, and it aimed to raise awareness of the international character of environmental problems and to foster a shared sense of state responsibility. Developing states, by contrast, tended to view pollution as a by-product of Northern industrialisation, and, to the extent that environmental degradation concerned the South at all, as a consequence of poverty and underdevelopment rather than industrial excess. The historical significance of the resulting Declaration lies precisely in this tension between environment and development, since it was the first major international instrument to treat environmental protection as a global concern in its own right, while also recognising development as inseparable from that concern. In doing so, it laid the conceptual groundwork for what would later become the principle of sustainable development. The Declaration does not name the concept of sustainable development as such, but several of its principles capture its constituent elements, among them the idea that natural resources must be used sustainably, that environmental protection and development must be integrated, and that the needs of both present and future generations must be weighed together.²³⁸

This dialogue between environment and development was conducted, however, in explicitly anthropocentric terms. The Declaration's preamble frames the human being as “both creature

²³⁶ United Nations, "United Nations Conference on the Human Environment, Stockholm 1972," available at <https://www.un.org/en/conferences/environment/stockholm1972> (accessed 11 July 2026).

²³⁷ United Nations Environment Programme, "Frequently Asked Questions," available at <https://www.unep.org/who-we-are/frequently-asked-questions> (accessed 11 July 2026).

²³⁸ Brunnée J., (2009), 'The Stockholm Declaration and the Structure and Processes of International Environmental Law'. *The future of ocean regime building: essays in tribute to douglas m. johnston*, Aldo Chircop, Ted McDorman, eds., Kluwer Law, 2008, pp. 1-2; 10.

and moulder of his environment”²³⁹, a formulation that positions humanity as a distinct and dominant actor over an environment it shapes and controls, rather than as one component within a broader ecological system.²⁴⁰ The preamble makes this framing explicit by stating that the protection and improvement of the environment is a matter affecting both economic development and the well-being of humans, not environmental integrity for its own sake, and by declaring that “of all things in the world, people are the most precious”²⁴¹. This anthropocentric logic recurs consistently throughout the Declaration's principles. Principle 1, for instance, affirms the importance of defending and improving the human environment for present and future generations, stressing that this is necessary for the wellbeing of all people, both now and for those who come after them. Principle 2 similarly requires that the natural resources of the earth be safeguarded for present and future generations. Then, Principle 4 assigns importance to nature conservation, but frames it as a consideration to be weighed within the planning of economic development, rather than as a value pursued independently of it. Principle 8 goes further still, stating that economic and social development is essential to ensuring a favourable living and working environment for human beings, and to creating the conditions on earth necessary for an improved quality of life. Principle 13 reiterates the importance of resource management, but again justifies this management by reference to the protection and improvement of the environment for the benefit of the population, rather than for the sake of the environment itself. Taken together, these principles extend the same utilitarian logic already traced through the treaties examined earlier in this chapter: environmental protection is consistently justified by its service to human interests, rather than pursued as an end in itself. The Declaration also acknowledges, in this same spirit, the need for international cooperation to raise resources in support of developing countries, so that they may carry out their own environmental responsibilities, and calls for the particular needs and circumstances of developing countries to be taken into account.²⁴²

Among the Declaration's 26 principles, Principle 21 holds particular significance, both as a legal proposition in its own right and as the moment the transboundary harm principle

²³⁹ United Nations, Declaration of the United Nations Conference on the Human Environment, Stockholm, 16 June 1972, UN Doc. A/CONF.48/14/Rev.1, preamble, available at https://digitallibrary.un.org/record/523249/files/A_CONF.48_14_Rev.1-EN.pdf (accessed 11 July 2026).

²⁴⁰ Kotzé, L. J., Du Toit, L. and French, D. (2021) ‘Friend or foe? International environmental law and its structural complicity in the Anthropocene's climate injustices’, p. 190.

²⁴¹ United Nations, Declaration of the United Nations Conference on the Human Environment, Stockholm, 16 June 1972.

²⁴² *Ibidem*.

discussed earlier in this chapter was formally elevated to a principle of global environmental governance. It establishes that, consistent with the UN Charter and general principles of international law, states hold the sovereign right to exploit their own natural resources according to their own environmental policies, while also bearing the responsibility to ensure that activities carried out within their jurisdiction or control do not damage the environment of other states or of regions beyond the reach of national jurisdiction. Therefore, this principle confirms that states have the traditional right to use their own natural resources as they wish, while also placing a limit on that right whenever its exercise causes harm beyond the state's own borders.²⁴³ This balance between sovereignty and responsibility echoes the reasoning already articulated three decades earlier in the Trail Smelter arbitration, though Principle 21 recasts it not as the outcome of a bilateral dispute between two neighbouring states, but as a general principle applicable to the international community as a whole. Taken as a whole, the Stockholm Conference marks the point at which the resource-specific treaties examined earlier in this chapter gave way to a single framework that placed human welfare and development at its centre, called for developing states to be supported in meeting their environmental responsibilities, and, through Principle 21, extended the logic of transboundary responsibility from a single bilateral dispute to a standard applicable to the international community as a whole.

3.3 From Rio to Paris: the evolution of binding instruments

In the two decades that separated the Stockholm Conference from the Rio Conference, international environmental agreements proliferated at a striking pace, and by the end of this period, more than 1,100 international legal instruments existed that were either wholly dedicated to environmental protection or contained significant environmental provisions. This proliferation, however, followed a fragmented pattern, states tended to conclude separate agreements for specific problems, each equipped with its own monitoring and reporting system, its own secretariat, and often its own financing facility to assist states in implementation. This model is well illustrated by the agreements concluded under UNEP shortly after its establishment to protect specific regional seas, typically structured as a framework convention setting out general obligations, complemented by one or more protocols addressing more specific aspects of protection, as in the case of the 1976 Barcelona Convention for the Protection of the Mediterranean Sea Against Pollution. Beyond this proliferation in sheer

²⁴³ Zainol, M. J. (2004). State's responsibility over its neighbouring states' environment: A customary international law? , pp. 89–100.

numbers, the period between 1972 and 1992 also saw a marked shift in the scope and ambition of international environmental agreements. Their focus broadened from controlling transboundary pollution between neighbouring states to addressing pollution problems of a genuinely global scale, such as depletion of the ozone layer; from protecting particular species of wildlife to conserving entire ecosystems; and from regulating the cross-border trade of environmentally harmful goods to regulating activities carried out entirely within a state's own borders, where these threatened natural world heritage sites, wetlands, or areas of significant biological diversity. The obligations contained in these newer agreements were, correspondingly, considerably more detailed and more intrusive upon national sovereignty than those found in earlier instruments. This same period saw international environmental law expand into further, related areas: the 1982 UN Convention on the Law of the Sea, for instance, established in Article 192 an unequivocal obligation on states to protect and preserve the marine environment, later articles which detailed the specific measures required to do so, while the protection of the environment during armed conflict emerged as its own subject of international law, as reflected in the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques.²⁴⁴ By the time the international community convened in Rio in 1992, then, global awareness of environmental issues had increased dramatically since Stockholm. The task facing states at Rio was accordingly a different one from that faced twenty years earlier: rather than establishing environmental protection as a matter of international concern for the first time, the challenge now was to systematise and consolidate the considerable body of environmental norms that had already developed, while also articulating the legal and political foundations of a still-emerging concept, sustainable development.²⁴⁵

Among the treaties concluded in this period preceding the Rio Conference, particular attention will be given in what follows to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES, 1973), the International Convention for the Prevention of Pollution from Ships (MARPOL, 1973), and the Convention on Long-Range Transboundary Air Pollution (CLRTAP, 1979), as well as to the 1987 Brundtland Report, also called “Our Common Future”, and the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer, each of which marks a significant step in the path leading to the 1992 Rio Conference.

²⁴⁴ Brown Weiss, E. (2011) *The Evolution of International Environmental Law. Georgetown Law Faculty Publications and Other Works*. 1669, pp. 6-8.

²⁴⁵ Handl, G. (2012) *Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration), 1972 and the Rio Declaration on Environment and Development, 1992*.

The first of these treaties, Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), was concluded in order to protect wild fauna and flora in their many forms, recognised as an irreplaceable part of the natural systems of the earth, whose protection must be ensured “for this and the generations to come”. It further underlines the importance of international cooperation in achieving this aim. The species covered by the Convention are those whose survival is or may be affected by international trade, and its core mechanism regulates this trade through a tiered system of three appendices, offering different levels of protection according to the degree of threat a species faces. Even so, the emphasis of the Convention remains firmly on the protection of fauna and flora for the benefit of human beings, present and future. As with the treaties examined in the previous section, then, CITES is concerned primarily with regulating trade in a natural resource, rather than with protecting species or ecosystems as ends in themselves.²⁴⁶

Of the same year is the International Convention for the Prevention of Pollution from Ships (MARPOL), which recognises that the release of oil and other harmful substances from ships, whether deliberate, negligent, or accidental, constitutes a serious source of pollution. The treaty's preamble also expresses the parties' consciousness of the need to preserve “the human environment in general and the marine environment in particular”, echoing, in this respect, the very language and framing of the Stockholm Declaration adopted the previous year. In addition, MARPOL explicitly acknowledges the significance of the 1954 International Convention for the Prevention of Pollution of the Sea by Oil, discussed earlier in this chapter, recognising it as the first multilateral instrument concluded with the primary objective of protecting the environment, and building upon its contribution.²⁴⁷

A few years later, in 1979, the Convention on Long-Range Transboundary Air Pollution (CLRTAP) extended the logic of transboundary harm addressed earlier in this chapter from a bilateral dispute between two neighbouring states to a genuinely multilateral problem involving numerous states and sources of pollution across Europe and North America. The Convention's preamble recalls the relevant provisions of the Declaration of the UN Conference on the Human Environment, and in particular Principle 21, and acknowledges the possible adverse effects, in both the short and long term, of air pollution. It further affirms the parties' willingness to

²⁴⁶ Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed at Washington, 3 March 1973, 993 UNTS 243, available at <https://cites.org/eng/disc/text.php> (accessed 11 July 2026).

²⁴⁷ International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78), signed at London, 2 November 1973, 1340 UNTS 184.

reinforce active international cooperation in order to coordinate national action for combating air pollution. Importantly, Article 2 states that the contracting parties “are determined to protect man and his environment against air pollution”.²⁴⁸ Although the environment is named alongside man in this formulation, its place after “man” in the sentence, and its framing as something belonging to him, reflects once again a conception of environmental protection as ultimately oriented towards human beings, rather than towards the environment as a value in its own right.

A contribution of a different nature came in 1987, with the publication of “Our Common Future”, the report of the World Commission on Environment and Development (WCED), chaired by the former Norwegian Prime Minister Gro Harlem Brundtland. The Commission had been established by the United Nations in 1983, largely in response to the perceived failure of earlier international efforts, including the 1972 Stockholm Conference itself, to bring about any significant change in patterns of global development or in the trajectory of environmental degradation. Over the following three years, the Commission held meetings across ten countries, commissioned dozens of scientific reports, and gathered evidence not only from governments, UN bodies, and NGOs, but also from ordinary people whose daily lives had been shaped by underdevelopment and environmental harm, before presenting its findings in London on 27 April 1987.²⁴⁹ At the heart of the report lies its now-classic definition of sustainable development, described as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs”. This definition rests on two key ideas: first, the priority that must be given to meeting essential needs, particularly those of the world's poor; and second, the recognition that the environment's capacity to meet both present and future needs is itself limited by existing technology and forms of social organisation.²⁵⁰ Sustainable development, in this sense, was conceived not merely as an environmental objective, but as a response to a deeper concern: that prevailing patterns of development were leaving growing numbers of people poor and vulnerable while simultaneously degrading the very environment on which future generations would depend. Accordingly, the Commission placed particular emphasis on the satisfaction of human needs and aspirations as a necessary precondition for sustainable development, framing the central

²⁴⁸ Convention on Long-Range Transboundary Air Pollution, signed at Geneva, 13 November 1979, 1302 UNTS 217.

²⁴⁹ Keeble, B. R. (1988). The Brundtland Report: “Our Common Future.” *Medicine and War*, 4(1), pp. 17-18.

²⁵⁰ United Nations, Report of the World Commission on Environment and Development: Our Common Future, UN Doc. A/42/427 (1987).

challenge of the coming decades as that of meeting the needs of an expanding global population without further compromising the planet's capacity to sustain it. Beyond articulating this conceptual framework, the report also addresses six substantive areas of major environmental and developmental concern, including population growth, food security, and the loss of species and genetic resources, and proposed a range of institutional changes needed to translate these strategies into practice.²⁵¹ Taken together, these contributions reflect the central idea underlying the Brundtland Report, which is that development and environmental protection should be pursued together, in a way that meets present needs while preserving the capacity of the environment to meet the needs of future generations. As in the instruments examined earlier in this chapter, the environment here is protected primarily in terms of its capacity to sustain human life and development across generations. At the same time, the report distinguishes itself by explicitly linking this concern to human need and equity, both between present and future generations, and between wealthier and poorer states, a dimension that had featured less prominently in the instruments discussed so far.

That same year also saw a second, quite different contribution to international environmental law: the Montreal Protocol on Substances that Deplete the Ozone Layer, a binding treaty. The Protocol acknowledges the need to take action to safeguard human health and the environment from the harmful consequences that arise, or are likely to arise, from human activities that alter or threaten to alter the ozone layer. More specifically, it recognises that emissions of certain substances may affect the ozone layer in ways likely to produce adverse effects on both human health and the environment. Once again, then, the environment is not entirely absent from the treaty's concerns, but the emphasis falls primarily on the protection of human health. To this end, the Protocol commits its parties to precautionary measures aimed at controlling emissions of ozone-depleting substances, while also stressing the importance of international cooperation in advancing the scientific and technological research needed to reduce emissions harmful to the ozone layer.²⁵²

Another significant step in the evolution of international environment law was represented by the United Nations Conference on Environment and Development (UNCED), commonly known as the Rio or Earth Summit, which was held in Rio de Janeiro, Brazil, from 3 to 14 June 1992, and marked the twentieth anniversary of the 1972 Stockholm Conference. The choice of

²⁵¹ Keeble, B. R. (1988). The Brundtland Report: "Our Common Future.", pp. 19-23.

²⁵² United Nations Environment Programme. (1987). Montreal Protocol on Substances that Deplete the Ozone Layer. 1522 UNTS 3.

Brazil as the host country symbolised the recognition that environmental protection and economic development were shared concerns of both developed and developing States, reinforcing the increasingly global character of environmental governance.²⁵³ The conference was unprecedented in scale, bringing together representatives from 176 States and attracting more than 30,000 participants, including heads of State, government officials, international organisations, businesses and non-governmental organisations, reflecting the growing involvement of a wide range of actors in global environmental decision-making.²⁵⁴ The intellectual foundation of the conference was provided by the 1987 Brundtland Report, which was previously discussed in this chapter.²⁵⁵ Sustainable development, explained in the report, became the guiding concept of the Rio Conference and the framework through which environmental protection and economic development were to be reconciled.²⁵⁶ The summit, also referred to as the Earth Summit, produced several landmark instruments, including the Rio Declaration on Environment and Development, Agenda 21, the United Nations Framework Convention on Climate Change (UNFCCC), the Convention on Biological Diversity (CBD), and the Declaration on the principles of forest management. It further resulted in the establishment of the Commission on Sustainable Development, the convening of the first World Conference on the Sustainable Development of Small Island Developing States in 1994, and the initiation of negotiations that led to the agreement on straddling stocks and highly migratory fish stocks.²⁵⁷

Having outlined the broader significance of the Rio Declaration, it is now necessary to analyse some of its key principles. Article 1 of the Declaration states that “[h]uman beings are at the centre of concerns for sustainable development”²⁵⁸, demonstrating, according to Handl, the strongly human-centric approach underlying the Declaration.²⁵⁹ Furthermore, Principle 3 highlights the importance of addressing both developmental and environmental needs of

²⁵³ Brown Weiss, E. (2011) *The Evolution of International Environmental Law. Georgetown Law Faculty Publications and Other Works*. 1669, pp. 10-11.

²⁵⁴ Sand, P. (1993). *International Environmental Law After Rio. European Journal of International Law*. 4, p. 377.

²⁵⁵ Brown Weiss, E. (2011) *The Evolution of International Environmental Law*, pp. 10-11.

²⁵⁶ Handl, G. (2012) *Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration), 1972 and the Rio Declaration on Environment and Development, 1992*, p. 4.

²⁵⁷ United Nations. *United Nations Conference on Environment and Development, Rio de Janeiro, Brazil, 3–14 June 1992*. <https://www.un.org/en/conferences/environment/rio1992> (accessed 16 July 2026).

²⁵⁸ United Nations. (1992). *Rio Declaration on Environment and Development. United Nations Conference on Environment and Development*.

²⁵⁹ Handl, G. (2012) *Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration), 1972 and the Rio Declaration on Environment and Development, 1992*, p. 3.

present and future generations. Principle 5 emphasises the necessity of cooperation among States in order to eradicate poverty and achieve sustainable development, thereby reducing disparities in living standards among populations. Similarly, Principle 6 recognises the particular situation of developing countries and those that are most environmentally vulnerable. The Declaration also underlines in Principle 10 the importance of public participation in environmental matters, affirming that individuals should have access to environmental information and the possibility to participate in decision-making processes. Moreover, Principle 13 stresses the need for States to develop national legislation concerning liability and compensation for victims of pollution and other forms of environmental damage. Principle 15 promotes the application of the precautionary approach for environmental protection,²⁶⁰ representing one of the principles introduced by the Rio Declaration that did not have a counterpart in the Stockholm Declaration.²⁶¹ Importantly, the Rio Declaration was also the first international instrument to explicitly recognise that the empowerment of women, and particularly their effective participation in economic and social processes within their countries, constitutes an essential element of sustainable development.²⁶² Principle 20 highlights women's "vital role in environmental management and development" and the consequent need for "their full participation".²⁶³ Similarly, Principle 21 emphasises the importance of the contribution of youth worldwide, highlighting the need for their mobilisation in order to achieve sustainable development. The Declaration also recognises the essential role of Indigenous peoples and their communities in environmental management and development. Principle 22 highlights the importance of their knowledge and traditional practices, while stressing that States should recognise and support Indigenous peoples' identities, interests, cultures, and participation in order to achieve sustainable development. Additionally, Principle 23 underlines the need to protect the environment and natural resources of "people under oppression, domination and occupation". Finally, Principle 24 draws attention to the harmful consequences of warfare for sustainable development.²⁶⁴ Overall, the Rio Declaration represented a significant development in international environmental law by expanding the scope of environmental governance beyond mere conservation concerns and incorporating

²⁶⁰ United Nations. (1992). Rio Declaration on Environment and Development. United Nations Conference on Environment and Development.

²⁶¹ Handl, G. (2012) Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration), 1972 and the Rio Declaration on Environment and Development, 1992, p. 7.

²⁶² *Ibidem*, p. 7.

²⁶³ United Nations. (1992). Rio Declaration on Environment and Development. United Nations Conference on Environment and Development.

²⁶⁴ *Ibidem*.

social, economic, and intergenerational dimensions. However, despite introducing several important principles and recognising the role of different actors in environmental protection, the Declaration remains largely embedded within an anthropocentric framework, placing human needs and interests at the centre of sustainable development.

Following the adoption of the Rio Declaration and the United Nations Framework Convention on Climate Change, the international legal framework on climate change continued to evolve over the following decades. Among its most significant developments were the adoption of the Kyoto Protocol in 1997 and, almost two decades later, the Paris Agreement in 2015.

The Kyoto Protocol was adopted on 11 December 1997 in Kyoto, Japan, during the Third Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC), where representatives from 160 nations gathered to negotiate the agreement; it entered into force on 16 February 2005.²⁶⁵ The Protocol commits industrialised states and economies in transition to specific, quantified targets for limiting and reducing greenhouse gas emissions.²⁶⁶ More specifically, Article 3 sets out the Protocol's central obligation, which is that parties listed in Annex I must ensure that their aggregate emissions of the greenhouse gases covered by the Protocol do not exceed the limits assigned to them, with the collective aim of reducing overall emissions by at least 5 per cent below 1990 levels over the commitment period 2008-2012, and each Annex I party is required to show demonstrable progress toward this target by 2005. Individual targets vary among Annex I parties: Japan, the United States, and the European Union, for instance, pledge reductions of 7%, 8%, and 9% respectively.²⁶⁷ This obligation binds developed states only, reflecting the principle of common but differentiated responsibilities and respective capabilities, on the basis that industrialised countries bear the greatest responsibility for the greenhouse gases already present in the atmosphere.²⁶⁸ To assist parties in meeting these binding targets, the Protocol introduces a set of flexibility mechanisms. Among these, Article 12 establishes the Clean Development Mechanism (CDM), through which Annex I parties may invest in emission-reduction projects in non-Annex I states, that is, developing states, and use the resulting certified emission reductions to count toward their own

²⁶⁵ "The Kyoto Protocol", United Nations Framework Convention on Climate Change, available at: <https://unfccc.int/process-and-meetings/the-kyoto-protocol> (accessed 16 July 2026); "Success or Failure? The Kyoto Protocol's Troubled Legacy," Foresight, available at: <https://www.climateforesight.eu/articles/success-or-failure-the-kyoto-protocols-troubled-legacy/> (accessed 16 July 2026).

²⁶⁶ "The Kyoto Protocol", United Nations Framework Convention on Climate Change.

²⁶⁷ "Success or Failure? The Kyoto Protocol's Troubled Legacy," Foresight.

²⁶⁸ "The Kyoto Protocol", United Nations Framework Convention on Climate Change.

compliance under Article 3, while the host developing states benefit from the project activities themselves in pursuit of their own sustainable development. The Protocol establishes a rigorous monitoring, reporting and verification framework through Articles 5, 7 and 8, requiring Annex I Parties to maintain national emissions accounting systems, submit annual greenhouse gas inventories and national communications, and undergo expert review. In addition, Article 18 provides the legal basis for a compliance mechanism empowered to determine and address cases of non-compliance. Finally, an Adaptation Fund was created to finance adaptation projects in developing states party to the Protocol, initially financed through a share of proceeds from CDM activities.²⁶⁹ Importantly, The Kyoto Protocol directly shaped much of the architecture underlying later climate negotiations, including the Paris Agreement, and mechanisms first introduced under Kyoto, such as the Adaptation Fund and carbon markets, continue to inform the tools used today to raise ambition and accelerate global decarbonisation.²⁷⁰

Eighteen years after the adoption of the Kyoto Protocol, the Paris Agreement was adopted at the 21st Conference of the Parties to the UNFCCC, held in Paris in December 2015, and entered into force in November 2016. The Agreement is a legally binding instrument that applies to every country, not only to developed ones, like the Kyoto Protocol.²⁷¹ The Agreement's preamble frames climate change as a common concern of humankind, calling on parties, in taking action to address it, to respect a wide range of human rights obligations, including the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities, and people in vulnerable situations, as well as the right to development, gender equality, the empowerment of women, and intergenerational equity. In this respect, the Agreement's concerns extend beyond climate change narrowly understood, encompassing the circumstances of a range of groups facing particular vulnerability. Moreover, the Agreement also recognises the importance of preserving the integrity of ecosystems and protecting biodiversity, which is, as the text explains, described by some cultures as "Mother Earth". Furthermore, the Agreement explicitly recognises the specific needs and special circumstances of developing states, particularly those most vulnerable to the adverse effects of climate

²⁶⁹ Kyoto Protocol to the United Nations Framework Convention on Climate Change, signed at Kyoto, December 11, 1997, 2303 UNTS 162.

²⁷⁰ "Success or Failure? The Kyoto Protocol's Troubled Legacy," Foresight.

²⁷¹ Bodansky, D. (2016). 'The Paris climate change agreement: A new hope?' *American Journal of International Law*, 110(2), 288–319.

change, and commits to taking fully into account the situation of the least developed countries with regard to funding and the transfer of technology. More specifically, Article 2 situates the Agreement's central goals within the broader context of sustainable development and efforts to eradicate poverty. It sets out the goal of holding the increase in global average temperature to well below 2°C above pre-industrial levels, while pursuing efforts to limit that increase to 1.5°C. This objective is to be achieved in accordance with the principle of common but differentiated responsibilities, applied because of the different national circumstances of the States Parties to the Agreement, and the Article further emphasises the need to strengthen states' ability to adapt to climate change in ways that do not threaten food production. Then, Article 4 sets out a monitoring system, since it requires each party to prepare, communicate, and maintain successive nationally determined contributions (NDCs) reflecting the measures it intends to undertake, and it makes clear that developed states are expected to take the lead in reducing emissions, while developing states are encouraged to continue enhancing their own efforts and are to be supported in doing so. Article 9, in this respect, provides that developed states are to supply financial resources to assist developing states with both mitigation and adaptation, reflecting the Agreement's continued emphasis on differentiated responsibility between developed and developing countries. Finally, Article 15 establishes a compliance mechanism intended to facilitate implementation of the Agreement. This mechanism is explicitly non-punitive, functioning through cooperation, dialogue, and expert guidance rather than through sanctions.²⁷²

It is against this backdrop that the following section turns to a different kind of instrument, the United Nations' "Harmony with Nature" Programme, which pursues a more explicitly ecocentric vision of humanity's relationship with the natural world.

3.4 Soft law and ecocentric openings: the UN "Harmony with Nature" Programme and the Universal Declaration on the Rights of Mother Earth

The years 2009 and 2010 mark two significant developments in soft law that reflect a genuinely ecocentric opening in international environmental governance. Specifically, in 2009, during its sixty-third session, the United Nations General Assembly proclaimed 22 April as International Mother Earth Day.²⁷³ This declaration paved the way for intergovernmental negotiations, led by the Plurinational State of Bolivia, on the principles of what would come to be known as

²⁷² United Nations. (2015). Paris Agreement. United Nations Treaty Collection.

²⁷³ United Nations General Assembly. (2009). *International Mother Earth Day* (A/RES/63/278). United Nations.

Harmony with Nature. In the years that followed, this initiative gave rise to a substantial body of soft law instruments, including resolutions adopted by the General Assembly, interactive dialogues involving experts and representatives of Member States, and reports of the Secretary-General,²⁷⁴ some of which will be examined in the course of this chapter. The following year, on 22 April 2010, a further soft law instrument emerged from Cochabamba, Bolivia, the Universal Declaration of the Rights of Mother Earth, presented at the World People's Conference on Climate Change and the Rights of Mother Earth. It was a declaration originating from civil society rather than from states themselves,²⁷⁵ and it too will be examined in greater depth later in this chapter.

With the Harmony with Nature programme, the General Assembly sought to define a new relationship between human beings and nature, one no longer centred on human interests alone. The resolutions adopted present different perspectives on the development of a non-anthropocentric paradigm, in which the assessment of what constitutes right or wrong environmental conduct is not based solely on human interests. This shift is already visible in the proclamation of International Mother Earth Day itself, through which Member States acknowledge that “the Earth and its ecosystems are our home”²⁷⁶ and recognise the need to promote harmony with nature and the Earth in order to achieve a balance among the economic, social, and environmental needs of both present and future generations.²⁷⁷

The first General Assembly resolution, adopted in 2009, recalls earlier international environmental instruments, including the Rio Declaration on Environment and Development, and affirms the Assembly's conviction that humanity should aim to live in harmony with nature. To reach this objective, it invites Member States, United Nations bodies, and international, regional, and subregional organisations to promote the concept of living in harmony with nature. The resolution also encourages these actors to observe the International Mother Earth Day as an opportunity to foster activities, raise awareness, and facilitate the exchange of ideas and best practices aimed at strengthening a harmonious relationship between humanity and the natural world.²⁷⁸

²⁷⁴ “Harmony with Nature”, United Nations, available at: <http://www.harmonywithnatureun.org>, (accessed 16 July 2026).

²⁷⁵ “Universal Declaration of the Rights of Mother Earth”, Earth Jurisprudence.

²⁷⁶ United Nations General Assembly. (2009). *International Mother Earth Day* (A/RES/63/278). United Nations.

²⁷⁷ “Harmony with Nature” United Nations.

²⁷⁸ United Nations General Assembly. (2010). *Harmony with Nature* (A/RES/64/196). United Nations.

One important document is the Note by the Secretary-General transmitting the experts' summary report from the first virtual dialogue on Harmony with Nature, held in 2016 among experts on Earth jurisprudence. The dialogue itself had been called for by the General Assembly the previous year, in Resolution 70/208, which instructed the Secretary-General to organise it. The virtual dialogue brought together more than 120 experts on Earth jurisprudence from 33 different nationalities, who together affirmed the intrinsic value of nature and the need to adopt an ecocentric worldview, centred on Mother Earth, rather than an anthropocentric one, centred on the humans. Within the earth-centred worldview, the planet is conceived as a living home whose health is under threat, not as an object to be exploited. Adopting such an ecocentric worldview requires human beings to reconsider their relationship with nature, embedding the principles of Earth jurisprudence within laws, institutions, policies, and practices, with the ultimate aim of reshaping human governance systems to operate from an Earth-centred rather than a human-centred perspective. Central to this vision is the recognition of the interdependence between human beings and the Earth: the experts stress that humanity cannot continue to override the natural laws that sustain the Earth system's balance, and that economic growth has come at the expense both of human populations and of the natural world itself, altering the Earth system to a degree unprecedented in human history. At a philosophical level, Earth jurisprudence understands the Earth as the source of the natural laws that govern life, drawing explicitly on the philosophies, spiritualities, and traditional knowledge of indigenous peoples, for whom nature possesses its own agency, power, and identity. It rests on an idea of wholeness, according to which human beings are inherently connected to and dependent upon nature, rejecting any logic that privileges the "part" over the whole, in favour of a culture of partnership grounded in cooperation, dialogue, equity, and mutual respect. In terms of governance, this translates into a preference for bottom-up decision-making, exemplified by the concept of ecocentric democracy, defined as decision-making that respects democratic principles while also extending value to non-human nature, so that the interests of non-human species and living systems are given the same importance as those of human beings. Incorporating indigenous approaches into mainstream philosophy, the experts argue, eliminates the artificial distinction between humans and nature, fostering a world in which children are raised to understand that loving nature is inseparable from loving oneself, while a renewed spiritual connection with nature is itself seen as essential to human flourishing. Turning to law, the experts argue that recognising the rights of nature within governance systems requires, first and foremost, acknowledging the fundamental right of species and ecosystems to exist, thrive, and regenerate. Nature is seen as having its own rights, which do not depend on human laws

and cannot be taken away by them. Rather than conflicting with human rights, the experts argue that the rights of nature and human rights come from the same source, because human beings are part of nature. They also note that the human right to life has little meaning if the ecosystems that support human life have no legal right to exist. Legal systems, they continue, should impose obligations on human beings to respect the roles and rights of non-human members of the Earth community, including through courts or tribunals empowered to arbitrate conflicts both between humans and between humans and other beings, building on the work of Christopher Stone and Godofredo Stutzin, discussed earlier in the first chapter. The experts further argue that the conventional notion of property must be revised so that ownership no longer implies the right to destroy the ecosystems it encompasses. Examples of this approach are proposed, drawing on Indigenous traditional ecological knowledge. These included New Zealand's recognition of the legal personhood of the Whanganui River and Te Urewera as part of its settlement process with the Māori people, who regard the river and forest as ancestors deserving of the same care as if they were family members. Another example was Ecuador's Constitution, whose Article 71 recognises Nature, also referred to as Pachamama, as having the right to exist, maintain itself, and regenerate its vital cycles, while Article 72 recognises Nature's right to full restoration. The experts also underline the significance of the Universal Declaration of the Rights of Mother Earth, discussed further below, and of the International Rights of Nature Tribunal, established through a people's convention signed in Paris in December 2015, which illustrates how the Declaration and international human rights law might be applied in practice. On economics, the experts identify a central problem in the treatment of nature as a mere resource within the market economy, arguing that measuring wellbeing primarily through economic growth will inevitably continue to cause harm to both the planet and humanity. The values underlying the prevailing market system, rooted in materialism, individualism, and the near-universal acceptance of private land ownership, should instead give way to an understanding of economics as a holistic science concerned with the relations between people, the planet, human society, and the Earth community. The experts are critical of the "green economy" as an alternative paradigm, arguing that it merely commodifies nature in the name of saving it, and of the polluter pays principle, which focuses on the price of environmental harm rather than on restoring the Earth's integrity and health. Economic activity, they argue, should instead be understood as inherently connected to the Earth's life-support systems, with the wellbeing of the Earth valued independently of its immediate contribution to human welfare. They also propose that everyone with exclusive ownership or control of land should have a legally enforceable duty of care. Finally, the experts

address education and the arts and media. On education, they stress the importance of encouraging a deep connection with nature from childhood, through schooling and higher education systems designed to help human beings appreciate other species as living beings with their own role to play within an interconnected web of life. On the arts and media, they observe that these fields remain dominated by a small number of actors who use their near monopoly over cultural output to reinforce the prevailing anthropocentric worldview, while also recognising that media, used at both local and global levels, could instead serve to draw humanity closer to nature.²⁷⁹

Four years later, in 2020, the Report of the Secretary-General highlighted some of the progress made in the field of Earth jurisprudence, as well as the achievements obtained between the second half of 2019 and the first half of 2020. For instance, in November 2019, the Constitutional Court of Guatemala issued a decision recognising the spiritual and cultural connection between Indigenous peoples and water, considering water as a living entity. The Court highlighted that Guatemala's agrarian reform and mining laws had failed to recognise the sacred value of water and the idea that water could be a living being with its own rights, and therefore should not be harmed or destroyed through pollution. The decision also emphasised that water is a living entity with its own cycles, connected to the cosmos, and considered a *nahual* (guardian spirit) by the Maya people. Another important case was decided in February 2020 by the Inter-American Court of Human Rights, concerning the case *Indigenous Community Members of the Lhaka Honhat Association v. Argentina*. In its ruling, the Court recognised that the Wichí, Iyjawaja, Komlek, Niwackle and Tapy'y Indigenous peoples had a right to their ancestral lands in northern Salta Province and ordered Argentina to provide them with a collective title over their territory. The Court also highlighted that activities carried out on their lands had interfered with their traditional way of life and cultural identity, affecting their access to traditional food sources and clean water. Through this decision, the Court established an important precedent by recognising the connection between Indigenous rights, environmental protection, access to essential resources such as water and food, and the preservation of cultural identity. A third important case concerns the Ashaninka people of Acre, in the Brazilian Amazon, where, in April 2020, an unprecedented court settlement recognised the harm suffered by the community. The agreement, signed by Brazil's Prosecutor General Augusto Aras, provided reparations for violations committed almost 40 years earlier, when

²⁷⁹ United Nations Secretary-General. (2016). *Harmony with Nature: Note by the Secretary-General (A/71/266)*. United Nations.

Ashaninka lands were illegally deforested during the 1980s to supply wood for the European furniture industry. Some key ecocentric legislations were also adopted during this period. Firstly, on 21 March 2019, the Superior Court of Justice of Brazil acknowledged the rights of the Turquoise-fronted Amazon parrot, referring to the principles of the Rights of Nature. Similarly, in June 2019, the Provincial Court of Imbabura in Ecuador recognised that mining activities threatened the Rights of Nature of the Los Cedros protected forest. Another example comes from India, where, in March 2020, the High Court of Punjab and Haryana declared Sukhna Lake a legal person in order to protect and guarantee its preservation, conservation, and survival. The Court also stated that the citizens of Chandigarh had a responsibility to protect the lake. Lastly, in the United States, on 16 January 2020, the Menominee Tribe of Wisconsin recognised the “inherent and legal rights” of the Menominee River. Through its resolution, the Tribe acknowledged that the river has the right to restoration, protection and preservation, as well as the right to be protected from activities that could damage or interfere with its natural functions. The Tribe also stated that these rights should be respected by neighbouring Indigenous communities and other governments.²⁸⁰

Now that some of these instruments have been discussed, the focus turns to the Universal Declaration of the Rights of Mother Earth (UNDRME). The Declaration was adopted in Cochabamba, Bolivia, on Earth Day 2010, during the World People's Conference on Climate Change and the Rights of Mother Earth. In its preamble, the Declaration affirms that we are all part of Mother Earth, described as a “living community of interrelated and interdependent beings”. It recognises Mother Earth as the source of life, providing all the nourishment and everything necessary to live well, and identifies the capitalist system as the cause of Mother Earth’s degradation. Article 1 of the Declaration states that the rights of each being are limited by the rights of other beings, and that any conflict between these rights must be resolved in a manner that preserves the integrity, balance, and health of Mother Earth. Article 2 then sets out the rights of Mother Earth, among them the right to life and to exist, to be respected, to maintain its integrity and identity, the right to water as a source of life, the right to clean air, to health, and to be free from contamination and pollution, the right not to have its genetic structure modified or disrupted, and the right of every being to wellbeing and to be free from torture or cruel treatment by human beings. Article 3 defines the obligations human beings hold towards Mother Earth, namely, to respect her and to live in harmony with her. Human beings, states,

²⁸⁰ United Nations Secretary-General. (2020). *Harmony with Nature: Report of the Secretary-General (A/75/266)*. United Nations.

and public and private institutions are also called upon to promote and participate in learning, analysis, interpretation, and communication about how to live in harmony with the Earth, and to establish and apply effective norms and laws in order to defend and protect the rights of Mother Earth, as well as to guarantee accountability for the damage caused to her. The Declaration further calls on states to eliminate nuclear, chemical, and biological weapons and to guarantee peace.²⁸¹ Although the Declaration is non-binding soft law, it operates as a normative charter guiding Earth-centred governance for states, as well as advocacy efforts by civil society. The document was presented at the UN Dialogues on Harmony with Nature in 2011. Despite never having been adopted as a UN treaty, and remaining non-binding in character, the Declaration has had a considerable influence on the development of global ecological jurisprudence: it informed Bolivia's own Law of the Rights of Mother Earth (2010), inspired a range of local ordinances, tribal resolutions, and advocacy initiatives across the Americas and Europe, and has become a key point of reference within the UN's own Harmony with Nature dialogues.²⁸²

While the Harmony with Nature programme and the Universal Declaration on the Rights of Mother Earth have done much to articulate an ecocentric vision of humanity's relationship with the natural world, both remain instruments of soft law, aspirational in character and lacking binding legal force. The following section focuses on another proposal, which is the recognition of ecocide as an international crime under the Rome Statute, a development that would translate ecocentric values into binding, enforceable law.

3.5 The crime of ecocide and the Rome Statute: towards an ecocentric criminal law?

The concept of “ecocide” began to take shape in 1970, when the term was coined by American biologist Arthur W. Galston,²⁸³ who proposed an International Treaty for the Prevention of Ecocide at the Conference on War and National Responsibility. The concept was developed further in 1973 by Richard Falk, who proposed an International Convention on the Crime of Ecocide, believing that the environmental damage caused by the Vietnam War was significant

²⁸¹ World People's Conference on Climate Change and the Rights of Mother Earth. (2010). Universal Declaration of the Rights of Mother Earth.

²⁸² Kauffman, Craig, Catherine Haas, Alex Putzer, Shrishtee Bajpai, Kelsey Leonard, Elizabeth Macpherson, Pamela Martin, Alessandro Pelizzon & Linda Sheehan. Eco Jurisprudence Monitor. V2. 2026. Distributed by the Eco Jurisprudence Monitor. Available at: <https://ecojurisprudence.org/initiatives/universal-declaration-of-the-rights-of-mother-earth/> (accessed 22 July 2026).

²⁸³ Pazvantoğlu, C. A. (2025). Ecocide as a separate crime under the Rome Statute: A legal analysis of the discourse. *Environmental Policy and Law*, 55(2–3), pp. 57–58.

enough to present an opportunity comparable to Nuremberg for outlawing environmental destruction. During the war, the United States had used chemical-based incendiary weapons, such as Agent Orange, and other means to clear the land of vegetation, denying the National Liberation Front both protective cover and means of sustenance.²⁸⁴ Two years later, in 1972, the Swedish Prime Minister, speaking at the Stockholm Conference, described the Vietnam War's environmental damage as “ecocide”. Six years after that, the UN Subcommittee on the Prevention of Discrimination and the Protection of Minorities suggested including ecocide within the scope of the Genocide Convention, a proposal that was discussed at the time but not pursued.²⁸⁵ In 1985, during a further debate on whether to expand the Genocide Convention, the criminalisation of ecocide was again proposed, but it was ultimately decided not to include it, for reasons that remain unclear. Similarly, between 1984 and 1996, ecocide was debated as a possible addition to the list of Crimes against Peace, but the International Law Commission eventually chose not to proceed with its inclusion.²⁸⁶ Around the same period, in the 1990s, a further attempt was made to include ecocide, or severe environmental damage occurring in peacetime, within the Draft Code of Crimes against the Peace and Security of Mankind, but this attempt, too, was unsuccessful.²⁸⁷

Environmental concerns are, nonetheless, already partially addressed within the Rome Statute, specifically through Article 8(2)(b)(iv), which criminalises “[i]ntentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated”²⁸⁸. This provision therefore establishes criminal responsibility for attacks causing environmental harm when such damage is excessive in relation to the anticipated military advantage.²⁸⁹ Nevertheless, the scope of this provision remains limited, as Article 8(2)(b)(iv) applies only to international armed conflicts. This represents a significant gap, considering that a substantial amount of environmental destruction occurs outside the

²⁸⁴ Minkova, L. G. (2023) The Fifth International Crime: Reflections on the Definition of “Ecocide”, *Journal of Genocide Research*, 25:1, pp. 57-58.

²⁸⁵ Pazvantoğlu, C. A. (2025). Ecocide as a separate crime under the Rome Statute: A legal analysis of the discourse, pp. 57-58.

²⁸⁶ Minkova, L. G. (2023) The Fifth International Crime: Reflections on the Definition of “Ecocide”, p. 69.

²⁸⁷ Branch, A., & Minkova, L. (2023). Ecocide, the Anthropocene, and the International Criminal Court. *Ethics & International Affairs*, 37(1), p. 51.

²⁸⁸ Rome Statute of the International Criminal Court, 17 July 1998, 2187 U.N.T.S. 90, Art. 8(2)(b)(iv).

²⁸⁹ Pazvantoğlu, C. A. (2025). Ecocide as a separate crime under the Rome Statute: A legal analysis of the discourse, pp. 58-59.

context of armed conflicts, particularly during peacetime. Addressing this limitation was therefore one of the main objectives of the Independent Expert Panel (IEP). The IEP's proposed definition of ecocide seeks to overcome this gap by extending the protection of the environment beyond situations of armed conflict and recognising severe environmental harm as a crime that can also occur in peacetime. Furthermore, the Panel aimed not only to provide the ICC with an additional legal tool to prosecute serious environmental damage, but also to recognise environmental destruction as a crime of comparable importance to genocide, crimes against humanity, war crimes, and aggression.²⁹⁰ It was against this backdrop that, on 22 June 2021, the Independent Expert Panel for the Legal Definition of Ecocide, convened by the Stop Ecocide Foundation, put forward a formal definition of ecocide. The Panel was composed of twelve lawyers from around the world, each with expertise in criminal, environmental, or climate law, who worked together over six months to draft the definition, with the aim that it might eventually serve to amend the Rome Statute of the International Criminal Court (ICC). The Panel argued that ecocide should be recognised as a distinct crime, one that would extend the ICC's mandate to a category of harm not presently within its jurisdiction, namely environmental damage occurring during peacetime. The Panel explains that agreeing on a crime of ecocide could help bring about a change in consciousness, supporting a shift towards giving greater importance to environmental protection and towards a stronger legal framework for achieving it. It also clarifies the meaning of the word itself: “ecocide” combines the Greek *oikos*, meaning house, and later understood to mean habitat or environment, with *cide*, meaning to kill, an approach that draws on the example of the Polish jurist Rafael Lemkin, who coined the word “genocide” in November 1944.²⁹¹

The Panel's proposed definition of ecocide is structured on the model of Article 7 of the Statute, on Crimes Against Humanity: the first paragraph sets out the crime itself, while the second defines its core elements. The Panel proposes adding a new preambular paragraph, 2bis, expressing concern that “the environment is daily threatened by severe destruction and deterioration, gravely endangering natural and human systems worldwide”, alongside an amendment to Article 5 adding “(e) the crime of ecocide,” and a new Article 8ter dedicated specifically to the crime. Under this proposed article, ecocide is defined as “unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either

²⁹⁰ Minkova, L. G. (2023) The Fifth International Crime: Reflections on the Definition of “Ecocide”, pp. 63-64.

²⁹¹ Stop Ecocide Foundation. (2021). Independent Expert Panel for the Legal Definition of Ecocide: Commentary and core text.

widespread or long-term damage to the environment being caused by those acts.” The Panel further defines each of the definition's key terms: “wanton” means acting “with reckless disregard for damage which would be clearly excessive in relation to the social and economic benefits anticipated”; “severe” means damage involving “very serious adverse changes, disruption or harm to any element of the environment, including grave impacts on human life or natural, cultural or economic resources”; “widespread” means damage that “extends beyond a limited geographic area [...] or is suffered by an entire ecosystem, or species, or a large number of human beings”; and “long-term” means damage that is “irreversible or which cannot be redressed through natural recovery within a reasonable period of time.” In its commentary, the Panel explains that the proposed crime rests on two thresholds. First, there must be a “substantial likelihood” that the act, or the omission of an act, will cause severe and either widespread or long-term damage to the environment. The Panel recognises, however, that this threshold alone would be too broad, since some activities that are socially beneficial may nonetheless cause, or risk causing, environmental damage of this kind. For this reason, it introduces a second requirement: that the act be unlawful or wanton. The Panel also clarifies that its reference to “any element of the environment” is intended to cover every component that makes up the environment, including outer space. Finally, the Panel proposes that the mental element required for the crime of ecocide be one of recklessness or *dolus eventualis*, meaning that the perpetrator must have been aware of a substantial likelihood that their conduct would cause severe and either widespread or long-term damage.²⁹²

Assessing the criticisms directed at this proposal requires first situating it within the Rome Statute's general framework for criminal responsibility. Criminal responsibility is based on two main pillars: a physical element (*actus reus*), referring to an act or omission that results in the commission of a crime, and a mental element (*mens rea* or guilty mind), which concerns the perpetrator's state of mind at the time of the conduct. The IEP did not need to define the mental element of the proposed crime of “ecocide” because Article 30 of the ICC Statute establishes a general rule for determining the mental element of criminal responsibility applicable to all crimes under the Court's jurisdiction. Article 30 provides that “[u]nless otherwise provided”, a person shall be held criminally responsible where the material elements of the crime are committed with “intent and knowledge,” with “knowledge” defined as “awareness that a circumstance exists or a consequence will occur in the ordinary course of events.”²⁹³ However,

²⁹² *Ibidem*.

²⁹³ Rome Statute of the International Criminal Court, 17 July 1998, 2187 U.N.T.S. 90, Art. 30.

the IEP chose to provide differently in its definition of ecocide because it considered that Article 30 “was too narrow” and would fail to encompass a sufficiently broad range of conduct capable of constituting ecocide. Therefore, the expert panel established a specific mental element applicable to the crime of ecocide: “knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment”.²⁹⁴

The IEP that drafted Article 8ter deliberately excluded the element of intent from the definition of the crime, arguing that it would be uncommon for perpetrators to act with the explicit purpose of destroying an ecosystem. Instead, Article 8ter requires awareness of the likelihood of environmental harm. The definition contained in Draft Article 8ter adopts a lower threshold compared to Article 30: rather than requiring the perpetrator to know that the harmful consequence will certainly occur, it is sufficient that they are aware that such harm may arise “with a substantial likelihood”.²⁹⁵ Consequently, the mens rea standard established by the Panel's proposal can be understood as one based on recklessness. Furthermore, Draft Article 8ter requires that the perpetrator acts wanton, a term described as acting “with reckless disregard for damage”. This means that the prosecutor would need to demonstrate that the perpetrator was aware that their conduct could cause excessive harm to nature in comparison with the expected social and economic benefits.²⁹⁶ Nevertheless, some scholars have criticised the use of the term “knowledge” in Draft Article 8ter, arguing that it may be misleading because it differs from the meaning attributed to the same term under Article 30(3) of the Rome Statute.²⁹⁷

One criticism raised against Draft Article 8ter concerns the inclusion of anthropocentric elements within its definition. In particular, the second paragraph of the draft article allows for the consideration of the “social and economic benefits anticipated” from a specific environmentally harmful activity when determining whether such conduct constitutes ecocide. According to Minkova, placing environmental harm in opposition to socio-economic benefits risks conveying a problematic message to the international community: namely, that environmental protection and human interests can be treated as separate and that humans may,

²⁹⁴ Minkova, L. G. (2023) The Fifth International Crime: Reflections on the Definition of “Ecocide”, pp. 77-78.

²⁹⁵ Dumont, A. (2022). Ecocide: A New Hope to Save the Environment or Just Another Dead Loss? *Humanitäres Völkerrecht: Journal of International Law of Peace and Armed Conflict*, 5(1/2), pp. 65-67.

²⁹⁶ Van Den Heede, O. (2022). Ecocide as the fifth core crime in the Rome Statute. *New York University Journal of International Law & Politics*, 55(2), pp. 436-438.

²⁹⁷ Savard, C. (2025) What mens rea for ecocide in the Rome Statute?, *The International Journal of Human Rights*, pp.1-2.

in certain circumstances, legitimately benefit from the severe, widespread, or long-term degradation of the environment. The author therefore argues that this element was unnecessary in the definition of ecocide, as it reinforces the assumption that the wellbeing of the environment and that of human societies are distinct and potentially conflicting interests, rather than recognising their inherent interdependence.²⁹⁸

Beyond these concerns, scholars have also raised structural criticisms of how the crime would be enforced, beginning with the question of corporate liability, a point on which the literature is genuinely divided. International criminal law holds individual persons, rather than states or corporations, criminally responsible for their conduct and imposes sanctions accordingly. According to the IEP, criminalising ecocide would mean that the individuals who make decisions leading to environmental damage are the ones held accountable for their conduct.²⁹⁹ Jojo Mehta, the president of the Stop Ecocide Foundation, argues more specifically that targeting individuals is essential for deterrence and prevention: corporate decisions are ultimately taken by individuals who often evade responsibility behind the corporate veil, and since corporations themselves cannot be imprisoned, holding individuals accountable directly affects their personal freedom, prospects, and reputation, making this approach, in her view, more effective.³⁰⁰ Other authors find this problematic. Van Den Heede, for instance, argues that the ICC's lack of personal jurisdiction over corporations is concerning, given that corporations are potentially among the main perpetrators of the crime of ecocide.³⁰¹ Dumont likewise sees the absence of corporate liability as a threat to the effectiveness of the crime, arguing that including companies within its scope is essential for the effective enforcement of ecocide, since corporations are often responsible for the majority of environmentally destructive conduct in peacetime.³⁰²

A further issue raised by some authors concerns the fact that some of the world's largest state emitters, including China, the United States, India, and Russia, are not parties to the ICC, and

²⁹⁸ Minkova, L. G. (2023) The Fifth International Crime: Reflections on the Definition of “Ecocide”, pp. 65-71.

²⁹⁹ *Ibidem*, pp. 70-71.

³⁰⁰ Pazvantoğlu, C. A. (2025). Ecocide as a separate crime under the Rome Statute: A legal analysis of the discourse, pp. 59-60.

³⁰¹ Van Den Heede, O. (2022). Ecocide as the fifth core crime in the Rome Statute, pp. 442-443.

³⁰² Dumont, A. (2022). Ecocide: A New Hope to Save the Environment or Just Another Dead Loss?, pp. 72-73.

would therefore remain unaffected by the criminalisation of ecocide.³⁰³ Other obstacles identified in the literature include doubts as to whether ICC judges are well placed to assess the complex scientific evidence needed to establish the consequences of certain ecosystem changes; judges would likely need to rely on external experts, which would in turn slow down proceedings. The ICC is, moreover, already overburdened with the crimes currently under its jurisdiction, and operates with limited capacity and a limited budget. A further concern is the time such a process would take: one panel member suggested it could take anywhere between five and fifty years for the Statute to be amended, given that a substantial number of states would first need to agree on the definition of ecocide, itself a considerable political and diplomatic challenge.³⁰⁴ Compounding this, the criminalisation of ecocide is likely to face resistance from states precisely because it would proscribe conduct that can be economically advantageous to governments and corporations, at the expense of environmental welfare.³⁰⁵ In light of these obstacles, Dumont proposes several alternative approaches to strengthen the enforceability of environmental protection, such as the creation of an international treaty obliging state parties to incorporate a crime of ecocide into their national law; the establishment of a separate environmental law chamber within the ICC itself, with jurisdiction limited to the crime of ecocide, to which states could submit without accepting the rest of the Statute; and lastly the inclusion of environmental experts to support judges with relevant scientific findings.³⁰⁶ There have, however, been some positive developments. In 2024, Vanuatu, Fiji, and Samoa formally submitted a proposed amendment to the Rome Statute to include the crime of ecocide,³⁰⁷ while the accession of the Republic of Kiribati to the ICC in 2019, together with the Court's broader engagement with Pacific nations, signals growing interest among states in exploring the potential of international criminal law to address environmental harm. The European Parliament, too, has urged its member states to support the recognition of ecocide as a crime before the ICC.³⁰⁸

³⁰³ Dumont, A. (2022). *Ecocide: A New Hope to Save the Environment or Just Another Dead Loss?*, p. 74; Pazvantoğlu, C. A. (2025). *Ecocide as a separate crime under the Rome Statute: A legal analysis of the discourse*, p. 70.

³⁰⁴ Van Den Heede, O. (2022). *Ecocide as the fifth core crime in the Rome Statute*, pp. 440-442.

³⁰⁵ Minkova, L. G. (2023) *The Fifth International Crime: Reflections on the Definition of "Ecocide"*, pp. 69-70.

³⁰⁶ Dumont, A. (2022). *Ecocide: A New Hope to Save the Environment or Just Another Dead Loss?*, pp. 75-76.

³⁰⁷ Savard, C. (2025) *What mens rea for ecocide in the Rome Statute?*, p.2.

³⁰⁸ Minkova, L. G. (2023) *The Fifth International Crime: Reflections on the Definition of "Ecocide"*, p. 64.

Finally, Minkova points to the symbolic function of international trials as one of the key rationales for criminalising environmental harm: such trials, she argues, could help foster a culture of environmental rights by communicating the wrongfulness of certain conduct and stigmatising it as socially unacceptable, thereby encouraging lawful behaviour and instilling norms of appropriate conduct within communities. In a similar vein, the Stop Ecocide project considers that characterising environmental harm as one of the gravest crimes, by incorporating ecocide into the Rome Statute, would help promote a new way of thinking about the relationship between humans and nature.³⁰⁹

³⁰⁹ *Ibidem*, p. 75.

Chapter 4 - Legal Recognition of Nature: He Whakaputanga Moana and the Marañón River

4.1. Premise

This chapter examines two recent initiatives that illustrate attempts to move beyond the traditional treatment of nature as an object of human use and protection, specifically the recognition of whales as legal persons in the Pacific and the recognition of the Marañón river as a holder of rights in Peru. Although the two cases concern different entities and arise from distinct legal and cultural contexts, both challenge conventional anthropocentric approaches by attributing legal significance to the interests and intrinsic value of non-human beings. At the same time, both cases are closely connected to Indigenous understandings of the relationship between humans and the natural world. The chapter therefore considers not only the legal developments emerging from these initiatives, but also the role of Indigenous knowledge and their mobilisation in shaping them. Particular attention is given to how existing legal frameworks respond to these approaches, and to the tensions and limitations that arise when Indigenous understandings of nature are expressed through legal concepts such as legal personhood and rights.

4.2. Recognising Whales as Legal Persons in the Pacific

In March 2024, indigenous leaders from across the Pacific signed He Whakaputanga Moana,³¹⁰ a declaration formally recognising whales as legal persons for the first time; it was a step far beyond anything previously granted to whales under international law. Before examining the declaration itself, it is necessary to understand the foundations on which this claim rests, both the scientific evidence of cetacean cognition and the cultural significance whales hold for the peoples who first proposed their personhood. The chapter will then trace the evolution of whales' legal status under international law, before turning in detail to the declaration itself and the effects it has had since its signing.

4.2.1 The Case for Whale Rights: Biological and Cultural Foundations

Cetaceans comprise a diverse group of marine mammals, including whales, dolphins, and porpoises. The Pacific region, characterised by its numerous islands and extensive oceanic

³¹⁰ He Whakaputanga Moana. (2024). *He Whakaputanga Moana (Whale Protection and Legal Personhood Declaration)*. Available at: <https://ecojurisprudence.org/initiatives/he-whakaputanga-moana-declaration-for-the-ocean-treaty/> (accessed 25 August 2026).

areas, is home to a wide range of cetacean species, including both resident populations and migratory species that traverse the region. These include sperm whales, classified as vulnerable, as well as endangered species such as Hector's dolphins and blue whales.³¹¹ Cetaceans possess highly developed cognitive capacities and complex brain structures. Scientific research has demonstrated that they exhibit self-awareness, reasoning abilities, and distinct forms of cultural expression. Odontocetes, commonly referred to as 'toothed whales' and comprising at least 71 species of marine mammals, display particularly sophisticated social abilities. They form complex group structures, establish long-term social bonds and alliances, and cooperate within extensive social networks. Group living also provides important protection against external threats.³¹² Research further indicates that cetaceans possess neuroanatomical characteristics associated with advanced cognitive capacities. They are capable of understanding abstract rules and concepts, including the discrimination of quantities, as well as symbolic representations of absent objects. They can also understand how objects function and manipulate them accordingly. Studies of bottlenose dolphins, for instance, provide evidence of planning and anticipatory behaviour, as well as an awareness of past experiences and the potential consequences of future actions. Their capacity for self-recognition has been investigated through the mirror recognition test, which provides evidence of a concept of self or, at least, bodily self-awareness. Some cognitive abilities observed in adult cetaceans have even been found to surpass those exhibited by human infants. Furthermore, cetaceans can experience and express emotions, including joy, grief, and anger.³¹³ Cetaceans also demonstrate sophisticated forms of social learning, including vocal and motor imitation. There is evidence that whales, particularly killer whales, imitate and teach behaviours to other members of their species, as well as to dolphins. Through these processes, cetaceans transmit culturally acquired characteristics and maintain distinct social structures. In sperm whales, for example, cultural traits can be transmitted matrilineally.³¹⁴ Cetaceans are also capable of forming complex beliefs about the intentions of other individuals and of developing abstract mental concepts through which they mediate their relationships with the surrounding natural environment. Their capacity for social learning is further illustrated by the rapid dissemination

³¹¹ Whitehead, H. (2008). Culture in whales and dolphins. In *Encyclopedia of marine mammals* (2nd ed.). Elsevier, p. 70.

³¹² Pettit, S. G., & McCulloch, S. P. (2023). Odontocetes ('Toothed Whales'): Cognitive Science and Moral Standing – Are Dolphins Persons?. *Journal of Applied Animal Ethics Research*, 5(1), pp. 110-112.

³¹³ *Ibidem*, pp. 120-125.

³¹⁴ Whitehead, H. (2008). Culture in whales and dolphins, p. 292.

of novel and complex behaviours within populations. One example is the rapid evolution and transmission of humpback whale songs. Another is the spread of so-called ‘fads’, referring to behaviours that rapidly become widespread among a particular portion of a population. A further pattern is mother-offspring transmission, whereby behaviours are acquired from mothers through social learning. Young beluga whales, for instance, learn migration routes from their mothers, while dolphins rely on maternal teaching to acquire essential survival skills, including feeding techniques. Finally, group-specific behaviours may spread among a particular subsection of a population, leading to the emergence of distinct cultural subgroups. Such groups may differ in acoustic dialects, foraging strategies, food preferences, and even greeting rituals. According to Peña Guzmán, cetaceans also exhibit behaviours that may be interpreted as evidence of moral behaviour. Dolphins, bottlenose whales, killer whales, and grey whales have been observed assisting other whales that are sick or giving birth, defending them against aggressors, and helping them reach the surface. There is also evidence of cetaceans assisting humans. Wild bottlenose dolphins, for example, have been observed herding fish towards fishermen’s nets, accompanied by a characteristic rolling dive whose height appears to communicate information about the quantity of fish present.³¹⁵ Another important dimension of cetacean social and cognitive abilities concerns their highly sophisticated systems of communication. Odontocetes possess some of the most complex communication systems observed among non-human animals, relying on a combination of echolocation, vocalisations, body postures, tactile behaviours, and non-vocal auditory signals. Bottlenose dolphins, for example, develop individual signature whistles that function in ways comparable to names and may indicate a degree of self-recognition. Orcas similarly employ a complex repertoire of calls, whistles, and ultrasonic clicks, while different pods develop distinctive vocal dialects that are acquired and transmitted through social learning. Beluga whales also possess an extensive repertoire of vocalisations and demonstrate advanced communicative and representational abilities. Studies have shown that they can understand and produce symbolic lexigrams and sounds, recognising the relationship between a vocal signal and the object it represents. They are also capable of imitating novel sounds, including sounds produced by humans and other belugas.³¹⁶ The importance of acoustic communication becomes particularly evident when considering the vast distances over which cetaceans move. Under

³¹⁵ Peña-Guzmán, D. (2021) Cetacean Cultural Rights: A Third Generation of Rights at Sea, *Animal L. Rev.* 83, pp. 96-101.

³¹⁶ Pettit, S. G., & McCulloch, S. P. (2023). Odontocetes (‘Toothed Whales’): Cognitive Science and Moral Standing – Are Dolphins Persons?, pp. 120-125.

relatively undisturbed conditions, their vocalisations may travel across hundreds of kilometres, potentially allowing dispersed or migrating groups to maintain contact. However, human activities have substantially increased levels of anthropogenic noise in the marine environment. While the pre-industrial ocean was primarily characterised by sounds generated by wind, rain, breaking ice, and biological activity, contemporary oceans are increasingly affected by noise from shipping, sonar, resource exploitation, and offshore construction. Given the central role of sound in cetacean communication and environmental perception, this noise pollution can have a broad range of consequences. Increased ambient noise may reduce the distance over which individuals can communicate, interfere with their ability to perceive external acoustic cues, and trigger avoidance behaviours. More intense exposure can additionally result in physiological harm and has been associated with stranding events following extreme noise disturbances.³¹⁷ Beyond their cognitive and social characteristics, cetaceans play a significant role in maintaining the health and functioning of marine ecosystems. Thriving whale populations contribute to the circulation of nutrients between deep and surface waters, supporting phytoplankton, which form the foundation of marine food webs and produce a substantial proportion of the oxygen on Earth. In this way, whales contribute to the productivity and biodiversity of ocean ecosystems. Whales also play an important role in mitigating climate change. Their movement and feeding activities facilitate nutrient circulation, thereby supporting phytoplankton, which absorb significant quantities of carbon dioxide and contribute to the ocean's capacity to store carbon. Whales themselves also store substantial amounts of carbon in their bodies throughout their lifetimes. The decline of whale populations has therefore diminished the ocean's capacity to absorb and store CO₂. At the same time, rising ocean temperatures and increasing acidification further reduce the ocean's ability to absorb carbon dioxide, contributing to higher concentrations of greenhouse gases in the atmosphere.³¹⁸

The significance of whales, however, extends beyond their ecological functions, as they occupy important cultural, spiritual, and relational roles within the worldviews of many Indigenous peoples. Cetaceans represent significant cultural symbols for the diverse Indigenous communities of the Pacific, whose traditions have long been closely connected to these animals. Historically, cetacean behaviour and migratory patterns also provided Pacific

³¹⁷ Johnston, S. T., & Painter, K. J. (2024). Avoidance, confusion or solitude? Modelling how noise pollution affects whale migration. *Movement Ecology*, 12, Article 17, p.1.

³¹⁸ Moananui Sanctuary Trust. (2025). Moananui blueprint: Nature finance for a living ocean. Available at: https://www.moananuisanctuary.org/_files/ugd/16e80c_43259f90e9874ccb9c05cf5de5bf203a.pdf (accessed 28 August 2026).

navigators with valuable geographical information, assisting them in locating islands and navigating across the vast distances of the Pacific Ocean. Whales also feature prominently in the origin stories and oral traditions of several Pacific Island communities. One notable example is the story of Paikea, a whale rider who is said to have shared a close kinship with whales and possessed the ability to call upon them to rescue stranded navigators. For many Māori communities, Paikea is regarded as an ancestor and is incorporated into genealogical traditions, while whales are understood as descendants or children of Tangaroa, the Māori spirit associated with the ocean.³¹⁹ Over time, this close relationship contributed to whales acquiring a status that extended beyond the natural world, with whales being incorporated into Māori understandings of supernatural beings.³²⁰ This spiritual and cultural reverence, however, did not necessarily exclude the use of whales as a source of sustenance. Māori communities traditionally harvested whales that had naturally stranded or washed ashore, treating them with reverence and understanding them as gifts from Tangaroa. Prior to European settlement, Māori had no established tradition of actively pursuing and capturing whales at sea and instead relied primarily on incidental captures and strandings.³²¹ This relationship changed significantly following European settlement and the expansion of commercial whaling. European whalers actively hunted whales for commodities such as whale oil and baleen, and carcasses were sometimes abandoned at sea, eventually washing ashore or sinking. As a result, Māori communities gained access to a substantially greater supply of whale meat than had previously been available through natural strandings alone.³²² The relationship between whales and Pacific Indigenous peoples therefore cannot be reduced to either reverence or resource use. Rather, it reflects a complex relationship in which whales have simultaneously been understood as kin, ancestors, spiritual beings, and sources of sustenance. Their enduring significance continues to connect contemporary Indigenous communities with their cultural traditions, histories, and ancestors.³²³

Despite their ecological, cognitive, and cultural significance, cetaceans face a wide range of anthropogenic threats that have contributed to the decline of many populations and increasingly

³¹⁹ Whitehead, J. & Doornbos, E. (2026). Indigenous Transnational Environmental Justice: The Case of Aotearoa. *International Journal for Crime, Justice and Social Democracy*. 15, p. 70.

³²⁰ Cawthorn, M. (2012). Maori, whales and "whaling" an ongoing relationship, pp. 2-3.

³²¹ Cawthorn, Martin. (2012). Maori, whales and "whaling" an ongoing relationship, pp. 2-3; and Whitehead, J. & Doornbos, E. (2026). Indigenous Transnational Environmental Justice: The Case of Aotearoa, p. 70.

³²² Cawthorn, Martin. (2012). Maori, whales and "whaling" an ongoing relationship, pp. 2-3.

³²³ Whitehead, J. & Doornbos, E. (2026). Indigenous Transnational Environmental Justice: The Case of Aotearoa, 15, p. 70.

put their survival at risk. Among these are noise pollution, intensive fishing practices, deep-sea mining, pollution, and ship strikes. These threats, however, do not affect all cetacean species or populations equally. For instance, while smaller cetacean species may be more vulnerable to overfishing, larger species such as the blue whale are less susceptible to this particular threat due to their size and are instead more likely to be affected by ship collisions. Threats also vary geographically, with populations inhabiting areas of intense maritime traffic facing a heightened risk of vessel strikes. Rising sea surface temperatures and the reduction of sea ice have also affected cetaceans' migratory patterns, habitats, and broader species distribution.³²⁴ Pollution represents another major threat to cetaceans. The accumulation of plastics and chemical contaminants in the marine environment can reduce the availability of prey and degrade their habitats, while cetaceans are also particularly vulnerable to the bioaccumulation of toxic substances through the food chain. Military sonar, seismic testing, offshore installations, and increasing levels of underwater noise further interfere with their ability to communicate and navigate. Even whale-watching activities can generate sufficient disturbance to cause stress.³²⁵ Ship strikes, moreover, remain among the principal causes of whale mortality, particularly as maritime traffic has increased and major shipping routes increasingly overlap with areas that are important for cetaceans. The vulnerability of cetaceans to these threats is further intensified by the fact that they have not evolved to recognise modern vessels as hazards or to adapt their behaviour sufficiently to avoid collisions. As Chami observes, this problem is also reflected at the level of the maritime transport system, which has not been designed to account adequately for the harm inflicted on whales and other cetaceans.³²⁶ The consequences of human-induced mortality extend beyond the individual animal. Because cetaceans live within complex and often long-term social structures, the removal or death of individuals can disrupt established social networks and weaken the cohesion of populations. The loss of individuals may therefore fragment communities and leave previously connected groups increasingly isolated, threatening not only individual welfare but also the stability and continuity of cetacean populations.³²⁷ Taken together, these characteristics, relationships, and

³²⁴ *Ibidem*, p. 70.

³²⁵ Pettit, S. G., & McCulloch, S. P. (2023). Odontocetes ('Toothed Whales'): Cognitive Science and Moral Standing – Are Dolphins Persons?, pp. 111; 116.

³²⁶ Chami, R., Bender, M., Bramley, B., Cosimano, T., Iles, R., Nieburg, D., Rosa, E., Takoko, M., & Fullenkamp, C. (2024). How legal personhood and markets can partner to help save the whale. *Frontiers in Ocean Sustainability*, 2, Article 1405586, p. 2.

³²⁷ Pettit, S. G., & McCulloch, S. P. (2023). Odontocetes ('Toothed Whales'): Cognitive Science and Moral Standing – Are Dolphins Persons?, p. 116.

vulnerabilities highlight the particular significance of cetaceans and raise the question of how, and to what extent, this significance is reflected in international law.

4.2.2 Whales Under International Law: Protection Without Personhood

The existing international legal framework governing the oceans remains largely centred on human interests. The United Nations Convention on the Law of the Sea (UNCLOS)³²⁸, adopted in 1982 and often described as a constitution for the oceans, aims to establish a comprehensive legal order governing marine spaces and resources. It adopts a zonal approach, under which different maritime zones are subject to distinct legal regimes depending on their distance from the coast, as well as a species-specific approach to the regulation of marine living resources. However, UNCLOS contains only limited provisions specifically addressing marine mammals. Specifically, article 65 provides that states and international organisations may prohibit, limit or regulate the exploitation of marine mammals more strictly than would otherwise be permitted under the Convention and requires cooperation for the conservation, management and study of cetaceans. The limitations of this framework can be further understood through the concept of ocean justice developed by Chris Armstrong and analysed by Árnadóttir. Armstrong proposes a number of principles aimed at strengthening the legal and political order governing the oceans. Firstly, he believes that the principle of the common heritage of humankind, for instance, should be expanded to include not only the interests of human beings, but also those of non-human entities. Armstrong also emphasises democratic inclusion, arguing that those affected by political decisions concerning the oceans should have their interests represented in decision-making processes, and that, while non-human animals cannot participate in political processes in the same manner as human citizens, their interests should nevertheless be taken into account by political institutions. In particular, Armstrong argues that cetaceans may hold certain rights, including a right to life, freedom from torture, freedom of movement, and protection against the disruption of their social and cultural lives. Armstrong's approach therefore challenges the anthropocentric foundations of conventional ocean governance by extending the scope of justice beyond human communities. His conception of ocean justice also addresses questions concerning the distribution of benefits derived from the oceans and the allocation of responsibilities for their protection and restoration. More specifically, he underlines the belief that the burdens associated with environmental protection

³²⁸ United Nations. (1982). *United Nations Convention on the Law of the Sea*. Available at: https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf

should be distributed fairly, including by considering who should bear the costs resulting from restrictions on the exploitation of marine resources. Armstrong further emphasises the importance of fair transitions, recognising that stronger environmental protection may affect particular industries and consequently threaten employment and livelihoods. The transition towards a healthier ocean should therefore not impose disproportionate burdens on those most directly affected by environmental regulation.³²⁹

The extension of ocean justice beyond human interests raises the further question of which non-human beings should be considered entitled to moral consideration. Árnadóttir explains that non-human animals have historically been assigned a subordinate moral status on the grounds that they lack characteristics considered distinctively human, such as rationality, intelligence, language, or the ability to participate in discussions concerning justice. Contemporary scholarship on personhood, however, challenges this form of human exceptionalism by questioning whether species membership should determine the moral standing of an individual. Moreover, the cognitive criteria traditionally invoked to justify the attribution of rights to human beings are not consistently applied within the human species. In fact, infants, individuals with severe cognitive disabilities, and future generations may be considered rights-holders despite not possessing all of the capacities traditionally associated with rationality or moral agency. Species membership or particular cognitive abilities therefore cannot, on their own, provide a consistent basis for determining moral status. Sentience, understood as the capacity to experience pain and suffering, is therefore identified as a more appropriate basis for moral consideration. Sentient beings have an interest in avoiding suffering and maintaining their well-being, regardless of whether they belong to the human species. From this perspective, the relevant question is not whether an animal possesses characteristics that make it sufficiently similar to human beings, but whether it has characteristics that generate morally relevant interests. The recognition of moral status does not consequently require identical rights for all animals, but rather, the rights attributed to different animals may correspond to their particular capacities and interests. In this sense, capacities generate interests, which may in turn provide a basis for the recognition of rights. This reasoning is particularly relevant in relation to cetaceans. Whales are sentient and highly intelligent beings that possess complex brains, sophisticated forms of communication and highly developed social structures, and they have also been associated with forms of culture, self-awareness and tool use, as previously discussed in this chapter. These characteristics suggest that their

³²⁹ Árnadóttir, S. (2026). Ocean as a space of rights for whales. *Marine Policy*, 194, 107200, pp. 1-8.

interests extend beyond mere biological survival and include their physical well-being, social relationships and continued existence. The recognition of specific rights for whales can therefore be understood not simply as a means of improving their conservation, but as a response to interests that they possess in their own right. More broadly, Árnadóttir argues that the individualistic approach traditionally underlying human rights can present limitations for the effective protection of animals and the natural environment. These limitations are particularly apparent in ocean governance, which has historically been characterised by a relationship of human dominance over nature, non-Western peoples and non-human animals. A multispecies approach to ocean justice offers an alternative by recognising that marine governance should also take into account the interests of non-human beings. Within this perspective, marine mammals could be understood as beings deserving protection in their own right rather than merely as objects of human regulation and conservation.³³⁰ This moral recognition of whale interests provides a normative basis for considering whether and how their interests could be translated into legal rights.

The recognition of whales as legal persons must also be considered in light of the existing international legal framework governing their protection. The principal international instrument applicable to whales is the 1946 International Convention for the Regulation of Whaling (ICRW), which entered into force in 1948,³³¹ and has been discussed in Chapter 3 of this thesis. The Convention establishes the International Whaling Commission (IWC) and regulates significant aspects of whaling, including protected and unprotected species, open and closed seasons and waters, sanctuary areas, size limits, permitted methods and equipment, and catch limits and reporting requirements. Although the ICRW itself contains relatively few substantive provisions, the obligations applicable to states have consequently developed through decisions and amendments adopted within the IWC framework. The original objective of the ICRW was to regulate whale exploitation and prevent stock depletion, so as to ensure sustainable populations while avoiding widespread economic and nutritional hardship. The composition of the IWC initially reflected this regulatory and resource-oriented approach, as its membership consisted predominantly of states engaged in whaling. This changed during the 1970s and 1980s as growing international environmental awareness encouraged conservation-oriented states to join the Commission, gradually altering its internal dynamics. This

³³⁰ *Ibidem*, pp. 3-4.

³³¹ International Convention for the Regulation of Whaling, signed at Washington, 2 December 1946, 161 UNTS 72.

transformation contributed to the IWC's adoption of a moratorium on commercial whaling in 1982, which set commercial whaling catch limits at zero, and entered into force in 1986. It did not, however, prevent scientific whaling or aboriginal subsistence whaling, which remained subject to the relevant provisions of the ICRW. The IWC also established two whale sanctuaries, the Indian Ocean Sanctuary in 1979 and the Southern Ocean Sanctuary in 1994. Although the moratorium was originally intended as a temporary measure subject to periodic review, it has remained in force, reflecting the broader shift in the IWC's approach from the regulation of whale exploitation towards the long-term conservation of cetacean populations.³³²

The conservation of whales has also been reinforced through instruments outside the IWC framework. The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES),³³³ also discussed in the previous chapter of this thesis, for instance, strengthened the protection of cetaceans by listing species regulated by the ICRW in Appendix I, thereby providing great whales with the highest level of protection under the Convention and effectively prohibiting international commercial trade in these species, including their parts and derivatives. Two further agreements were subsequently developed under the Convention on the Conservation of Migratory Species of Wild Animals (CMS)³³⁴, which are the 1992 Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas (ASCOBANS)³³⁵ and the 1996 Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area (ACCOBAMS)³³⁶. The IWC's mandate has also progressively expanded beyond the prevention of overexploitation towards broader conservation and welfare concerns. According to Árnadóttir, the Commission has adopted numerous conservation-oriented resolutions addressing issues such as non-lethal uses of whale resources, the maintenance of healthy cetacean populations and the role of whales within marine ecosystems. It has also addressed issues such as whale-killing methods, the killing of stranded whales, pollution affecting whale habitats and anthropogenic noise. The protection of

³³² Árnadóttir, S. (2026). Ocean as a space of rights for whales, p. 8.

³³³ Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed at Washington, 3 March 1973, 993 UNTS 243.

³³⁴ Convention on the Conservation of Migratory Species of Wild Animals. (1979). United Nations Environment Programme. Available at: <https://www.cms.int/en/convention-text> (accessed 12 September 2026).

³³⁵ Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas. (1992). ASCOBANS Secretariat. Available at: <https://www.ascobans.org/documents/agreement-text> (accessed 12 September 2026).

³³⁶ Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area. (1996). ACCOBAMS Secretariat. Available at: <https://accobams.org/documents-resolutions/agreement-text/> (accessed 12 September 2026).

whales is not limited to the IWC. The North Atlantic Marine Mammal Commission (NAMMCO), which brings together Iceland, Norway, Greenland and the Faroe Islands, has also addressed marine mammal welfare through expert workshops and guidelines concerning best practices and humane killing methods. Non-governmental initiatives have contributed to the broader development of discussions concerning cetacean rights, including campaigns advocating legal personhood for whales³³⁷ and the 2010 Declaration of Rights for Cetaceans, which in its text recognises that “all cetaceans as persons have the right to life, liberty and wellbeing” and that cetaceans are not owned by any State, corporation, human beings.³³⁸

The legal relevance of IWC resolutions was considered by the International Court of Justice (ICJ) in the case *Whaling in the Antarctic* of 2014.³³⁹ The case concerned Japan’s JARPA II programme, which Japan sought to justify under Article VIII(1) of the ICRW as a programme conducted for scientific research purposes. Australia, supported by Aotearoa/New Zealand’s intervention, challenged the legality of the programme and argued, among other things, that lethal methods should only be used where non-lethal methods were unavailable. In support of this interpretation, Australia relied on IWC resolutions as subsequent agreement or practice relevant to treaty interpretation under Article 31(3) of the Vienna Convention on the Law of Treaties, which requires subsequent practice in the application of a treaty to be taken into account where it establishes the agreement of the parties regarding its interpretation.³⁴⁰ The ICJ did not accept that lethal methods were permissible only when non-lethal alternatives were unavailable, given that Article VIII expressly contemplates the use of lethal methods for scientific research. However, the Court considered the ICRW as an evolving instrument and thought that resolutions adopted by the IWC could be relevant to the interpretation of the Convention. Ultimately, the Court concluded that Japan’s permits for JARPA II were not issued for purposes of scientific research within the meaning of Article VIII(1), and found Japan in violation of its obligations under the ICRW.³⁴¹ The relevance of the case therefore lies not in the binding force of IWC resolutions themselves, but in their potential role as interpretative material for understanding the obligations contained in the ICRW.

³³⁷ Árnadóttir, S. (2026). *Ocean as a space of rights for whales*, pp. 8-9.

³³⁸ The Helsinki Group, *Declaration of Rights for Cetaceans: Whales and Dolphins*, 22 May 2010- Available at: https://www.cetaceanrights.org/pdf_bin/helsinki-group.pdf (accessed 26 August 2026).

³³⁹ *Whaling in the Antarctic* (Austl. v. Japan: N.Z. intervening), Judgment, [2014] I.C.J. Rep. 226 (Mar. 31).

³⁴⁰ Vienna Convention on the Law of Treaties, 1155 U.N.T.S. 331, art. 31(3) (1969).

³⁴¹ Árnadóttir, S. (2026). *Ocean as a space of rights for whales*, p. 9.

The development of these instruments demonstrates that the international legal protection of whales has become increasingly extensive. The IWC moratorium on commercial whaling, CITES protection and conservation measures adopted by international organisations, in conjunction with other international instruments have contributed to a particularly high level of legal protection for great whales compared with many other non-human animals. This protection is especially significant in relation to the killing of whales. According to Árnadóttir, the current international framework amounts to an almost complete prohibition on the killing of great whales for commercial or scientific purposes. The prohibition derives primarily from IWC Schedule, while the protection of whale habitats can also be connected to UNCLOS Article 194(5), which states that “[t]he measures taken in accordance with this Part shall include those necessary to protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life”³⁴², interpreted in conjunction with CITES.³⁴³

The existence of extensive protection should not, however, be confused with the recognition of whales as subjects of international law. Árnadóttir notes that whales might conceptually be understood as having interests corresponding to rights such as freedom of movement, protection of cetacean culture and political representation, but none of these rights is currently recognised by international law. Whales therefore remain far from legal personhood or democratic inclusion and continue to be treated, in legal terms, as objects rather than subjects of international law.³⁴⁴ This distinction reveals an important gap in the existing international legal framework. International law can impose obligations upon states to regulate whaling, protect whale populations, preserve their habitats and address their welfare without recognising whales themselves as holders of inherent rights. The existing framework has therefore progressively strengthened the protection of whales without fundamentally changing their legal status. In this sense, the central issue is no longer simply whether whales are protected, but whether the law should move beyond protecting whales as objects of regulation towards recognising them as rights-bearing entities. The concept of legal personhood provides one possible way of making such a transition. Legal personhood is generally understood as the recognition of an entity as a subject capable of holding rights and, where applicable, duties under the law. Importantly, legal personhood is not synonymous with being human, and the

³⁴² United Nations Convention on the Law of the Sea, 1982, art. 194(5).

³⁴³ Árnadóttir, S. (2026). Ocean as a space of rights for whales, p.9.

³⁴⁴ *Ibidem*, p. 9.

rights associated with personhood may vary according to the legal entity concerned. The concept has increasingly been considered in relation to vulnerable non-human entities, including animals and elements of the natural environment.³⁴⁵ In the case of whales, legal personhood could have consequences extending beyond symbolic recognition. The attribution of legal rights could provide whales with legal standing, understood as the ability to have grievances or interests represented before a court. It could also create corresponding duties upon other actors to respect those rights and potentially generate legal or financial consequences where activities cause harm to whales. Legal personhood could therefore provide a mechanism through which harm to whales becomes legally actionable rather than being addressed solely through regulatory obligations imposed upon states or other human actors.³⁴⁶ The distinction between the existing protection of whales and their potential recognition as rights-bearing legal persons is therefore central to understanding the significance of recent initiatives concerning whale rights, such as the He Whakaputanga Declaration. While international law has developed increasingly extensive mechanisms for protecting cetaceans, whales remain objects rather than subjects of international law. The emergence of initiatives seeking to confer legal personhood on whales can consequently be understood as an attempt to address this unresolved gap.

4.2.3 He Whakaputanga Moana: Origins, Actors, and Content

On 28 March 2024, in Rarotonga, Cook Islands, the He Whakaputanga Moana Declaration was signed by a group of Indigenous leaders, including the late Māori King of Aotearoa/New Zealand, Tuheitia Potatau Te Wherowhero II, and Tou Travel Ariki of the Cook Islands.³⁴⁷ The Declaration seeks to recognise certain rights of whales and was inspired by the Te Urewera Act 2014, which was examined in Chapter 2 of this thesis. The initiative was developed by Māori and Pacific Indigenous leaders together with the Hinemoana Halo Ocean Initiative.³⁴⁸ The Hinemoana Halo Ocean Initiative emerged from the Hinemoana Halo Ocean Summit, which brought together traditional Indigenous leaders in 2023. Based in Aotearoa/New Zealand, the

³⁴⁵ Chami, R., Bender, M., Bramley, B., Cosimano, T., Iles, R., Nieburg, D., Rosa, E., Takoko, M., & Fullenkamp, C. (2024). How legal personhood and markets can partner to help save the whale, pp. 3-4.

³⁴⁶ *Ibidem*, pp. 3-4.

³⁴⁷ He Whakaputanga Moana. (2026). *The Whale Protection and Legal Personhood Declaration*. Available at: <https://www.whaledclaration.com> (accessed 1 September 2026).

³⁴⁸ Kauffman, C., Haas, C., Bajpai, S., Leonard, K., Macpherson, E., Martin, P., Pelizzon, A., Putzer, A., & Sheehan, L. (2026). *He Whakaputanga Moana (Whale Protection and Legal Personhood Declaration)*. Eco Jurisprudence Monitor, V2. Distributed by the Eco Jurisprudence Monitor. Available at: <https://ecojurisprudence.org/initiatives/he-whakaputanga-moana-declaration-for-the-ocean-treaty/> (accessed 1 September 2026).

organisation focuses on Indigenous-led conservation and sustainability, with the aim of protecting the mauri of the natural world, understood as its life essence, through innovative and community-driven initiatives. Its activities include the protection and restoration of marine and terrestrial ecosystems, the empowerment of Indigenous communities, and the promotion of sustainable economic development. The organisation seeks to combine traditional Indigenous knowledge and practices with modern scientific approaches in order to contribute to the protection and restoration of the environment. To support the implementation of the Declaration, the Hinemoana Halo Ocean Initiative established partnerships with New York University's More-Than-Human Life (MOTH) Program³⁴⁹ and Project CETI (Cetacean Translation Initiative), a nonprofit organisation dedicated to studying and translating the communication of sperm whales^{350, 351}. The Declaration also proposes the establishment of the Hinemoana Halo Ocean Protection Fund, intended to contribute to the achievement of these objectives. Although the Declaration is not legally binding, it remains significant because it provides Māori and other Indigenous communities with a platform for engaging with the governments of Polynesian states and for initiating discussions on the development of a legal framework capable of strengthening and enforcing protections for whales.³⁵² Indeed, this process has already begun to produce concrete legal developments in Aotearoa/New Zealand. On 5 February 2026, Green Party MP Teanau Tuiono introduced the Tohorā Oranga Bill³⁵³ in Parliament, which is not yet entered into force and remains subject to the parliamentary process. The Bill seeks to formally recognise whales as legal persons and to give effect to the principles expressed in the He Whakaputanga Moana Declaration, and it recognises the various threats faced by whales and emphasises the relationship between whales and Indigenous peoples' identities. Furthermore, it establishes a number of fundamental principles concerning whales, including their freedom of movement and migration, the protection of their natural behaviours and social and cultural structures, and their rights to a healthy environment and to the restoration and regeneration of their ecosystems.³⁵⁴ The signing of the Declaration also

6. *More-Than-Human Life (MOTH) Program*. Available at: <https://mothlife.org/> (accessed 1 September 2026)

³⁵⁰ Project CETI. *Project CETI: Cetacean Translation Initiative*. Available at: <https://www.projectceti.org/> (accessed 1 September 2026).

³⁵¹ He Whakaputanga Moana, *The Whale Protection and Legal Personhood Declaration*.

³⁵² Kauffman et al., *He Whakaputanga Moana (Whale Protection and Legal Personhood Declaration)*.

³⁵³ Tohorā Oranga Bill, 2026 (New Zealand).

³⁵⁴ Kauffman, C., Haas, C., Bajpai, S., Leonard, K., Macpherson, E., Martin, P., Pelizzon, A., Putzer, A., & Sheehan, L. (2026). *Eco Jurisprudence Monitor, V2: New Zealand Tohorā Oranga Bill: legal personhood of whales*. Distributed by the Eco Jurisprudence Monitor. Available at:

contributed to the development of the Moananui Sanctuary Agreement, drafted in 2025 by Pacific Small Island States. This initiative seeks to protect whales, restore ocean health, and strengthen Pacific communities in their role as stewards of the marine environment. To achieve these objectives, it proposes the establishment of a strategically designed, interconnected network of dynamic marine protected areas covering approximately 12.5 million km² across the Pacific.³⁵⁵ Additionally, the Declaration may also create avenues for investment in environmental initiatives, such as the philanthropic Te Manahuna Aoraki Project, which seeks to restore the upper Mackenzie Basin and Aoraki National Park while protecting endangered species in the area. Such investments can generate broader effects by encouraging community support and fostering greater engagement from Western scientists, environmental organisations, and economists. Initiatives of this kind can therefore, according to some authors, contribute to recognising Māori custodianship in Aotearoa/New Zealand and to strengthening the political and economic position of Indigenous communities and leaders.³⁵⁶

The content of the Declaration can now be examined in greater detail. In its preamble, the declaration acknowledges that whales are essential for the cultural and the ecological well-being of the Pacific, while also underlining the crucial role that Indigenous knowledge and leadership play in the protection of whales. Moreover, some of the threats whales are subjected to, like, for instance, the degradation of their habitat, pollution, the acidification of their oceans, sonar testing, climate change in general, and unsustainable fishing practices, are highlighted. The Declaration also describes a number of Māori principles that shape the relationship between human beings and the ocean. Among these is *kaitiakitanga*, which refers to the responsibility to protect and care for the ocean for the benefit of future generations. Then, *whanaungatanga* highlights the deep interconnectedness between human beings, the ocean, and all living things, while *manaakitanga* emphasises the importance of treating the ocean and its inhabitants with respect and recognising their value. The Declaration also refers to *rangatiratanga*, understood as the right of Indigenous communities to govern and protect their

<https://ecojurisprudence.org/initiatives/aotearoa-new-zealand-tohoro-oranga-bill-legal-personhood-of-whales/> (accessed 1 September 2026).

³⁵⁵ Kauffman, C., Haas, C., Bajpai, S., Leonard, K., Macpherson, E., Martin, P., Pelizzon, A., Putzer, A., & Sheehan, L. (2026). *Moananui Sanctuary Agreement*. Eco Jurisprudence Monitor, V2. Distributed by the Eco Jurisprudence Monitor. Available at: <https://ecojurisprudence.org/initiatives/moananui-sanctuary-agreement/> (accessed 1 September 2026).

³⁵⁶ Whitehead, J. & Doornbos, E. (2026). Indigenous Transnational Environmental Justice: The Case of Aotearoa. *International Journal for Crime, Justice and Social Democracy*. 15, p. 73.

ancestral waters in accordance with their own knowledge and traditions. Furthermore, the concepts of *tapu* and *rāhui* recognise the sacred nature of the ocean and the possibility of temporarily restricting certain activities to allow marine resources and ecosystems to recover. Finally, *whakapapa* reflects the ancestral and spiritual connections between people and the ocean, while also emphasising the transmission of these relationships and forms of knowledge to future generations. Part I of the text is then dedicated to the recognition of the personhood of whales. The proponents of the declaration explain that whales are, according to them, legal persons, who are characterised by having *mana* and *wairua*, the spiritual essence that permeates all living beings. They describe whales as *taonga*, meaning ‘treasures’, that are strictly connected with the wellbeing of Moana Nui a Kiwa, a term that indicates the Pacific Ocean. The strong bond between Polynesian peoples and whales is also underlined, as something that has belonged to their culture for many generations. Furthermore, they remind the principles of the aforementioned UNDRIP, emphasising also their wish to guarantee the health of the ocean and of its inhabitants. In Part II of the declaration, whales’ rights are described. These rights are essential for whales to live and grow in a healthy way. One of these rights makes reference to the fact that whales move and migrate, and so aims at enabling them to move freely within their migratory routes; something that calls for respecting and conserving the specific areas in which they live and through which they pass. Another right ascribed to whales permits them to engage in their natural behaviours without suffering from anthropogenic harms, meaning harms caused by human beings. Whales should also be free to express and maintain their unique culture and their complex social structures. A focus is also given to the environment in which they live, that should be healthy and free from threats, and also restored and regenerated when it needs to. Furthermore, the Declaration points out its objective to see whales’ interests and values taken into consideration in decision-making processes, while also guaranteeing that whales themselves are represented in these processes. It also mentions future generations, which will inherit the responsibility to protect whale populations to ensure that their existence and cultural significance continue to be preserved. Part III then is dedicated to the establishment and the expansion of marine protected areas dedicated to whale feeding, breeding, and also their migration routes; these areas should be protected and controlled. Another thing that is envisioned in the text is the combination of both scientific data and holistic management strategies that integrate *māturanga Maori*, the knowledge of Indigenous people, so as to provide a better understanding and protection of whales. The declaration also describes better the Hinemoana Halo Ocean Protection Fund mentioned earlier in the chapter, explaining that funding sources for this fund may draw from voluntary contributions by governments, financial

institutions, organizations, and individuals. Additional sources include innovative funding mechanisms, repurposed fisheries management fees, penalties for whale endangerment, and indemnity payments for harm caused to cetaceans. The fund prioritises the establishment of protected zones, the research and development of innovative whale conservation technologies, and the support of indigenous-led initiatives. Additionally, resources are directed toward enforcement and monitoring to ensure compliance. The organisation also emphasises public awareness and education campaigns to inspire action and garner support for cetacean protection. Furthermore, in Part VII the declaration puts into focus the spiritual relationship of Polynesian peoples with whales, and aims at incorporating their cultural values and spiritual perspectives into decision-making processes, while also mentioning the necessity of transmitting these values to future generations. Part IX is specifically dedicated to public awareness, which is as important as developing educational resources and programs in order to foster a deep respect and a shared responsibility for whales. Tourism is also mentioned, underlining that it should contribute to educating visitors on the cultural significance of these animals. Finally, Part X calls upon all nations and stakeholders to implement and enforce these principles through national and regional legislation, policies, and customary practices. To this end, it encourages active participation from indigenous communities, while also inviting non-governmental organizations, research institutions, and individuals to contribute their expertise and resources to the cause.³⁵⁷ Taken together, these developments illustrate how Indigenous perspectives and leadership can contribute to challenging the traditional legal status of whales and to promoting their recognition as beings with interests and rights of their own. At the same time, they show the still-developing nature of this process, as these initiatives have not yet resulted in a binding international legal recognition of whale personhood.

4.3. Recognising the Marañón River as a Legal Person in Peru

The recognition of whales as legal persons is not an isolated attempt to move beyond the traditional human-nature divide. The case of the Marañón River in Peru provides a particularly significant example of this broader transformation. Unlike the He Whakaputanga Moana Declaration, which seeks to recognise the personhood and rights of a non-human animal, the Marañón case concerns the recognition of a river itself as a subject of rights.³⁵⁸ It is also

³⁵⁷ He Whakaputanga Moana. (2024). *He Whakaputanga Moana (Whale Protection and Legal Personhood Declaration)*.

³⁵⁸ Sala Civil de Loreto. (2024, 29 de agosto). Resolución número treinta y uno. Expediente N.º 00010-2022-0-1901-JM-CI-01 [Sentencia de segunda instancia]. LP Derecho. Available at:

particularly significant because of the central role played by Indigenous women in bringing this claim before the courts. Examining the Marañón case therefore makes it possible to broaden the analysis beyond cetaceans and to consider how ecocentric approaches have been translated into legal claims concerning nature more generally, while also highlighting the contribution of Indigenous women to the development and implementation of rights of nature. The following sections trace the process that led to the legal recognition of the Marañón River, from the environmental pressures affecting the river and the resistance of Kukama women to the relationship between Kukama cosmology and the river, and ultimately to the 2024 ruling recognising its rights.

4.3.1 The Marañón Under Pressure: Extraction and Its Impacts

On 15 March 2024, the Mixed Court of Nauta, in the Loreto region of Peru, issued a landmark ruling recognising the Marañón River as a legal person and declaring the river and its tributaries to be subjects of inherent rights. The decision represented the first judicial recognition of this kind in Peru and therefore constitutes a significant development in the country's emerging Rights of Nature framework.³⁵⁹ The Marañón River is located within the western Amazon Basin, one of the world's most biologically and culturally diverse regions. The region is home to numerous Indigenous peoples, including communities living in voluntary isolation, and the river itself forms an essential component of the wider Amazonian ecosystem.³⁶⁰ The Amazon rainforest is one of the world's most biodiverse ecosystems and plays a crucial role in maintaining regional and global climate stability. It is also fundamental to the Earth's hydrological, energy, and carbon cycles, while influencing climatic patterns and environmental conditions on a continental scale.³⁶¹ The ecological importance of the Marañón therefore extends beyond the river itself, given its contribution to the functioning and resilience of the wider Amazonian ecosystem. The Marañón is the second-longest river in Peru and constitutes one of the two principal headwaters of the Amazon River. Originating in the Andes, it flows north-westwards through areas inhabited by Indigenous communities and rural populations. For these communities, the river represents a fundamental source of natural resources and

<https://img.lpderecho.pe/wp-content/uploads/2024/10/Expediente-00010-2022-0-1901-JM-CI-01-LPDerecho.pdf> (accessed 12 September 2026).

³⁵⁹ Pretell, M., & Perreault, T. (2026). Indigenous struggle, oil extraction and the rights of nature: The case of the Marañón River, Peru. *Political Geography*, 130, Article 103610, p.1.

³⁶⁰ Steel, D., Vásquez-Fernández, A., Cripps, R., Crookall, B., DesRoches, C. T., & Mintz-Woo, K. (2026). Rights of nature, intercultural respect, and climate change. *The Monist*, 109(2), p. 204.

³⁶¹ Franco, M. A., Rizzo, L. V., Teixeira, M. J., et al. (2025). How climate change and deforestation interact in the transformation of the Amazon rainforest. *Nature Communications*, 16, Article 7944, p. 1.

occupies a central place in their cultural and social life, as will be examined in greater detail later in this chapter.³⁶² Alongside its national parks and ecological reserves, the Loreto region is also characterised by substantial hydrocarbon deposits. Hydrocarbon exploration began in the region during the 1930s, while large-scale oil extraction expanded from the 1970s onwards. The development of the oil industry has had profound consequences for the territories and communities of Indigenous peoples living in Loreto. The first oil deposits were discovered in the region in 1971, and construction of the Northern Peruvian Oil Pipeline (Oleoducto Norperuano, ONP) began the following year. In 1996, the government of Alberto Fujimori granted a concession to Pluspetrol Perú Corporation S.A. for the exploration and exploitation of Blocks 8 and 8X. Oil extraction and transportation have been accompanied by numerous spills and other hazardous incidents, resulting in widespread contamination across the region. Between 2011 and 2014, more than 130 oil spills were recorded along the Norperuano pipeline, while a further 19 spills occurred between 2016 and 2017 within the pipeline's first stretch alone. More broadly, 211 oil spills were recorded across the Loreto region between 2011 and 2021.³⁶³ The scale of the problem continued to be reflected in subsequent years. In particular, the ONP was associated with 134 oil spills between 2011 and 2024, while the oil production block, which overlaps with the Marañón River and its tributaries, recorded 192 oil spills and other hazardous incidents up to July 2023. These incidents have been linked primarily to inadequate maintenance and the deterioration of ageing and obsolete infrastructure.³⁶⁴ The environmental and social consequences of hydrocarbon extraction have prompted Indigenous communities to develop different forms of resistance, including occupations of oil platforms, blockades of access roads, media campaigns, and alliances with national and international environmental organisations.³⁶⁵

The consequences of oil-related contamination in the Marañón are extensive, affecting both the river ecosystem and the communities that depend upon it. In addition to pollution originating

³⁶² Lorber, F. E. (2024, April 10). Catalysts of eco-constitutional evolution: Peru's landmark ruling bridges the gap between anthropocentrism and ecocentrism. *Verfassungsblog*. Available at : <https://verfassungsblog.de/catalysts-of-eco-constitutional-evolution/> (accessed 26 August 2026).

³⁶³ Pretell, M., & Perreault, T. (2026). Indigenous struggle, oil extraction and the rights of nature: The case of the Marañón River, Peru, pp. 1-4.

³⁶⁴ Pretell Gomero, M. (2024). Marañón, the River that Feels: Kukama Indigenous Women Leading the Way in the Struggle Against Environmental Injustices in the Peruvian Amazon / Marañón, el río que siente: mujeres Kukama liderando el camino en la lucha contra las injusticias ambientales en la Amazonía peruana. *Journal of Latin American Geography*. 23, pp. 157-158.

³⁶⁵ Pretell, M., & Perreault, T. (2026). Indigenous struggle, oil extraction and the rights of nature: The case of the Marañón River, Peru, p. 2.

from mining activities, untreated sewage, solid waste, and dredging, the river has been particularly affected by discharges associated with hydrocarbon extraction. Produced water, a by-product of the extraction process, has reportedly been intentionally discharged into the river's tributaries for decades, despite this practice violating environmental regulations. Such discharges have contributed to the presence of heavy metals and toxic substances associated with oil drilling in the river and surrounding environment.³⁶⁶ The Kukama Kukamiria people, an indigenous people many of whom live along the Marañón River, have experienced these consequences since the expansion of oil extraction in the region. Kukama territories overlap with Oil Block 8, its associated pipelines, and the Northern Peruvian Oil Pipeline. For more than five decades, hydrocarbon activities have consequently affected not only the rivers and forests upon which Kukama communities depend, but also their livelihoods, health, bodies, and cultural identity. More broadly, the extractive model has contributed to deforestation, environmental degradation, and biodiversity loss, affecting both human communities and the more-than-human entities that form part of their territories.³⁶⁷ The fact that their communities have settled along the river and their reliance on local natural resources have made them particularly exposed to recurrent pollution and oil spills. The health consequences of this exposure are particularly concerning. More specifically, analyses conducted among residents of 39 communities in the region have identified elevated concentrations of arsenic, lead, mercury, and cadmium in their blood. Local residents have also reported a range of health problems, including fevers, headaches, gastrointestinal and skin disorders, and miscarriages, which they associate with oil contamination.³⁶⁸ In the Parinari district, where many Kukama communities are located, these risks are further compounded by limited access to drinking water and basic sanitation. The lack of safe water directly affects public health, particularly in the presence of heavy metals derived from oil activities and bacterias in the water.³⁶⁹ The environmental consequences extend beyond water contamination. Hydrocarbon extraction requires substantial forest clearance for the construction of roads, drilling infrastructure, and pipelines, contributing to deforestation and disrupting wildlife habitats. Oil pollution can also

³⁶⁶ *Ibidem*, p. 1.

³⁶⁷ Pretell Gómero, M. (2024). Marañón, the River that Feels: Kukama Indigenous Women Leading the Way in the Struggle Against Environmental Injustices in the Peruvian Amazon, p. 157.

³⁶⁸ Pretell, M., & Perreault, T. (2026). Indigenous struggle, oil extraction and the rights of nature: The case of the Marañón River, Peru, pp. 1-2.

³⁶⁹ Pretell Gómero, M. (2024). Marañón, the River that Feels: Kukama Indigenous Women Leading the Way in the Struggle Against Environmental Injustices in the Peruvian Amazon, p. 160.

severely affect fish and other wildlife, with particularly serious implications for the Kukama, who rely heavily on these resources for food.³⁷⁰

4.3.2 Huaynakana and the Genealogy of Kukama Women's Resistance

The environmental and social pressures resulting from extractive activities have also shaped the forms of resistance developed by Kukama communities. Among these, the mobilisation of Kukama women has played a particularly important role in defending their territories, livelihoods, and relationship with the Marañón River. This resistance is closely associated with the Asociación de Mujeres Huaynakana Kamatahuara Kana (HKK), a Kukama women's organisation that has become a prominent actor in the defence of the river and Kukama territory,³⁷¹ and whose name means “women who work” in the Kukama-Kukamiria language.³⁷² The organisation was founded in 2001 by Kukama women and initially brought together women from 13 communities.³⁷³ Its creation took place within a context in which women were largely excluded from Indigenous social and political organisations, which were predominantly male-led. Their participation in community meetings and decision-making assemblies was limited, and they often lacked the opportunity to express their views or take part in decisions. In response to this marginalisation, Kukama women convened an assembly in 2001 to discuss the creation of their own organisation, providing them with a space to participate as social and political actors and to develop their decision-making capacities.³⁷⁴ The organisation's development is closely connected to the leadership of Mari Luz Canaquiri Murayari, its president and one of the principal figures in the defence of the Marañón River. Canaquiri grew up in Shapajilla, a Kukama community located on the banks of the river. Following a major oil spill in 2000, she represented her community alongside other leaders and observed the limited presence of women in positions of leadership. This experience, combined with the lack of opportunities for women to participate in decision-making, motivated her to establish Huaynakana as an organisation addressing social, economic, and environmental

³⁷⁰ Pretell, M., & Perreault, T. (2026). Indigenous struggle, oil extraction and the rights of nature: The case of the Marañón River, Peru, pp. 1-2.

³⁷¹ Goldman Environmental Prize. (2025). Mari Luz Canaquiri Murayari. Available at: <https://www.goldmanprize.org/recipient/mari-luz-canaquiri-murayari/> (accessed 31 August 2026).

³⁷² Ramírez Roca, R. (2026). Kukama women and the Marañón River: A history of subjugation, resistance, and environmental litigation. *Amazonía Peruana*, 39, pp. 104-105.

³⁷³ Pretell, M., & Perreault, T. (2026). Indigenous struggle, oil extraction and the rights of nature: The case of the Marañón River, Peru, pp. 5-6.

³⁷⁴ Pretell Gomero, M. (2024). Marañón, the River that Feels: Kukama Indigenous Women Leading the Way in the Struggle Against Environmental Injustices in the Peruvian Amazon, p. 160.

challenges.³⁷⁵ From its initial focus on women's participation and rights, Huaynakana gradually expanded its activities to encompass territorial defence and environmental justice. Kukama women not only faced political marginalisation within their own communities, but also threats from oil workers and loggers entering their territories. Their collective organisation therefore became a means of defending both their rights and their ancestral lands. In 2010, following a major oil spill, Indigenous organisations in the area joined forces to demand remediation and reparations from Pluspetrol, with the support of the Parish of Santa Rita de Castilla in the Parinari district. However, these efforts had limited results due to inadequate state action and weak environmental legislation and enforcement. The struggle for environmental justice consequently developed into a prolonged process of collective action, including protests, mobilisations, and territorial control measures.³⁷⁶ Mari Luz Canaquiri also lodged a formal complaint with the regional authorities following the spill and increasingly positioned Huaynakana as a key actor on environmental issues and assumed the role of spokesperson for the community.³⁷⁷ Huaynakana's mobilisation continued in the following years. In 2014, the organisation, together with other Indigenous organisations in the region, co-organised the "Wika Ritama", or Walk of Sacrifice, of the Kukama people. Huaynakana also participated in the Platform of Peoples Affected by Oil Activity until 2021, through which its leadership played an important role in facilitating dialogue with the Peruvian state. The organisation used these channels to demand environmental remediation, access to clean and safe water, and adequate attention to the needs of Kukama communities.³⁷⁸ At the same time, Huaynakana's activities increasingly moved towards legal action. Firstly, in 2014, when the Peruvian government announced a project to dredge the Marañón River, Mari Luz Canaquiri connected with the Legal Defense Institute (IDL), a civil society organisation founded in 1983 to promote and defend human rights, democracy, and peace, and began exploring legal strategies to protect the river.³⁷⁹ Huaynakana subsequently brought legal action against the government in an attempt to stop the project, arguing that local communities had not been consulted. The organisation was ultimately successful in halting the project. This process also allowed Canaquiri and other members of Huaynakana to gain greater knowledge of

³⁷⁵ Goldman Environmental Prize. (2025). Mari Luz Canaquiri Murayari.

³⁷⁶ Pretell Gómero, M. (2024). Marañón, the River that Feels: Kukama Indigenous Women Leading the Way in the Struggle Against Environmental Injustices in the Peruvian Amazon, p. 160.

³⁷⁷ Goldman Environmental Prize. (2025). Mari Luz Canaquiri Murayari.

³⁷⁸ Pretell, M., & Perreault, T. (2026). Indigenous struggle, oil extraction and the rights of nature: The case of the Marañón River, Peru, pp. 5-6.

³⁷⁹ Instituto de Defensa Legal (IDL), Nosotros. Available at: <https://www.idl.org.pe/nosotros/> (accessed 12 September 2026).

environmental consultation procedures and of the limitations of the Peruvian legal system in recognising Indigenous stewardship of natural resources such as forests and rivers.³⁸⁰ Huaynakana's legal trajectory subsequently developed along two interconnected fronts. The first concerned the Amazon Waterway project, an infrastructure project aimed at improving year-round navigation on four major Amazonian rivers through dredging and river monitoring.³⁸¹ In 2018, after the project had been awarded to the company Cohidro, Huaynakana filed an independent *amparo* action against the Servicio Nacional de Certificación Ambiental para las Inversiones Sostenibles (SENACE)³⁸², challenging its failure to comply with the applicable international standards for the environmental impact assessment. The second front concerned resistance to spills from the NorPeruano Pipeline, particularly the mobilisation led by the women of Cuninico in Uruarinas following a spill occurred in June 2014.³⁸³ For several years, Huaynakana's leadership therefore continued to pursue dialogue with the Peruvian state while simultaneously strengthening its legal capacity. The organisation eventually formed an alliance with the Legal Defense Institute, which provided legal counsel and training and supported the filing of lawsuits aimed at safeguarding the constitutional rights of Huaynakana's member communities as well as those of other affected Indigenous peoples. IDL is widely recognised as one of Peru's influential civil society organisations, and its Indigenous Peoples Programme regularly provides legal assistance to Indigenous communities.³⁸⁴ In September 2021, after years of litigation and legal training with the Legal Defense Institute, HKK, with the support of IDL, International Rivers, and Earth Law Center, filed a lawsuit before the Mixed Court of Nauta seeking recognition of the Marañón River as a legal person and recognition of its rights, in order to protect it from oil spills and other forms of destruction. This lawsuit will be later discussed in greater detail. It is worth noting that, during the proceedings, Mari Luz Canaquiri became the public face of the case, organising community meetings, speaking at press conferences, and she was also among the few Kukama women who testified in court. Huaynakana also organised protest marches in Iquitos, the provincial capital, attracting significant media attention and increasing pressure on the

³⁸⁰ Goldman Environmental Prize. (2025). Mari Luz Canaquiri Murayari.

³⁸¹ Piland, N. (2018, November 15). *The Hidrovía Amazónica: Who wins and who pays?* Aguas Amazonicas. Available at: <https://en.aguasamazonicas.org/hidrovía-amazonica> (accessed 10 September 2026).

³⁸² Servicio Nacional de Certificación Ambiental para las Inversiones Sostenibles (SENACE), SENACE, Gobierno del Perú. Available at: <https://www.gob.pe/senace> (accessed 13 September 2026).

³⁸³ Ramírez Roca, R. (2026). Kukama women and the Marañón River: A history of subjugation, resistance, and environmental litigation, pp. 104-105.

³⁸⁴ Pretell, M., & Perreault, T. (2026). Indigenous struggle, oil extraction and the rights of nature: The case of the Marañón River, Peru, pp. 5-6.

government to address the contamination of the river. By 2020, Huaynakana had grown to include 29 Kukama communities.³⁸⁵ Although membership remains limited to women, the organisation also encourages men's participation and its influence has expanded across the lower Marañón basin and its tributaries. Its overarching aim is to strengthen the leadership of Kukama women in defending their territory, bodies, and collective rights, while promoting recognition of their ancestral roots and the recovery of their native language.³⁸⁶ The trajectory of Huaynakana illustrates a broader transformation in the political role of Kukama women. The organisation emerged from a context in which women had historically occupied a marginal position within Indigenous representation, but gradually became an important actor in environmental defence, territorial protection, and legal mobilisation. From the community level, they have contributed to transformational change across different scales, from the local to the global, while placing their gendered knowledge at the centre of resistance and defending their territories and *buen vivir* for present and future generations.³⁸⁷ The distinctive character of their resistance, and of Huaynakana in particular, lies in the socio-organisational process and legal strategy they developed.³⁸⁸ Mari Luz Canaquiri Murayari, who grew up on the banks of the Marañón River, has become one of the most prominent representatives of this movement, and in recognition of her environmental activism and efforts to defend the river and the Kukama people, she was awarded the prestigious Goldman Environmental Prize in 2025.³⁸⁹

The mobilisation of Kukama women and the emergence of Huaynakana cannot be fully understood without considering the longer history of colonial and state interventions in Kukama territories and ways of life. In particular, Roca identifies a sequence of five mechanisms of subjugation that developed and transformed over time and that characterise the history of Indigenous peoples in Peru. These mechanisms demonstrate how Indigenous peoples, and particularly women, experienced the repeated control of their knowledge, bodies, spirituality, and territories, while also showing how Kukama communities gradually transformed some of the tools and structures of domination into instruments of resistance. Across five centuries, different forms of power have attempted to control Kukama women, beginning with the arrival of the Spanish Empire in the sixteenth century. The first mechanism

³⁸⁵ Goldman Environmental Prize. (2025). Mari Luz Canaquiri Murayari.

³⁸⁶ Pretell Gómero, M. (2024). Marañón, the River that Feels: Kukama Indigenous Women Leading the Way in the Struggle Against Environmental Injustices in the Peruvian Amazon, pp. 160-161.

³⁸⁷ *Ibidem*, p. 156.

³⁸⁸ Pretell, M., & Perreault, T. (2026). Indigenous struggle, oil extraction and the rights of nature: The case of the Marañón River, Peru, p. 8.

³⁸⁹ *Ibidem*, p. 1.

identified by Roca is called “negación representacional”³⁹⁰, or representational denial. This mechanism developed during the early colonial period, when images and narratives constructed Indigenous women through categories that denied their political agency. In colonial representations, women were often portrayed either as innocent, passive, and sexually accessible, or as violent, savage, and cannibalistic. Although these images were seemingly opposed, they both served colonial interests, since the first could be used to justify the capture of women under the pretext of protection, while the second helped legitimise their enslavement. In both cases, Indigenous women were denied recognition as political subjects. According to Roca, this process was also connected to the way European colonisers represented America itself as a feminised form of nature, passive and available for conquest. The representation of land was therefore closely connected to the representation of women, as both could be constructed as objects to be possessed, controlled, and exploited. A second mechanism identified by the author is “traducción coercitiva”³⁹¹, or coercive translation, which became particularly significant during the missionary period, when Jesuit missions operated in the Marañón region with the aim of converting and controlling Indigenous populations between the sixteenth and eighteenth centuries. In this period, missionaries acted as intermediaries between Indigenous communities and colonial authorities, while simultaneously reinterpreting Indigenous spiritual practices through Christian categories and often presenting them as forms of paganism or devil worship. This classification enabled the suppression of rituals and practices that were central to Kukama identity. This process had particular implications for Kukama women, whose spiritual roles were closely connected to the river, and affected their relationships with the river and with the social and underwater worlds that form part of Kukama cosmology. Yet Indigenous communities did not simply accept missionary control, rather they resisted, rebelled, and formed alliances with neighbouring groups. In particular, during the seventeenth century, Kukama communities began establishing coalitions across ethnic boundaries, which, according to Roca, highlights the enduring importance of collective organisation across social and institutional boundaries. A similar dynamic can be observed centuries later in the twenty-first century, when Huaynakana developed relationships with legal organisations, academic networks, and neighbouring river communities in order to advance its claims. A third mechanism identified by Roca is “apropiación epistémica”³⁹², or epistemic

³⁹⁰ Ramírez Roca, R. (2026). Kukama women and the Marañón River: A history of subjugation, resistance, and environmental litigation, p. 108.

³⁹¹ *Ibidem*, p. 110.

³⁹² *Ibidem*, p. 112.

appropriation, which developed during the nineteenth century alongside the consolidation of the modern state and the activities of European naturalists. During this period, Indigenous knowledge concerning plants, animals, routes, and natural resources was collected and transformed into scientific knowledge that could be classified, mapped, and circulated. Indigenous people were essential to this process, as European naturalists frequently depended on Indigenous guides and interpreters to navigate and understand the Amazon; however, their contributions were rarely acknowledged, and Indigenous peoples were more commonly represented as obstacles to state expansion than as holders and producers of knowledge. European scientific expeditions thus relied heavily on Indigenous knowledge to understand and document the Amazon while simultaneously producing forms of knowledge that could later support territorial control and colonisation. Similarly, the mapping of the region transformed territories already inhabited and understood by Indigenous peoples into spaces increasingly represented and governed through state-produced knowledge. The fourth mechanism described by the author is bodily extraction, through which Indigenous people were treated as economic resources and subjected to forced labour, particularly during the expansion of the extractive economy from the 1860s through the rubber boom. The Kukama-Kukamiria were particularly affected by this process, since many families from the lower Marañón were forced to leave their territories to collect rubber or to compel other Indigenous people to do so, while some were also forced to capture members of other Indigenous groups for rubber bosses. Women were particularly exposed to the violence of this period, as raids frequently targeted them for sexual slavery, concubinage, and domestic labour in extractive camps. The fifth mechanism developed during the twentieth century and continued until the emergence of Huaynakana in 2001. Roca describes this process as one in which the State and other institutions increasingly recognised Indigenous languages, communities, and territories, but only within categories and frameworks that remained subject to state control, therefore exercising a form of domination. The activities of the Summer Institute of Linguistics (SIL) provide an example of this dynamic. From the 1940s onwards, SIL worked in Peru on evangelisation, literacy, and the translation of the Bible into Indigenous languages. Indigenous languages were thus recognised and incorporated into religious activities, while Spanish remained dominant in political and institutional life, contributing to language loss and feelings of linguistic shame among Kukama people. At the same time, however, these institutions sometimes produced resources that Indigenous communities could later appropriate for their own purposes. The Catholic Church, the radio, bilingual education, and Indigenous organisations gradually provided networks, visibility, legal knowledge, and political space that could be used to strengthen Indigenous

mobilisation. This created an important paradox, since institutions initially designed to regulate or assimilate Indigenous peoples also provided tools that communities could later appropriate to strengthen their political claims. The government of Juan Velasco Alvarado, between 1968 and 1975, further illustrates this contradiction. Although the government attempted to adapt Peruvian legislation to Amazonian territorial realities, the resulting legal framework largely imposed conventional models of land ownership and sedentary settlement and, crucially, failed to recognise Indigenous ownership of rivers and other bodies of water. This legal gap later became central to the Marañón litigation. It can therefore be said that Kukama communities progressively transformed these institutional resources into instruments of identity reconstruction and political mobilisation. The public reassertion of Kukama identity and the establishment of the first Kukama federations in the 1980s, and bilingual education initiatives contributed to transforming Indigenous identity from something that could be concealed as a strategy of survival into a source of collective pride and political action. The creation of Huaynakana in 2001 then represented a further step in challenging their historical exclusion from political decision-making. Thus, the period between 1900 and 2001 created many of the conditions that would later make the Marañón lawsuit possible, including Indigenous legal recognition, organisational experience, bilingualism, and institutional networks. The central paradox is therefore that Kukama women ultimately appropriated tools partly produced by the State in order to challenge the State itself, including its failure to recognise Indigenous relationships with rivers and aquatic territories.³⁹³

4.3.3 Kukama Cosmology and the River as a Living Being

Understanding the significance of the Marañón River for the Kukama requires looking beyond its material and territorial functions and considering the cosmological relationships through which the river is understood as a living being and an integral part of Kukama social life. The relationship between the Kukama people and the Marañón River is deeply embedded in their everyday lives, social practices, and understanding of territory. Historically, Kukama communities have been concentrated along riverbanks, where fishing and farming constituted the main means of subsistence, complemented by hunting and gathering.³⁹⁴ The river therefore represents not only an important source of food and water, but also a central social space in which knowledge, practices, and relationships are formed and transmitted. As Campanera

³⁹³ *Ibidem*, pp. 108-121.

³⁹⁴ Pretell, M., & Perreault, T. (2026). Indigenous struggle, oil extraction and the rights of nature: The case of the Marañón River, Peru, p. 5.

observes, the river constitutes a socially constructed place from childhood onwards: children swim, fish with their parents, travel by canoe, help clean fish, and participate in activities such as washing and collecting water. It is through these practices that knowledge is transmitted within families and across generations. Girls, for example, learn how to clean, preserve, and prepare fish, while stories told by parents introduce children to the beings inhabiting the river, including the boa mother, dolphins, mermaids, and other underwater beings. Consequently, “ser con el río”, meaning “being with the river”³⁹⁵ is not knowledge acquired primarily through formal education, but a way of living and relating to the environment learned through everyday participation in community life.³⁹⁶ This relationship is also reflected in the meaning attributed to the name Kukama. According to Pretell and Perreault, *ku* refers to a farm, field, soil, or earth, while *kama* means breast, producing the idea of a “breastfed” or “nourished” farm. The term thus conveys a relationship of nourishment and dependence between people and their territory, and this understanding of the land is holistic rather than based on the separation of discrete environmental components.³⁹⁷ Having lived for generations within the floodplain forest ecosystems of the lower Marañón, the Kukama understand rivers and forests as interconnected elements of the same territory, and women in particular are described as having an intrinsic relationship with it.³⁹⁸ The Marañón is therefore not perceived simply as a geographical space or a natural resource, but as an integral part of Kukama social and cultural life.

This understanding becomes more evident through the Kukama conception of the river as a living being. For the Kukama-Kukamiria, the Marañón is understood as a living and sentient person inhabited by a plurality of spirits.³⁹⁹ Rivers are sacred beings endowed with life and spirit, and their relationship with human beings is governed by principles of respect, reciprocity, and balance.⁴⁰⁰ This conception can be understood through the broader notion of animism. Rather than establishing a clear distinction between a physical world inhabited by humans and a separate supernatural realm, Kukama cosmology understands humans, animals,

³⁹⁵ Campanera, M. (2026) El corazón de la vida: el río Marañón, desde la perspectiva kukama. *Revista Kawsaypacha: Sociedad Y Medio Ambiente*, (17), D-006, p. 7.

³⁹⁶ *Ibidem*, pp. 6-8.

³⁹⁷ Pretell, M., & Perreault, T. (2026). Indigenous struggle, oil extraction and the rights of nature: The case of the Marañón River, Peru, p. 7.

³⁹⁸ Pretell Gómero, M. (2024). Marañón, the River that Feels: Kukama Indigenous Women Leading the Way in the Struggle Against Environmental Injustices in the Peruvian Amazon, pp. 160-161.

³⁹⁹ Steel, D., Vásquez-Fernández, A., Cripps, R., Crookall, B., DesRoches, C. T., & Mintz-Woo, K. (2026). Rights of nature, intercultural respect, and climate change, p. 205.

⁴⁰⁰ Pretell, M., & Perreault, T. (2026). Indigenous struggle, oil extraction and the rights of nature: The case of the Marañón River, Peru, p. 7.

plants, rivers, and spirits as interconnected members of a community of living beings. Spirits may be embodied in physical beings or elements of the environment, meaning that the spiritual and material dimensions of existence are not clearly separated.⁴⁰¹ In this sense, the river possesses agency and participates in relationships with humans rather than functioning as an inert object over which humans exercise control. Such relationships are governed by rules concerning appropriate and respectful forms of interaction, which explains that humans may fish, hunt, collect plants, or use trees for necessary purposes, but that these practices are not understood as an unrestricted right of extraction, since permission is to be requested from the being concerned, and the use of plants or trees is to be accompanied by recognition of their life and agency. Pretell and Perreault, drawing on the accounts of Kukama women such as Mari Luz Canaquiri, describes how plants and animals are understood as living beings with particular functions, including healing properties, and how permission is requested before plants are used for medicinal purposes. Shamans mediate these relationships, communicating with water spirits and other non-human beings and drawing on their knowledge and capacities for healing.⁴⁰² The importance of such relationships is further illustrated by the process of person formation described by Campanera. Kukama personhood is not considered something established exclusively through biological birth or social relations with other humans; rather, people become who they are through continuous interactions with animals, plants, food, knowledge, spirits, and other beings. Campanera's account of Raimundo, a Kukama man, for example, describes how, when he was sick as a child, a traditional healer offered to cure him by transforming him into a river wolf (*lobo de río*). Through the shamanic process, which involved tobacco, *icaro*, which is a sacred healing song, and the incorporation of animal qualities into the human body, Raimundo was understood to acquire protection in the water, resistance to illness, and the capacities necessary to become a good fisherman.⁴⁰³ The example illustrates that animals are not merely symbols within Kukama culture, since their characteristics can become part of human abilities and identity, while shamans mediate relationships between human, animal, vegetal, and spiritual worlds. Kukama personhood can therefore be understood as fundamentally relational, and for them people become who they are

⁴⁰¹ Steel, D., Vásquez-Fernández, A., Cripps, R., Crookall, B., DesRoches, C. T., & Mintz-Woo, K. (2026). Rights of nature, intercultural respect, and climate change, pp. 209-211.

⁴⁰² Pretell, M., & Perreault, T. (2026). Indigenous struggle, oil extraction and the rights of nature: The case of the Marañón River, Peru, p. 7.

⁴⁰³ Campanera, M. (2026). El corazón de la vida: el río Marañón, desde la perspectiva kukama, pp. 8-10.

through relationships with a wider community of human and non-human beings, within which the river occupies a central position.

The relational character of this ontology is particularly visible in the Kukama understanding of the beings inhabiting the Marañón itself. The river is not conceived as a single, homogeneous entity, but as a space inhabited by numerous beings with whom humans maintain relationships. Among them are the *karuara*, the “people of the river,” who inhabit the underwater world and include deceased members of the community, as well as *Purawa*, the mother of the river and a powerful boa-like being associated with the formation and movement of the river. These underwater beings possess an interiority comparable to that of humans and may communicate with people, including by warning them of threats or future events. Mari Luz Canaquiri, for instance, recounts the story of an uncle who “died twice”, first as a person on earth and later, after becoming a *karuara*, when oil contamination reached the underwater world. Similarly, *Purawa*’s body is seen as being the course of the river, while her movements account for changes in the riverbed and the formation of lagoons during floods.⁴⁰⁴ Altering the river is therefore not simply a physical modification of a geographical feature, but a disruption of the relationships connecting living people, deceased community members, and the beings of the river. As Campanera explains, the river is consequently understood not as a single being but as a plurality of beings existing in relation to one another. Hydrocarbon contamination affects the *karuara*, *Purawa*, fish, plants, spirits, and humans simultaneously, because they form part of the same relational world. Kukama origin narratives further reinforce this understanding of shared existence. One narrative recounts how a female boa and a human man met, had relations, and entered the underwater world, where their children became the first Kukama. Other narratives describe a great flood that transformed the world and created rivers, or explain the formation of lagoons through the actions of a black boa. Other human beings are said to have transformed into birds, forest animals, fish, or stars, while beings such as boas, dolphins, mermaids, rays, and crocodiles may assume human form.⁴⁰⁵ These narratives present the aquatic and terrestrial worlds as spaces in which different forms of life can interact, transform, and participate in one another’s existence. Dreams similarly constitute an important means through which these relationships are maintained, since they can provide knowledge, warnings, advice, and communication with non-human beings, plant spirits, and deceased relatives.

⁴⁰⁴ Ramírez Roca, R. (2026). Kukama women and the Marañón River: A history of subjugation, resistance, and environmental litigation, p. 105.

⁴⁰⁵ Campanera, M. (2026). El corazón de la vida: el río Marañón, desde la perspectiva kukama, p. 4.

During the legal mobilisation surrounding the Marañón, Mari Luz Canaquiri described a dream in which her deceased father told her that he and the other members of the underwater community were well, but that oil contamination was affecting them. This dream, according to her, reflected the idea that contamination of the river affects both people on land and the beings living beneath the water. Her description of the Marañón as the “heart of life” similarly reflects an understanding of the river as a living entity whose waters, fish, and other beings sustain the community. Moreover, the Kukama concept of *iya*, meaning “heart”, refers not only to the physical organ but also to feelings and emotions, further illustrating the connection between the river, the human body, and the emotional dimensions of existence.⁴⁰⁶ This relational ontology also explains why environmental destruction cannot be separated from harm to the Kukama themselves. The concept of body-territory captures this relationship by rejecting the idea that the human body and the surrounding environment constitute separate spheres. The Marañón, the forest, fish, plants, spirits, and human communities are understood as interconnected dimensions of the same living territory. Consequently, the destruction of one element necessarily affects the others. Pretell and Perreault also note that Kukama women describe their care for the river in terms comparable to their care for their children, and protecting the river, trees, and forest means protecting living beings that are part of their extended community and family. This connection becomes particularly significant in the context of decades of hydrocarbon contamination. Oil spills have reduced fish populations, affected the availability and cost of food, and produced harms experienced directly by Kukama communities. Emilsen Flores Simón, for example, links the struggle for a clean Marañón to the protection of her family and community, while also describing the effects of contamination on women’s bodies, including reproductive harms, miscarriages, and fetal malformations. From a Kukama perspective, however, the consequences do not stop at human health, because when the river is polluted, the *karuara*, boas, dolphins, mermaids, fish, plants, and other beings inhabiting it are also harmed.⁴⁰⁷ As Campanera emphasises, hydrocarbon spills therefore affect the entire Kukama body-territory. This understanding is also expressed in the narratives of other Huaynakana women. Gilda Fasabi Saavedram, for instance, explains that the river is considered a subject of rights because it has life and because the underwater world contains *karuara*, cities, people, and spirits. She describes her own father, who disappeared years earlier, as having gone to live beneath the river, meaning that she considers herself to have family

⁴⁰⁶ *Ibidem*, pp. 10-11.

⁴⁰⁷ Pretell, M., & Perreault, T. (2026). Indigenous struggle, oil extraction and the rights of nature: The case of the Marañón River, Peru, p. 7.

members living in the water.⁴⁰⁸ The recognition of the Marañón as a subject of rights can therefore be understood not simply as the creation of a new legal category, but as the translation into legal language of a pre-existing Kukama understanding of the river as a living, relational, and sacred being whose wellbeing is inseparable from that of the community.

3.4 The Nauta Ruling: Origins, Content, and Legal Basis

The recognition of rights for the Marañón River emerged from a long-standing struggle by the organisation Huaynakana Kamatahuara Kana against oil pollution and the degradation of the river and its surrounding territory. The case was therefore not an isolated legal initiative, but part of a broader process of mobilisation developed by Kukama communities, and particularly by Kukama women, in response to decades of environmental harm. The lawsuit was supported by lawyers from Peru's Instituto de Defensa Legal (IDL), as well as the Earth Law Center, a legal nonprofit,⁴⁰⁹ and experts from International Rivers, a global environmental NGO^{410, 411}. The deterioration and inadequate maintenance of the NorPeruano Pipeline (ONP) were central to this context. In 2019, Peru's environmental supervisory authority, the Organismo de Evaluación y Fiscalización Ambiental (OEFA), found Petroperú responsible for failures in the maintenance of the pipeline in connection with two oil spills that had occurred in early 2016.⁴¹² Despite sanctions and legal orders, problems with the pipeline continued, contributing to further contamination of Amazonian rivers and communities. In September 2022, for example, more than 2,500 barrels of oil reached the Marañón, while the response of President Pedro Castillo's government was considered insufficient by affected communities.⁴¹³ The Marañón case was one of several legal actions brought by Huaynakana in response to extractive activities affecting Kukama territories. According to Pretell Perreault, the organisation had already pursued three other lawsuits with IDL. The first, filed in 2018, concerned the equitable distribution of oil royalties by the Loreto regional government and was successful. The second, also filed in 2018, challenged the national government's application of international standards

⁴⁰⁸ Campanera, M. (2026). *El corazón de la vida: el río Marañón, desde la perspectiva kukama*, p. 13.

⁴⁰⁹ Earth Law Center, Our Mission. Available at: <https://www.earthlawcenter.org/our-mission> (accessed 12 September 2026).

⁴¹⁰ International Rivers, Mission, Vision & Strategy. Available at:

<https://www.internationalrivers.org/about/mission-vision/> (accessed 12 September 2026).

⁴¹¹ Pretell, M., & Perreault, T. (2026). *Indigenous struggle, oil extraction and the rights of nature: The case of the Marañón River, Peru*, p. 1.

⁴¹² Pretell Gómero, M. (2024). *Marañón, the River that Feels: Kukama Indigenous Women Leading the Way in the Struggle Against Environmental Injustices in the Peruvian Amazon*, p. 158.

⁴¹³ Pretell, M., & Perreault, T. (2026). *Indigenous struggle, oil extraction and the rights of nature: The case of the Marañón River, Peru*, p. 6.

in the Environmental Impact Assessment for the Amazon Waterway and was likewise successful. The third was the lawsuit concerning the legal recognition of the Marañón River, initially filed in Iquitos in September 2021 and subsequently transferred to Nauta in 2022. This one will be further described in this chapter. A fourth action was brought in March 2023 to demand access to clean water and sanitation for Kukama communities in Parinari and remained pending as of June 2026.⁴¹⁴

The Marañón lawsuit was filed in September 2021 by HKK and its president, Mari Luz Canaquiri Murayari, against several Peruvian State authorities and Petroperú. It sought recognition of the Marañón river and its tributaries as subjects of rights with intrinsic value, particularly in light of their spiritual importance to Indigenous peoples and, more specifically, to the Kukama. The strategy was to extend legal protection beyond the Kukama people themselves, whose rights had repeatedly been violated but whose claims had not stopped the harm, by recognising rights belonging to the river itself. The idea was that a river with its own legal standing would be harder to ignore than a community whose rights had already been violated with impunity for years.⁴¹⁵ The claim identified a series of specific rights for the Marañón and its tributaries. These included the right to exist, to flow, to perform essential ecosystem functions, to remain free from contamination, to preserve native biodiversity, to be restored, to regenerate natural cycles, to conserve ecological structure and functions, to be protected, preserved and recovered, and to have legal representation.⁴¹⁶ Huaynakana also requested the recognition and appointment of State and Indigenous organisations as guardians, defenders and representatives of the river. More specifically, it called for a qualified body representing Indigenous organisations in Loreto to act as guardians of the Marañón river and defend its interests.⁴¹⁷ The lawsuit's legal argument for recognising Rights of Nature is based on the jurisprudence of the Inter-American Court of Human Rights, which is legally binding on Peru within the Inter-American human rights system. It also relied on Article 3 of the Peruvian Constitution, which was presented as providing a basis for recognising fundamental rights that are not expressly enumerated in the Constitution, provided that they arise from the principles and values recognised by the Constitution. This open-ended clause became the key

⁴¹⁴ *Ibidem*, p. 6.

⁴¹⁵ Eco Jurisprudence Monitor, Rights of the Marañón River Case. Available at: <https://ecojurisprudence.org/initiatives/rights-of-maranon-river-case/> (accessed 7 September 2026).

⁴¹⁶ Ramírez Roca, R. (2026). Kukama women and the Marañón River: A history of subjugation, resistance, and environmental litigation, p. 106.

⁴¹⁷ Eco Jurisprudence Monitor, Rights of the Marañón River Case.

doctrinal hook the court would later use, since Peru's Constitution contains no explicit provision on Rights of Nature. The claim connected this provision to the doctrine of the Constitution, arguing that Peruvian and broader Latin American constitutionalism allows constitutional rights to develop beyond those expressly listed in the constitutional text.⁴¹⁸ The recognition of rights was further supported by arguments concerning the ecological characteristics of the Marañón itself. Steel and other authors explain that understanding the river as a living entity does not require relying on entities that cannot be recognised through scientific knowledge. The seasonal flooding of the Marañón, for instance, enriches the soil of its floodplains, which supports forest growth. The forest then contributes to atmospheric humidity through transpiration, helping to generate rainfall and contributing to the seasonal flooding of the river. Flooding therefore performs an ecological function within a wider interconnected system. The relationship between forests and regional rainfall is also reflected in Kukama-Kukamiria ecological knowledge and is supported by scientific research on the Amazon region. The authors further distinguish these ecological functions from those of human-made objects. While a damaged object such as a machine can potentially be reconstructed, the complex web of relationships connecting the Marañón watershed, forests, rainfall, plants and animals cannot simply be recreated once it has been destroyed. The irreversible loss of such functions is therefore presented as a characteristic of living systems and as a basis for recognising their own interests. From this perspective, legal rights can be justified where a natural entity performs essential and irreplaceable functions on which numerous beings depend and where the loss of those functions cannot be reversed within human timescales.⁴¹⁹

After several years of legal mobilisation, the Mixed Court of Nauta issued its ruling in March 2024, granting Huaynakana's claim and recognising the Marañón River and its tributaries as holders of rights. The decision marked a significant development in Peruvian environmental law, as it extended legal protection to the river itself rather than limiting it to the protection of human interests. The court also established mechanisms for the representation and guardianship of the river, giving Indigenous organisations a formal role in defending its rights.⁴²⁰ The terminology used to describe the legal status of the river should nevertheless be

⁴¹⁸ *Ibidem*.

⁴¹⁹ Steel, D., Vásquez-Fernández, A., Cripps, R., Crookall, B., DesRoches, C. T., & Mintz-Woo, K. (2026). Rights of nature, intercultural respect, and climate change, pp. 211-213.

⁴²⁰ Pretell, M., & Perreault, T. (2026). Indigenous struggle, oil extraction and the rights of nature: The case of the Marañón River, Peru, pp. 6-7.

approached carefully. The original claim explicitly requested that the Marañón and its tributaries be recognised as “subjects of rights” with intrinsic value.⁴²¹ Renzo Ramírez Roca, however, explains that the first-instance decision recognised the Marañón as a rights-holder without placing it within the full category of juridical subjects, which Peruvian law traditionally reserves for natural and legal persons.⁴²² For this reason, the decision is better understood as recognising the river as a holder of rights within the existing legal system rather than simply equating it with a human or legal person. The court grounded this recognition in existing constitutional and international legal principles rather than in an explicit constitutional provision on Rights of Nature. One important reference by the Court was paragraph 62 of the Inter-American Court of Human Rights’ Advisory Opinion OC-23/17, which states that:

[t]he Court considers it important to stress that, as an autonomous right, the right to a healthy environment, unlike other rights, 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. This means that it protects nature and the environment, not only because of the benefits they provide to humanity or the effects that their degradation may have on other human rights, such as health, life or personal integrity, but because of their importance to the other living organisms with which we share the planet that also merit protection in their own right. In this regard, the Court notes a tendency, not only in court judgments, but also in Constitutions, to recognize legal personality and, consequently, rights to nature.⁴²³

This paragraph, according to Roca, recognises intrinsic value of environmental elements as legal interests in themselves.⁴²⁴ Furthermore, through the principle of control of conventionality, which requires domestic courts to ensure that the laws they apply are compatible with the American Convention on Human Rights and with the Inter-American Court’s interpretation of it,⁴²⁵ this interpretation of the Inter-American human rights system could be incorporated into domestic constitutional reasoning. The absence of an explicit constitutional provision recognising Rights of Nature therefore did not prevent the court from interpreting existing constitutional and international principles in a way that extended

⁴²¹ Eco Jurisprudence Monitor, Rights of the Marañón River Case.

⁴²² Ramírez Roca, R. (2026). Kukama women and the Marañón River: A history of subjugation, resistance, and environmental litigation, pp. 106-107.

⁴²³ Inter-American Court of Human Rights. (1997, November 14). *Reports of the Inter-American Commission on Human Rights (Art. 51 American Convention on Human Rights): Advisory Opinion OC-15/97*.

⁴²⁴ Ramírez Roca, R. (2026). Kukama women and the Marañón River: A history of subjugation, resistance, and environmental litigation, pp. 106-107.

⁴²⁵ Inter-American Court of Human Rights, Case of Almonacid Arellano et al. v. Chile, Judgment of 26 September 2006, Series C No. 154, para. 124.

protection to the river itself. The precautionary principle also played an important role in this reasoning. The principle, incorporated into Peru's General Environmental Law, requires preventive action where there is a risk of serious harm to human health or the environment, even when complete scientific certainty is not available. In the context of the Marañón, the court considered that oil contamination affected the right of Indigenous communities to a healthy environment while also threatening the river and its ecological functions. This allowed environmental protection to be understood not only as a means of safeguarding human interests, but also as protection of the natural entity itself. The decision consequently moved beyond an exclusively anthropocentric understanding of environmental protection and recognised the Marañón as a holder of rights.⁴²⁶ The ruling also established institutional mechanisms intended to give practical effect to these rights. The court ordered the creation of an Interregional Watershed Council and corresponding sub-councils under the National Water Authority, with Indigenous participation in decision-making. Petroperú was additionally ordered to submit an updated Environmental Management Instrument to the Ministry of Energy and Mines within six months, including a comprehensive assessment of the environmental impacts associated with oil transportation through the ONP.⁴²⁷ The Nauta decision was subsequently upheld on appeal. The Civil Court of Loreto confirmed the recognition of rights for the Marañón River and its tributaries in an appellate decision issued on 31 October 2024, despite opposition from the Ministry of Environment, the National Water Authority and Petroperú.⁴²⁸ The appellate decision therefore maintained the central recognition of the river's rights while confirming the role of Indigenous organisations as guardians, defenders and representatives. The case consequently moved beyond the first-instance decision and established a stronger judicial precedent for the recognition of Rights of Nature within the Peruvian legal system. The Indigenous dimension of the decision became particularly visible during the appeal process. Before the final appellate ruling, members of Huaynakana participated in three public hearings and described how more than fifty years of oil extraction had affected Kukama communities and women, altered their ancestral territory, and threatened the river, forests and other-than-human beings. Mari Luz Canaquiri expressed this relationship through the statement “Sin río, no hay monte”, meaning “without the river, there is no forest”. The statement illustrates the interconnectedness between the river, the forest and the

⁴²⁶ Lorber, F. E. (2024, April 10). Catalysts of eco-constitutional evolution: Peru's landmark ruling bridges the gap between anthropocentrism and ecocentrism.

⁴²⁷ Pretell, M., & Perreault, T. (2026). Indigenous struggle, oil extraction and the rights of nature: The case of the Marañón River, Peru, pp. 6-7.

¹¹⁷ Peru Court Case: Rights of the Marañón River.

communities whose lives depend on the watershed.⁴²⁹ In the Marañón case, it is therefore important to note that Kukama cosmology was not treated merely as cultural background, but informed the interpretation of constitutional and environmental obligations.

The significance of the ruling extends beyond environmental protection because of the role played by Kukama women in bringing the case before the courts. The litigation was built upon what has been described as the distinctive epistemic position of Kukama women.⁴³⁰ Their participation challenged a legal and political structure in which Indigenous peoples, and particularly Indigenous women, had historically been marginalised by extractive models of development. The judgment can therefore be understood as incorporating elements of Kukama ontology into legally binding reasoning, challenging the treatment of nature primarily as a resource and questioning existing relations of domination.⁴³¹ For Pretell Gomero, the decision represents an unprecedented achievement for Indigenous peoples in Peru and for the development of Rights of Nature, with particular significance for Indigenous women whose knowledge and experiences have historically been silenced or overlooked.⁴³² At the same time, the recognition of the Marañón's rights does not automatically guarantee their effective implementation. The decision emerged in a difficult political context characterised by instability and tensions between Indigenous organisations, environmental groups and State authorities. Subsequent political and legislative developments have created additional difficulties for civil society organisations involved in environmental and legal advocacy. The implementation of the ruling therefore remains dependent not only on its judicial recognition, but also on the willingness of State institutions to respect the role of Indigenous guardians and to adopt measures capable of protecting the river from continued extractive pressures.⁴³³ The Nauta ruling should therefore be understood both as the outcome of a long process of Indigenous mobilisation and as an important development in the legal recognition of nature's intrinsic interests. Its significance lies not only in the rights formally recognised for the Marañón, but also in the way existing constitutional and international legal principles were

⁴²⁹ Pretell, M., & Perreault, T. (2026). Indigenous struggle, oil extraction and the rights of nature: The case of the Marañón River, Peru, p. 7.

⁴³⁰ Pretell Gomero, M. (2024). Marañón, the River that Feels: Kukama Indigenous Women Leading the Way in the Struggle Against Environmental Injustices in the Peruvian Amazon, p. 161.

⁴³¹ Ramírez Roca, R. (2026). Kukama women and the Marañón River: A history of subjugation, resistance, and environmental litigation, pp. 102-103.

⁴³² Pretell Gomero, M. (2024). Marañón, the River that Feels: Kukama Indigenous Women Leading the Way in the Struggle Against Environmental Injustices in the Peruvian Amazon, p. 162.

⁴³³ Pretell, M., & Perreault, T. (2026). Indigenous struggle, oil extraction and the rights of nature: The case of the Marañón River, Peru, pp. 7-8.

interpreted to accommodate a different understanding of the relationship between humans and nature. Most importantly, the case brought Kukama women's knowledge and relationship with the river into the State legal system, contributing to a shift from viewing the Marañón primarily as an object of environmental protection towards recognising it as a holder of rights whose interests can be represented and defended through legal institutions.

4.3.5 Limits and Contradictions

The recognition of rights for the Marañón also raises an important tension concerning the relationship between Indigenous understandings of nature and the legal framework through which those understandings are recognised. More specifically, Pretell and Perreault argue that the ruling ultimately circumscribes Kukama interests within the limits of Peruvian and international environmental and human rights law, creating what can be understood as a compromise position. This is because, by recognising rights and legal personhood for the Marañón, the State also exercises authority over the river and, indirectly, over the Kukama relationship with it. This creates a particular paradox, since the same State that has historically been associated with colonial violence, dispossession and environmental degradation becomes the institution responsible for defining and enforcing the rights of both Indigenous peoples and nature. Since the rights recognised for the Marañón operate within the existing legal system, their implementation ultimately depends on State institutions, leaving the Kukama and the river dependent, at least to some extent, on the authority of the State. This tension is particularly significant because legal personhood is itself a concept rooted in Western legal traditions and cannot fully encompass the broader Kukama understanding of the Marañón as a living being with which humans maintain social, spiritual and ecological relationships. From this perspective, recognising the river as a legal person may risk incorporating Indigenous understandings into a legal framework that remains based on different notions of rights and subjectivity. At the same time, however, rejecting Rights of Nature as inherently incompatible with Indigenous interests would overlook the agency of the Kukama themselves. Huaynakana was not a passive recipient of a Western legal concept; instead the organisation actively sought the assistance of IDL and agreed to pursue a rights of nature claim because legal personhood was considered the legal concept that most closely corresponded to the Kukama understanding of the Marañón as a living being with its own agency. The lawsuit can therefore be understood as a strategic compromise through which Kukama communities used an available legal mechanism to pursue their own objectives. This compromise nevertheless involves significant limitations. The recognition of natural personhood cannot by itself encompass the entirety of

Kukama beliefs, nor can it fully address the damage that decades of oil extraction have caused to Kukama health, well-being, territory and lifeways. Moreover, the effectiveness of the ruling remains dependent on the cooperation of the same State whose previous policies contributed to the degradation that the lawsuit sought to address. The case therefore illustrates a fundamental contradiction, which is that in order to obtain legal recognition and protection for the Marañón, the Kukama had to work through a judicial and political system that had historically failed to protect both the river and its communities. Yet this does not make the ruling meaningless or reduce Indigenous participation to an acceptance of Western legal authority. For Huaynakana, the judgment represents an opportunity to hold the State and oil companies accountable for decades of environmental harm and to initiate the ecological restoration of the Marañón.⁴³⁴ The case thus demonstrates the ambivalent character of Rights of Nature initiatives, meaning that they may require Indigenous peoples to operate within legal structures that do not fully reflect their own worldviews, while at the same time providing them with a legal instrument through which to challenge those structures and demand greater protection for their territories and relationships with nature.

4.4. Final considerations

The two cases examined in this chapter provide concrete examples of how the approaches discussed in the previous chapters of this thesis can emerge in legal and political practice. The recognition of whales as legal persons through the He Whakaputanga Moana and the recognition of the Marañón River as a holder of rights by Peruvian courts both challenge the traditional conception of nature as an object of human use and protection. However, they do so through different legal mechanisms and with different degrees of legal force. While the declaration concerning whales remains a non-binding initiative whose implementation depends largely on further action by States, the Marañón case resulted in judicial recognition within the Peruvian legal system. At the same time, the cases illustrate the relevance of the Indigenous, ecofeminist and relational perspectives examined earlier in this thesis, particularly in challenging anthropocentric understandings of the human-nature relationship. In both cases, Indigenous knowledge and mobilisation have played an important role in bringing relationships with non-human beings into legal and political debates. The relationships between Pacific Indigenous peoples and whales, and between the Kukama people and the Marañón river, reflect understandings of the natural world in which human and non-human beings are interconnected

⁴³⁴ *Ibidem*, pp. 2-8.

and mutually dependent. The cases also reveal the difficulties involved in expressing these understandings within existing legal frameworks. Concepts such as legal personhood, rights, representation and guardianship provide legal tools through which Indigenous claims can be recognised, but they may not fully reflect the relational understandings from which these claims originate. This creates a tension, since existing legal frameworks can provide new possibilities for recognising and protecting non-human beings, while at the same time limiting the ways in which Indigenous perceptions can be expressed and recognised. Finally, the analysis suggests that legal recognition does not necessarily result in effective protection. The non-binding nature of the He Whakaputanga Moana and the continuing implementation challenges surrounding the rights of the Marañón river show that recognition is only one step in a broader process. Taken together, these cases suggest that, rather than indicating a complete transformation of environmental law towards ecocentrism, such initiatives point to a gradual and contested process in which the perspectives and mobilisation of Indigenous peoples contribute to expanding the legal recognition of non-human beings.

Conclusion

This thesis has examined how the emergence of ecocentric approaches has challenged anthropocentric understandings of nature and to what extent this shift is reflected in international environmental law. The analysis suggests that ecocentric approaches have significantly challenged the idea that nature should be valued and protected primarily according to its utility to human beings; however, this challenge has not resulted in a complete transformation of the legal relationship between humans and nature, but has rather opened new possibilities within a legal framework that remains predominantly anthropocentric.

The first part of the analysis showed that anthropocentrism is deeply embedded in modern legal thought, and that the traditional distinction between humans as subjects and nature as an object has influenced the way legal systems define rights, legal personality, property, and standing. Ecocentric approaches have challenged this structure by questioning the assumption that human beings should constitute the exclusive centre of legal and moral concern. From Leopold's Land Ethic and Næss's Deep Ecology to Stone's proposal for the legal standing of natural objects, these approaches have contributed to a different understanding of the human-nature relationship, based on intrinsic value, interdependence, and ecological integrity. Concepts such as Rights of Nature, Earth Trusteeship, Earth Stewardship, and Multispecies Justice further demonstrate that the question is no longer only how humans can protect nature, but also whether legal systems should recognise nature as having interests and value independent of human interests.

The contribution of ecofeminist and Indigenous perspectives is particularly important in this regard. These perspectives challenge the dualisms through which Western thought has traditionally separated humans from nature and associated one side of these oppositions with superiority over the other. At the same time, the analysis has shown the relevance of Indigenous perspectives, which lies precisely in the diversity of relationships, forms of knowledge, and responsibilities that different Indigenous peoples maintain with the natural world. The examples of Ecuador, the Whanganui River, and Te Urewera demonstrate that these perspectives can find expression within legal systems through new forms of recognition. However, they also show that translating relational understandings of nature into legal categories such as rights and legal personality necessarily involves a process of adaptation.

The examination of international environmental law provides the clearest answer to the second part of the research question. International environmental law has undoubtedly developed considerably and has expanded the scope of environmental protection. Nevertheless, its development has not amounted to a general shift from anthropocentrism to ecocentrism, since much of the existing legal framework continues to place environmental protection within a broader structure centred on human welfare, sustainable development, State interests, and obligations between States. The protection of ecosystems, species, and environmental resources therefore does not necessarily mean that nature itself has acquired an independent legal status. At the same time, the international legal order is not entirely closed to ecocentric approaches. The United Nations Harmony with Nature programme, the Universal Declaration of the Rights of Mother Earth, and the debate surrounding the criminalisation of ecocide demonstrate that ecocentric ideas have entered international legal and institutional discussions. These developments are important because they challenge the assumption that environmental protection should always be justified through human interests, while also showing that the language of intrinsic value, rights of nature, and ecological integrity is increasingly present in international debates. However, the legal status of these developments remains a significant limitation. In particular, the instruments examined in this thesis are largely non-binding or remain proposals rather than established rules of international law. Their significance therefore lies not only in their immediate legal effects, but also in their capacity to influence legal discourse and provide concepts through which existing approaches can be challenged.

The two case studies examined in the final chapter further illustrate both the possibilities and the limits of this development. He Whakaputanga Moana and the recognition of the Marañón River demonstrate that the idea of nature as a legal subject is no longer confined to philosophical or academic debate, but that it can be translated into legal and political claims concerning specific natural entities. However, the two cases also demonstrate that legal recognition alone does not necessarily produce effective protection, as the non-binding nature of the declaration concerning whales limits its immediate legal effect, while the implementation of the rights recognised for the Marañón remains dependent on State institutions and on the willingness and capacity of relevant actors to enforce them. These cases also reveal an important dimension of the relationship between ecocentrism and Indigenous perspectives, showing that Indigenous peoples are not simply recipients of concepts such as Rights of Nature or legal personhood. In the Marañón case in particular, Kukama women actively used an existing legal mechanism to pursue their own objectives and to bring their relationship with the

river into the State legal system, which shows that Western legal concepts can be appropriated and used strategically by Indigenous actors rather than simply imposed upon them. At the same time, the case demonstrates the limitations of this process, as legal personhood cannot fully encompass the Kukama understanding of the Marañón as a living being connected to social, spiritual, territorial, and ecological relationships. The recognition of nature within existing legal systems can therefore be both transformative and limiting: it can create new possibilities for protection while also translating different understandings of nature into categories developed within a legal tradition that remains largely anthropocentric.

The research question can therefore be answered by distinguishing between a conceptual and a structural level. At the conceptual level, the emergence of ecocentric approaches has clearly challenged anthropocentric understandings of nature, questioning the human-centred definition of legal value and contributing to the development of new ways of thinking about rights, legal personality, responsibility, and justice. At the structural level, however, the transformation remains limited. International environmental law has incorporated some ecocentric ideas, but its fundamental legal structures continue to rely largely on State sovereignty, human interests, sustainable development, and environmental protection rather than on the recognition of nature as an autonomous legal subject. The evidence examined in this thesis therefore does not support the conclusion that international environmental law is undergoing a complete transition towards ecocentrism; instead, it points to a gradual, fragmented, and contested process. Ecocentric approaches have created openings within existing legal structures, but these openings coexist with and remain constrained by anthropocentric assumptions. The emergence of legal personality and rights for natural entities at the domestic level, the development of ecocentric soft law, and the growing international debate surrounding concepts such as ecocide all indicate that the boundaries of environmental law are being questioned, but whether these developments will lead to deeper structural change remains uncertain. This also suggests several directions for future research. First, further research could examine the implementation of existing Rights of Nature frameworks rather than focusing primarily on their formal recognition. Comparing cases in which nature has been granted rights or legal personality could help determine whether these mechanisms produce measurable changes in environmental governance, judicial decision-making, resource management, and ecological protection. Such research would be particularly relevant to the question of whether legal recognition can produce effects beyond symbolic or normative change. Second, further comparative research could examine the role of Indigenous peoples in the development and implementation of legal

mechanisms concerning nature. The Mara  n case demonstrates the importance of Indigenous mobilisation, but also raises questions about representation, guardianship, legal pluralism, and the relationship between State institutions and Indigenous forms of authority. Future research could therefore investigate whether legal frameworks can provide greater space for Indigenous governance and decision-making, rather than merely translating Indigenous understandings into existing Western legal categories. Third, the development of ecocentric approaches at the international level deserves further examination. Future research could assess whether concepts such as Rights of Nature, ecocide, Earth Trusteeship, or the rights of future generations could develop from normative proposals into more concrete forms of international legal obligation. Particular attention could be given to whether existing principles of international environmental law can accommodate these developments or whether deeper changes to the structure of international law would be required. Finally, future research could further explore the relationship between ecocentrism, ecofeminism, Indigenous perspectives, and Multispecies Justice. These approaches do not necessarily propose identical solutions, and bringing them together raises important questions concerning whose values, knowledge, and interests are represented when law speaks on behalf of nature. Examining these questions could contribute to a more nuanced understanding of what an ecocentric legal framework would actually require in practice. Ultimately, the developments examined in this thesis demonstrate that changing the legal status of nature is possible, but that recognition alone is not sufficient to transform the relationship between humans and the natural world. The challenge is not only to create new legal categories, but also to determine how those categories can operate effectively, whose knowledge they recognise, and how they can alter the structures through which environmental decisions are made. Ecocentric approaches have therefore not displaced the anthropocentric foundations of international environmental law, but they have made those foundations increasingly open to question. The extent to which these challenges develop into a broader transformation will depend on the future interaction between legal innovation, Indigenous mobilisation, environmental governance, and the implementation of rights and responsibilities towards the more-than-human world.

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