

INTERNATIONAL LAW ASSOCIATION
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COMMITTEE ON THE RIGHTS OF NATURE

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FIRST REPORT: MAPPING THE CONNECTIONS

I. INTRODUCTION

1. This first report from the Rights of Nature Committee of the ILA examines how rights of nature (RoN) intersect with various branches of international law. The aim of the report is to map key connections between RoN and international law. As analysed, these intersections occur mainly through integration into international biodiversity law and international human rights law, interpretive expansion of Indigenous peoples' rights, and emerging correlations with some key principles of international law, rather than through explicit treaties on RoN.

2. The report is organised into six sections. The second section provides a global overview of developments on RoN, notably exploring the relationship between the national development of these rights and international soft law. The third section then analyses how specific branches of international law have engaged with these rights, including biodiversity and human rights law, as well as international criminal law. The fourth focuses on areas dedicated to particular ecosystems, such as the law of the sea, international freshwater law, the Antarctic Treaty System, and land and soils. The fifth explores potential correlations with key principles of international law, such as sustainable development, the principle of intergenerational justice, and cultural diversity. The sixth section then examines areas of contention between international law and RoN, notably possible frictions and clashes with international investment law, and broader principles of international economic law. The last section discusses the bases and underlying debates of rights of nature.

3. This first report of the Committee is not intended to provide a comprehensive analysis of the relationship between RoN and international law, as the Committee started a six-year process in 2025 to do so. With this first report, the goal is to provide an initial global overview of anthropocentric and ecocentric frameworks to identify areas of international law that the Committee could explore and analyse in its future work.

II. GLOBAL OVERVIEW

4. Rights of Nature is a legal approach that grants ecosystems, such as rivers, forests, lagoons, mountains, and species, their own legal rights. This marks a significant shift from the traditional anthropocentric view in international law, which treats nature as a resource or commodity. While both international and domestic laws reflect these changes, international law has progressed more slowly than national and local efforts, where rights of nature have advanced rapidly since the late 2000s. To assess these developments and their potential impact on international law, the first section offers an overview of relevant national legal trends. We then review the UN "Harmony with Nature" initiative, a General Assembly-mandated programme aimed at shifting international law and policy toward non-anthropocentric, Earth-centred governance, closely aligned with the Rights of Nature.

2.1 National Legal Developments on the Rights of Nature

5. Rights of nature have largely been developing as a legal movement that circulates through networks of actors, discourses, and legal forms rather than as a single, coherent “model” diffusing from a single centre. One of the most inspiring examples, and the first in the world to enshrine RoN in its constitution, is Ecuador. Several articles of the Ecuadorian constitution are dedicated to RoN, which is referred to as “Pachamama”, affirming its right to integral respect for its existence and for the maintenance and regeneration of its life cycles, structure, functions and evolutionary processes.¹ The Constitution of the Republic of Ecuador provides that nature has the right to exist, persist, maintain and regenerate. The Constitution also encompasses the right to restoration, while the government is required to apply precautionary and restricted measures to activities that may lead to the destruction of ecosystems or the permanent alteration of natural cycles. These constitutional rights have led to a very rich jurisprudence from various courts of the country, notably with the landmark 2021 Los Cedros ruling by the Constitutional Court prohibiting mining in a protected forest, affirming nature's rights to exist and regenerate under the 2008 Constitution.² The decision prioritized ecosystems over economic activity when irreversible harm is likely.

6. In 2010, Bolivia passed a law entitled *La Ley de Derechos de la Madre Tierra (Law of the Rights of Mother Earth)*. This law, the first of its kind, confers a number of rights on nature, including the right to life, the right not to be polluted, and the right to pure water and clean air. Moreover, the Bolivian constitution also stipulates that it is both the duty of the State and the population to conserve, protect and use natural resources and biodiversity in a sustainable manner, as well as to maintain the equilibrium of the environment. The natural assets are declared of public importance and of strategic character for the sustainable development of the country. Their conservation and use for the benefit of the population shall be the responsibility and exclusive authority of the State, and sovereignty over natural resources may not be compromised.³

7. New Zealand has also been pioneering rights of nature initiatives through legislation granting legal personhood to specific ecosystems, deeply rooted in Māori Treaty settlements and Indigenous laws. In 2014, a law revoked national park status for *Te Urewera* forest on the North Island, recognizing it as a legal person with rights, powers, duties, and liabilities.⁴ Then, in 2017, another law expressly recognised the Whanganui River as a legal entity with rights and interests under law,⁵ and in 2025 another legislation granting legal personhood to Mount Taranaki (Taranaki Maunga), recognizing it as a living, indivisible entity.⁶

8. In Uganda, the 2019 National Environment Act specifically integrates RoN by affirming that nature possesses the right to exist, persist, maintain and regenerate its vital cycles, structure, functions and its processes in evolution.⁷ In Panama, a specific rights of nature law was adopted in 2022 affirming nature's rights to exist, persist, regenerate its life cycles, and receive timely restoration, while preserving water cycles.⁸ In Spain, the Mar Menor lagoon gained legal personhood via parliamentary action after citizen lawsuits over algal blooms, enabling direct

¹ Constitution of Ecuador, arts 71-75.

² Constitutional Court of Ecuador, Bosque Protector Los Cedros (Judgment No 1149-19-JP/21, 10 November 2021).

³ Constitution of Bolivia, arts 342-347.

⁴ New Zealand, Te Urewera Act 2014, ss 3(2)-(3), 12(3).

⁵ New Zealand, Te Awa Tupua (Whanganui River) Claims Settlement Act 2017.

⁶ New Zealand, Te Ture Whakatupua mō Te Kāhui Tupua 2025/Taranaki Maunga Collective Redress Act 2025.

⁷ Uganda, The National Environment Act 2019, s 4.

⁸ Panama, Ley N° 287 que reconoce los derechos de la naturaleza y las obligaciones del estado relacionadas con estos derechos 2022.

suits for restoration in 2022.⁹ Similar rights of nature texts have also been adopted by sub-national and local authorities, for example in the USA, Australia, Brazil, Peru and Mexico.

9. Courts have also been very active on RoN, with for example Colombia's 2016 *Atrato River* case recognizing the river as a "subject of rights" with entitlements to protection, conservation, and restoration, imposing duties on government and communities amid illegal mining threats.¹⁰ The 2018 Amazon rainforest tutela by Colombia's Supreme Court declared the Amazon a legal entity, linking human rights to ecological integrity and ordering deforestation controls. Bangladesh's 2019 High Court decision granted all rivers legal personhood, exemplified by the Turag River case, which ordered pollution cleanup and industrial restrictions to enforce the river's rights to survival and flow.¹¹ India's 2017 Uttarakhand High Court ruling briefly recognized the Ganga and Yamuna rivers as living entities with rights, though later stayed;¹² it spurred a national debate on ecocentric enforcement.

10. These are only illustrations as many more national and local courts have engaged with RoN globally. A robust body of national and local jurisprudence on RoN is rapidly emerging, manifesting in various legal forms, including constitutional provisions, legislation, judicial decisions, and local or municipal decrees and ordinances.¹³ While these legal developments do not constitute international law, they are nonetheless shaping and informing some of the evolutions of the international legal frameworks, as discussed in the remainder of this report.

2.2 The UN Harmony with Nature Programme

11. Many of the national developments on RoN have been documented by the UN Harmony with Nature programme. The UN "Harmony with Nature" programme, initiated in 2009,¹⁴ represents a transformative effort to redefine humanity's relationship with Earth by promoting a non-anthropocentric worldview that recognizes nature as a subject with inherent rights rather than merely an object for human exploitation. This summary is based on thirteen reports by the United Nations Secretary-General and fifteen United Nations General Assembly resolutions. This overview demonstrates that, since its inception, the "Harmony with Nature" programme has systematically captured, reflected, and shaped the recognition of RoN as an influential principle of international environmental law.

2.2.1. Contribution to Rights of Nature

12. The "Harmony with Nature" programme operates through a unique three-step process that has allowed RoN to enter the UN platform and UN documents.

⁹ Spain, Ley 19/2022, para el reconocimiento de personalidad jurídica a la laguna del Mar Menor y su cuenca 2022.

¹⁰ *Center for Social Justice Studies v Presidency of the Republic* T-622/16 (Constitutional Court of Colombia, Judgment of 10 November 2016) paras 5.9, 10.2 [*Atrato River* case].

¹¹ *Human Rights and Peace for Bangladesh v Government of Bangladesh and others* Writ Petition No. 13989 of 2016, High Court Division (HCD), Supreme Court of Bangladesh, Judgment of 3 February 2019.

¹² *Mohd. Salim v State of Uttarakhand* 2017 SCC OnLine Utt 367 (Uttarakhand High Court); *Lalit Miglani v State of Uttarakhand* 2017 SCC OnLine Utt 392 (Uttarakhand High Court).

¹³ As of March 2026, the Eco-Jurisprudence Monitor had documented 676 RoN initiatives across 61 countries <<https://ecojurisprudence.org/?map-style=political>>.

¹⁴ UNGA Resolution 64/196, Harmony with Nature, 21 December 2009, UN Doc A/RES/64/196.

- Step 1: Capturing RoN related developments through Interactive Dialogues: Every year around Earth Day (April 22), the UN holds an Interactive Dialogue (A/RES/65/164 [2010], para. 2; A/66/302 [2011], para. 1).
- Step 2: Reflecting on RoN through the reports by the Secretary-General: The UN Secretary-General (UNSG) compiles these inputs from the Interactive Dialogue meetings into an official report (for the first report, see A/65/314 [2010]).
- Step 3: Shaping RoN through General Assembly Resolutions: The General Assembly has adopted resolutions that "takes note" of the UNSG reports (e.g., A/RES/66/204 [2011], para. 1). While not endorsing RoN as global law, these resolutions validate the RoN approach as a legitimate tool for sustainable development.

2.2.2. Evolution (2009–2025)

13. The trajectory of the “Harmony with Nature” programme can be divided into three phases: Inception, Juridical Turn, and Implementation.

- a. **Phase I: Inception & Cultural Recognition (2009–2015).** Resolution A/RES/63/278 (2009) proclaimed 22 April as “International Mother Earth Day” (para. 1). While the resolution did not mention RoN explicitly, it created the political space for the discussion by questioning the anthropocentric worldview. Early Reports (2010–2012) focused on Indigenous wisdom (e.g., A/69/322 [2014], para. 13) and the general failure of current environmental policy (e.g., *ibid.*, para. 57). Resolution A/65/164 (2010) established the interactive dialogues (*ibid.*, para. 2) and requested systematic reporting on Harmony with Nature (*ibid.*, para. 4), thus creating institutional mechanisms for ongoing engagement. Resolution A/RES/67/214 (2012) included for the first time a recognition that “some countries recognize the rights of nature in the context of the promotion of sustainable development” (*ibid.*, para. 5).
- b. **Phase II: The Juridical Turn (2016–2020).** The 2016 Secretary-General Report (A/71/266) marked a critical turning point by introducing “Earth Jurisprudence” as a legal framework. It summarized the input of 120 experts across law, physics, economics, and ethics (*ibid.*, para. 8). It explicitly challenged the property-based legal system, conveying with it “the right to destroy an ecosystem” (*ibid.*, para. 41). Instead, an Earth Jurisprudence model asks, the report argued, “What would a healthy system look like?” (*ibid.*, para. 43). With resolution A/RES/71/232 (2016) the General Assembly formally noted the “experts' summary report of the first virtual dialogue [...] among experts on Earth Jurisprudence” (*ibid.*, para. 1). By doing so, the UNGA effectively accepted “Earth Jurisprudence” as a valid topic of discussion for the international community. Importantly, during this period, the programme moved from general talks to specific themes, holding dialogues on “Earth-centred Law” (A/72/175 [2017]) and “Ecological Economics” (A/73/221 [2018]), effectively building the academic and practical case for RoN.
- c. **Phase III: Implementation and Global Proliferation (2021–2025).** The 2022 report (A/77/244) celebrated advances in legal rights of rivers and called for “a new narrative that prioritizes a sustainable regenerative world in which human rights go hand in hand with the rights of Nature”.¹⁵ It demonstrated the programme's ambition to fundamentally reshape legal and governance systems, reporting on how RoN are already functioning in practice. The 2024 resolution (A/RES/79/210) represents the

¹⁵ Report of the Secretary-General, Harmony with Nature, UN Doc A/RES/77/244 (2022) p 1.

most recent milestone, calling for a "high-level meeting on Harmony with Nature and Living Well" (ibid., para. 4) and requesting a study on "the evolution of regional, local and national initiatives on the protection of Mother Earth" (ibid., para. 6). This resolution explicitly linked Harmony with Nature to the implementation of the Kunming-Montreal Global Biodiversity Framework (ibid., para. 3) and emphasized nature-based solutions while reaffirming the cultural and spiritual significance of nature in various global traditions.

2.2.3. *"Harmony with Nature" shaping the Rights of Nature Discourse*

14. So far, the "Harmony with Nature" programme has shaped the global recognition of RoN in three ways.

1. Standardization of terminology: The "Harmony with Nature" programme unified disparate movements (Indigenous law in New Zealand, constitutional law in Ecuador, local ordinances in the USA) under the umbrella of "Earth Jurisprudence" (A/71/266 [2016], para. 44-46), thus providing a shared academic and legal language.
2. The "Knowledge Network": The programme created a formal "knowledge network of well-respected practitioners, thinkers and academicians, who work in the cutting edge of their fields" (A/68/325 [2013], para. 85).
3. Soft law legitimacy: By consistently including the phrase "Earth Jurisprudence" in resolutions adopted by the General Assembly,¹⁶ the UN normalized the framework.

15. Over time the "Harmony with Nature" programme has successfully institutionalized RoN. Since 2009, it has transformed RoN from a philosophical ideal into a working project within the UN system culminating in promoting "Earth Jurisprudence" as a cohesive framework while documenting its real-world application. In doing so, the "Harmony with Nature" programme has played a central role in capturing, reflecting and ultimately shaping a significant shift in international environmental law and governance for the twenty-first century.

III. AREAS OF INTERNATIONAL LAW THAT HAVE ENGAGED WITH THE RIGHTS OF NATURE

16. In addition to the UN Harmony with Nature programme discussed above, a handful of specialised fields within international law have also engaged with RoN. As explored below, this includes international biodiversity law, notably via the adoption of a specific reference to rights of nature in the Kunming-Montreal Global Biodiversity Framework (GBF). It also includes international human rights law, notably the connections between Indigenous peoples' rights and RoN, as well as connections to climate justice. And to some extent it also includes international criminal law, with an evolving approach to punish international environmental crimes via the development of the crime of ecocide.

¹⁶ A/RES/70/208 (2015), para 2; A/RES/71/232 (2016), para 1, 2; A/RES/72/223 (2017), para 2; A/RES/73/235 (2018), para 2; A/RES/74/224 (2019), paras 2, 3; A/RES/75/220, (2020), para 2; A/RES/77/169 (2022), para 2; A/RES/79/210 (2024), para 2.

3.1. International Biodiversity Law

17. The Convention on Biological Diversity (CBD) was adopted in Rio in 1992 and hence emerged from a context dominated by the narrative of sustainable development, an important consideration in relation to the role and orientation of the CBD (see also later section on sustainable development). In this respect, the CBD has been described as the ‘epitome’ of a new ‘breed’ of multilateral legal regimes combining environment and development.¹⁷ While most other conventions relating to biodiversity or wildlife prior to the CBD focus almost exclusively on conservation, the CBD introduced the paired objectives of conservation and (sustainable) use.¹⁸ The CBD also introduced concepts such as ‘biodiversity’ and ‘ecosystems’ into the multilateral environmental law vocabulary. It must be however observed that other treaties had already deployed the concept and the vocabulary of ecosystems.¹⁹

18. Among its key innovations, the CBD recognizes in its preamble the “intrinsic value of biological diversity” as central.²⁰ This might be significant, as the recognition of the intrinsic value of nature is one of the central elements of ecocentrism.²¹ This inclusion in the Preamble of intrinsic value might thus be read as a move, in the context of the CBD, in the direction of ecocentric approaches to conservation. Indeed, some commentators suggested early on that a progression ‘from a purely anthropocentric vision [...] to acknowledging an intrinsic value of nature’, marks ‘a change of the predominant paradigm in international environmental law’.²² And ecocentrism is a key aspect of the RoN movement and of its project of re-orienting the ontology and epistemology of law.²³

19. Outside of this preambular reference to intrinsic value, a second aspect that might be read as indicating an ecocentric orientation within the CBD, and notwithstanding internal tensions is the significant place occupied by the ecosystem approach. While the ecosystem approach is affected by potentially irreducible complexities and may be subjected to a diversity of narrative and philosophical orientations, it still signals an important emphasis on the principle of ecosystem integrity, which chimes with RoN perspectives in relation to the need to safeguard a model of conservation which places ecosystem processes and their integrity at the centre, and overcomes the separation of humankind and nature.²⁴

¹⁷ Elisa Morgera and Elsa Tsioumani, ‘Yesterday, Today, and Tomorrow: Looking Afresh at the Convention on Biological Diversity’ (2011) 21(1) *Yearbook of International Environmental Law* 3.

¹⁸ eg Louis Kotzé and Thilo Marauhn (eds), *Transboundary Governance of Biodiversity* (Martinus Nijhoff 2014). One exception is the Ramsar Convention, which focuses on ‘wise use’.

¹⁹ eg Agreement on Conservation of Polar Bears, Oslo, 15 November 1973, 2898 UNTS 243, art II; Convention on the Conservation of Antarctic Marine Living Resources, Canberra, 20 May 1980, 1329 UNTS 48; The United Nations Convention on the Law of the Sea, Montego Bay, 10 December 1982, 1833 UNTS 3 contains a generic reference to “ecosystems” in art 194 (“The measures taken in accordance with this Part shall include those necessary to protect and preserve rare or fragile ecosystems”).

²⁰ CBD, Preamble.

²¹ Patrick Curry, *Ecological Ethics – An Introduction* (2nd edn, Wiley 2011).

²² Susan Emmenegger and Axel Tschentscher, ‘Taking Nature’s Rights Seriously: The Long Way to Biocentrism in Environmental Law’ (1994) 6 *Georgetown International Environmental Law Review* 545, 547–48.

²³ Cormac Cullinan, *Wild Law: A Manifesto for Earth Justice* (2nd edn, Green Books 2011); Alessandro Pelizzon, *Ecological Jurisprudence – The Law of Nature and the Nature of Law* (Springer 2025).

²⁴ See generally Vito De Lucia, ‘Competing Narratives and Complex Genealogies: The Ecosystem Approach in International Environmental Law’ (2015) 27(1) *Journal of Environmental Law* 91.

3.1.1. The Global Biodiversity Framework

20. The Kunming-Montreal Global Biodiversity Framework (GBF) was adopted at COP15 of the CBD, in December 2022. The GBF sets out the post-2020 biodiversity framework and an ambitious set of goals to reach the global vision of a world living in harmony with nature by 2050. Key in the GBF are its 4 goals for 2050 and its 23 targets for 2030. As explored in section 2 above, the “harmony with nature” vision contained in the GBF links up to the UN Harmony with Nature initiative (see section 2.2). Building on this, the GBF recognizes a diversity of values, as well as epistemologies and vocabularies, and includes, significantly, rights of nature in its framework:

“Nature embodies different concepts for different people, including biodiversity, ecosystems, Mother Earth, and systems of life. Nature’s contributions to people also embody different concepts, such as ecosystem goods and services and nature’s gifts. Both nature and nature’s contributions to people are vital for human existence and good quality of life, including human well-being, living in harmony with nature, and living well in balance and harmony with Mother Earth. The Framework recognizes and considers these diverse value systems and concepts, including, for those countries that recognize them, rights of nature and rights of Mother Earth, as being an integral part of its successful implementation”.²⁵

21. Further, “[t]he vision of the Kunming-Montreal Global Biodiversity Framework is a world of living in harmony with nature where “by 2050, biodiversity is valued, conserved, restored and wisely used, maintaining ecosystem services, sustaining a healthy planet and delivering benefits essential for all people”.²⁶ It is however here visible how the final considerations stand in tension with the recognition of the intrinsic value of biological diversity, as the emphasis is placed on “delivering benefits essential for all people”.²⁷

22. Notwithstanding this, Target 16 aims at enabling people to make choices that would ensure “all people to live well in harmony with Mother Earth”.²⁸ Target 19, which focuses on financing, includes in its scope “[e]nhancing the role of collective actions, including by Indigenous peoples and local communities, Mother Earth centric actions”,²⁹ which in turn are framed as “[e]cocentric and rights-based approach enabling the implementation of actions towards harmonic and complementary relationships between peoples and nature, promoting the continuity of all living beings and their communities and ensuring the non-commodification of environmental functions of Mother Earth”.³⁰ Likewise, harmony with nature is included under Section K on Communication, education, awareness and uptake, and more specifically in relation to the integration of “transformative education on biodiversity into formal, non-formal and informal educational programmes”, with the view of “promoting knowledge,

²⁵ Decision 15/4, Kunming-Montreal Global Biodiversity Framework, Conference of the Parties to the Convention on Biological Diversity, UN Doc CBD/COP/DEC/15/4 (2022) Section C, para 7(b).

²⁶ Ibid., Section E, para 9.

²⁷ Vito De Lucia, ‘Beyond Anthropocentrism and Ecocentrism: a Biopolitical Reading of Environmental Law’ (2017) 8(2) *Journal of Human Rights and the Environment* 181.

²⁸ Decision 15/4 (n 25) Target 16, p 11.

²⁹ ibid Target 19, p 12.

³⁰ ibid fn 13.

attitudes, values, behaviours and lifestyles that are consistent with living in harmony with nature”.³¹

3.1.2. Relevance of ‘Diverse Values’ and Indigenous Peoples’ and Local Communities’ Traditional Ecological Knowledge

23. The GBF explicitly promotes a pluralist agenda. It contains numerous references to Indigenous Peoples and Local Communities (IPLCs) and traditional ecological knowledge. The entire GBF makes continuous reference to taking into consideration the rights, traditional knowledge, worldviews, values and practices of IPLCs as they are understood as both crucial stakeholders of and contributors to the realisation of the goals of the GBF. The relevance of IPLCs is also captured in the pluralist vocabulary deployed in the GBF, where nature and Mother Earth, harmony and living well, are used interchangeably, and indicate the commitment of the GBF to different value systems and different epistemologies.³² Indeed, the GBF is explicit when it “recognizes and considers these diverse value systems and concepts, including, for those countries that recognize them, rights of nature and rights of Mother Earth, as being an integral part of its successful implementation”.³³ Importantly, Section K of the GBF, which focuses on communication, aims at raising “awareness, understanding and appreciation of the knowledge systems, diverse values of biodiversity and nature’s contributions to people, including [...] traditional knowledge and worldviews of Indigenous peoples and local communities”.³⁴ Education is also relevant, and the GBF recognises how its implementation requires “requires transformative, innovative and transdisciplinary education” that includes and recognizes “diverse world views, values and knowledge systems of Indigenous peoples and local communities”.³⁵

24. For a RoN perspective, diversity of values and of epistemologies is crucial, as much of the overarching theoretical framework of RoN draws on Indigenous cosmologies and early implementation of RoN in domestic legal systems has originated from Indigenous movements, such as the case of Bolivia, and Indigenous worldviews also underpin the UN Harmony with Nature initiative.

3.2. International Human Rights Law

25. International human rights law has traditionally approached nature as either a resource or something to be protected, primarily for human wellbeing.³⁶ However, recent developments relating to the right to a healthy environment, especially in the jurisprudence of institutions such as the Inter-American Court of Human Rights (IACtHR), now recognise certain attributes of nature as legal interests in themselves, protected not only for their human value but also for their inherent worth and for other living organisms. This shift is seen as bridging

³¹ *ibid* Section K, para 22(f).

³² *ibid* Section C, para 7(b).

³³ *ibid*.

³⁴ *ibid* Section K, para 22(a).

³⁵ *ibid* Section C, para 7(o).

³⁶ Jérémie Gilbert, ‘Human Rights & the Right of Nature: Friends or Foes?’ (2024) 47 *Fordham International Law Journal* 447; Frédéric Mégret, ‘The Anthropocentrism of Human Rights’ in Vincent Chapaux, Frédéric Mégret and Usha Natarajan (eds), *The Routledge Handbook of International Law and the Anthropocentrism* (Routledge 2023), p 35.

anthropocentric human rights and ecocentric legal frameworks, with RoN and international human rights increasingly understood as complementary. To analyse these developments, the following section first explores some of the work of the international human rights monitoring bodies, before analysing the pioneering work of the IACtHR in linking RoN and human rights, and finally providing an overview of some of the decisions and connections made between human rights and RoN at the national level.

3.2.1. Rights of Nature in the Work of the International Human Rights Monitoring Bodies

26. Several of the international human rights monitoring bodies have begun to integrate rights of nature concepts in their jurisprudence and reporting through the recognition of Indigenous peoples' rights, the right to a healthy environment, and the emergence of cultural, spiritual, and custodial relationships with nature. The UN human rights treaty bodies, including the Human Rights Committee and the Committee on Economic, Social and Cultural Rights (CESCR), have highlighted that the right to take part in cultural life and to maintain spiritual and cultural connections with ancestral lands encompass the relational and kinship concepts advocated by RoN movement. These bodies recognise that violations of Indigenous peoples' rights to land, self-determination, and culture often equate to violations of their rights to maintain eco-centric, non-anthropocentric relationships with nature. The CESCR, for example, has interpreted the right to take part in cultural life to encompass Indigenous peoples' kinship with their ancestral lands, grounding legal recognition for eco-centric relationships and rights of nature arguments.³⁷ UN Special rapporteurs have also started to adopt more RoN language in their work. For example, in his 2024 report, the UN Special Rapporteur on the right to development, Surya Deva, developed a climate justice framework which also underlined the importance of a less anthropocentric approach to climate justice and the need to integrate multi-species justice 'to deal with climate change as well as to respond to loss and damage.'³⁸ However, despite these evolutions, most direct enforcement remains anthropocentric, with rights of nature largely embedded through Indigenous and collective rights frames rather than as independent, standalone legal rights for ecosystems in international human rights law.

3.2.2. Rights of Nature in the Inter-American Court of Human Rights' Case Law

27. In regional human rights law, the role of the IACtHR must be highlighted. The Court first addressed environmental issues through the lens of Indigenous territorial and resource rights. For the Court, the protection of Indigenous peoples' territories entails an obligation on the State to conduct environmental impact assessments before authorising the exploitation of natural resources, as well as to consult the communities living on the affected lands.³⁹

³⁷ Committee on Economic, Social and Cultural Rights, General comment No. 21 – Right of everyone to take part in cultural life (art 15, para 1(a), of the International Covenant on Economic, Social and Cultural Rights), UN Doc E/C.12/GC/21 (2009).

³⁸ Report of the Special Rapporteur on the right to development, Surya Deva: Climate justice: loss and damage, UN Doc A/79/168 (2024) para 33.

³⁹ *Kichwa Indigenous Peoples of Sarayaku v Ecuador* Inter-American Court of Human Rights (2012); *Kaliña and Lokono Peoples v Suriname* Inter-American Court of Human Rights (2015); *Saramaka People v Suriname* Inter-American Court of Human Rights (2007).

28. Some years later, the Court recognised the right to a healthy environment as an autonomous human right, elaborating States' procedural and substantive duties in environmental decision-making. In its Advisory Opinion on the Environment and Human Rights, the Court mentioned for the first time the right to a healthy environment as a fundamental right and emphasised that States bear numerous concrete duties arising from it, including prevention, mitigation, regulation of environmental harm, the conduct of environmental impact assessments, access to information, public participation, and cooperation in cases of transboundary environmental damage.⁴⁰ In the subsequent case of *Lhaka Honhat Association v Argentina* (2020), the Court applied this right under its contentious jurisdiction for the first time, thereby confirming that it is a justiciable right.

29. In both the 2017 Advisory Opinion and the *Lhaka Honhat Association* judgment, the Court underlined that the right to a healthy environment protects components of nature for their intrinsic value, not solely for their utility to human beings. This idea was reiterated in the latter case of *Inhabitants of La Oroya v Peru* (2023).

30. In its Advisory Opinion on the Climate Emergency, the Court went further, affirming that “advancing towards a paradigm that recognises rights inherent in ecosystems is fundamental for protecting their long-term integrity and functionality” and that “it also provides coherent and effective legal tools [...] to prevent existential harm before it becomes irreversible”.⁴¹ However, the Court's approach remains ambiguous. First, the Court alternates between the idea of nature as a rights-holder and other conceptualisations whose relationship with that idea is unclear (for example, nature as “a collective subject of general interest”, para. 281). Second, it remains uncertain what concrete legal consequences arise from characterising nature as a rights-holder.

31. Nonetheless, overall, international human rights law has started to integrate RoN both as part of the specific rights of Indigenous peoples, and also as part of the right to a healthy environment.

3.3 International Criminal Law

32. International criminal law addresses environmental harm mainly by incorporating it into established crimes like war crimes, rather than standalone offences, though momentum is building for recognising “ecocide.” The International Criminal Court (ICC)'s Rome Statute provides limited direct mechanisms. Its Article 8(2)(b)(iv) criminalises intentionally launching attacks causing “widespread, long-term, and severe damage to the natural environment” as a war crime, applicable only in international armed conflicts. Additional Protocol I to the Geneva Conventions echoes this threshold in Articles 35 and 55, prohibiting methods of warfare with similar environmental impacts.⁴² Yet, few cases have actually engaged with environmental destruction.

⁴⁰ Inter-American Court of Human Rights, *The Environment and Human Rights*, Advisory Opinion OC-23/17 of 15 November 2017.

⁴¹ Inter-American Court of Human Rights, *Advisory Opinion OC-32/25 of 29 May 2025 – Climate Emergency and Human Rights*, para 279.

⁴² Note also Jean-Marie Henckaerts and Louise Doswald-Beck, *International Committee of the Red Cross – Customary International Humanitarian Law* (Cambridge University Press 2005) Rule 45 discussing the prohibition of the destruction of the environment.

33. One of the main developments linking international criminal law more directly to the concept of RoN is the proposal to adopt the crime of ecocide as a fifth Rome Statute crime. Ecocide seeks to hold individuals or entities, such as states, corporations, or leaders, criminally responsible for actions that cause severe environmental destruction on a large scale.⁴³ Yet, ecocide is presently not codified as an international crime and other laws rarely impose criminal liability for large-scale ecosystem destruction unless tied to existing crimes.⁴⁴

34. Recently, ecocide's relevance and popularity as a *legal concept* has grown. Several national and regional proposals around the world have called for the recognition of ecocide as an *international crime*, integrated into existing environmental treaty regimes with criminal penalties at the national level,⁴⁵ or within the structure of the ICC's Rome Statute. An international Independent Expert Panel has proposed a definition of ecocide as "unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused by those acts."⁴⁶

35. Proponents of developing ecocide as a Rome Statute crime emphasize that the existing Rome Statute crimes only cover harms with direct impact on people and property. Requiring human or property-related harm as a condition for the imposition of accountability against those who cause severe environmental destruction reflects an anthropocentric approach and restricts the effectiveness of environmental crimes. Moreover, the Rome Statute explicitly addresses environmental harm only as a war crime with an exceptionally high threshold. A crime addressing environmental devastation in peacetime as well as during armed conflict is fundamental to ensuring that the Rome Statute appropriately provides a measure of accountability for environmental destruction, which in turn reflects an understanding of the severity of the danger posed by grave environmental harms. Finally, the inclusion of the crime of ecocide within the Rome Statute could lead toward increased environmental protection in domestic, regional, and international courts, pursuant to the principle of complementarity, inherent in the Rome Statute structure.

36. A number of ecocide law proposals have been modelled on a proposed legal definition of ecocide developed by the Independent Expert Panel established by Stop Ecocide International,⁴⁷ including the text the European Parliament proposed for the recently adopted revision of the EU Directive on the protection of the environment through criminal law.⁴⁸ At the national level, Ukraine has legislation, which criminalizes ecocide but there have been any finalized prosecutions yet that charge a defendant with the crime of ecocide per se. Ukrainian

⁴³ Michael Karnavas, 'Ecocide: Environmental Crime of Crimes or Ill-Conceived Concept?' (2021) OpinioJuris <<https://opiniojuris.org/2021/07/29/ecocide-environmental-crime-of-crimes-or-ill-conceived-concept/>>.

⁴⁴ United Nations Office on Drugs and Crime, The Landscape of Criminalization, Global Analysis on Crimes That Affect the Environment (2025) <https://css.unodc.org/documents/data-and-analysis/Crimes%20on%20Environment/ECR_1.Legislative_Review.pdf>.

⁴⁵ Lorenzo Colantoni, Giulia Sofia Sarno and Margherita Bianchi, 'Fighting Environmental Crime in Europe' (Istituto Affari Internazionali 2022) <www.iai.it/sites/default/files/ambitus_report.pdf>.

⁴⁶ Stop Ecocide Foundation, Independent Expert Panel for the Legal Definition of Ecocide, Commentary and Core Text (2021).

⁴⁷ Ecocide Law, Ecocide/serious environmental crimes in national jurisdiction <<https://ecocidelaw.com/existing-ecocide-laws/>>.

⁴⁸ Directive of the European Parliament and of the Council on the protection of the environment through criminal law and replacing Directives 2008/99/EC and 2009/123/EC (2024).

prosecutors have brought charges under conventional international humanitarian law war-crime or crimes against humanity theories.⁴⁹

IV. SPECIFIC ECOSYSTEMS AND THE RIGHTS OF NATURE

37. This section of the report focuses on areas of international law concerned with specific ecosystems, such as the seas and the oceans or Antarctica, since rights of nature are also developing not only for nature as whole but also for specifically defined ecosystems and natural entities.

4.1. The Law of the Sea

38. After its adoption in 1982, the United Nations Convention on the Law of the Sea (UNCLOS) has been seen as “not only [promoting] our individual national interests but also in pursuit of our common dream of writing a constitution for the oceans”.⁵⁰ Even if the notion of “constitution” was not the most appropriate, the Convention remains a “framework treaty concerned [...] with establishing a broader legal architecture and the general rules and principles that are meant to influence future legal developments”.⁵¹ The UNCLOS was the first legal instrument to qualify the seabed, ocean floor and subsoil (the “Area”) as the common heritage of humankind.⁵²

39. Since then, the Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction (BBNJ Agreement) and the International Seabed Authority (ISA) draft regulations on exploitation of mineral resources in the Area have reaffirmed this principle.⁵³ It involves the responsibility to take “[n]ecessary measures [...] to ensure effective protection for the marine environment from harmful effects which may arise from such activities”.⁵⁴ It should “also [apply] to the Area as a whole, and hence also to the value of the deep seabed [...]”.⁵⁵ Also, when new legal instruments reaffirm the principles of the Convention, these need to follow an

⁴⁹ Global Rights Compliance, Ukraine Brings First-Ever War Crimes Case to Court for Harm to a Natural Reserve (6 February 2025) <<https://globalrightscompliance.org/ukraine-brings-first-ever-war-crimes-case-to-court-for-harm-to-a-natural-reserve/>>.

⁵⁰ Tommy T B Koh, ‘A Constitution for the Oceans’ (adapted from statements by the President on 6 and 11 December 1982 at the final session of the Conference at Montego Bay)’ <https://www.un.org/depts/los/convention_agreements/texts/koh_english.pdf>.

⁵¹ Reece Lewis, ‘The “Constitution for the Oceans”? The Law of the Sea Convention as a Living Treaty’ (2025) 74 *International and Comparative Law Quarterly* 1, 11.

⁵² United Nations Convention on the Law of the Sea (n 19) art 136; Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, New York, 28 July 1994, 1836 UNTS 3.

⁵³ Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction, UN Doc. A/CONF.232/2023/4 (2023), art 7 [BBNJ Agreement]; International Seabed Authority, Draft Regulations on Exploitation of Mineral Resources in the Area 11/2024, Doc ISBA/30/C/CRP.1 (2024), Preamble; Regulation 2 (ISA Draft Regulation).

⁵⁴ United Nations Convention on the Law of the Sea (n 19) art 145.

⁵⁵ Marie Bourrel, Torsten Thiele and Duncan Currie, ‘The Common of Heritage of Mankind as a Means to Assess and Advance Equity in Deep Sea Mining’ (2018) 95 *Marine Policy* 311.

ecosystem approach, and the BBNJ Agreement additionally demands an approach that builds ecosystem resilience and maintains and restores ecosystem integrity.⁵⁶ But it is important here to highlight that an ecosystem approach can be ecocentric (intrinsic value in all parts of an ecosystem, including non-living elements, and prioritizes the system as a whole) or anthropocentric (nature as a resource for human benefit and well-being).⁵⁷

40. The next step in this dynamic of protection would be to recognize the Ocean as a rights holder. This idea is further supported by Challenge 10 of the Ocean Decade, which is to restore – or change⁵⁸ – society’s relationship with the ocean.⁵⁹ While an anthropocentric definition of the ocean still prevails – “[the] shared global ocean is not a separate entity, but an indispensable extension of ourselves and society”⁶⁰ – the Ocean Decade points to anthropocentrism as a barrier to change humanity’s relationship with the Ocean⁶¹ and highlights the desire to establish reciprocal, sustainable, and restorative relationships between the oceans and human beings.⁶² Furthermore, the “intrinsic values of the ocean” have been newly recognized at the international level as deserving of preservation and conservation.⁶³ Lastly, the inclusion of Indigenous knowledge is promoted by different instruments and can play a major role in the recognition of ecocentric rights for the Ocean.

4.2. International Law on Freshwater

41. The 1992 UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Helsinki Convention) defines a “transboundary impact” to include effects on environmental factors such as flora, fauna, soil, air, water and climate (Article 1(2)). The Parties are required to take all appropriate measures to ensure (i) that transboundary waters are used with the aim of “ecologically sound” water management, conservation of water resources and environmental protection and (ii) conservation and restoration of ecosystems (Article 2(2)(b) & (d) respectively).⁶⁴ Parties are permitted to impose stricter requirements, even leading to prohibition in individual cases, when the quality of the receiving water or the ecosystem so requires (Article 3(1)(d)) and to apply the ecosystem approach (Article 3(1)(i)). The 1999 Protocol on Water and Health to the Helsinki Convention includes multiple references to water ecosystems but the underlying perspective remains anthropocentric.⁶⁵

⁵⁶ ISA Draft Regulation (n 52), regulation 2; BBNJ Agreement (n 53) art 7.

⁵⁷ eg Vito De Lucia, ‘Competing Narratives and Complex Genealogies – The Ecosystem Approach in International Environmental Law’ (2015) 27(1) *Journal of Environmental Law* 91-117.

⁵⁸ Modified with the Vision 2030 White Papers in 2024.

⁵⁹ UNESCO-IOC, The United Nations Decade of Ocean Science for Sustainable Development (2021-2030) Implementation Plan (UNESCO 2021) 23; LD Glithero et al, ‘Ocean Decade Vision 2030 White Papers - Challenge 10: Restoring Society's Relationship with the Ocean’ (UNESCO-IOC 2024) 20.

⁶⁰ *ibid* p 8.

⁶¹ *ibid* Table 1, p 12.

⁶² *ibid* p 20.

⁶³ V Hatje et al, ‘Ocean Decade Vision 2030 – A Theory of Change for the Ocean Decade Challenge 10 (2025-2030)’ (UNESCO-IOC 2025) p 18; IUCN World Conservation Congress, Resolution 8.055 Advancing an Ethical Human-Ocean Relationship (2025) para 2.a.

⁶⁴ *Convention on the Protection and Use of Transboundary Watercourses and International Lakes* (adopted 17 March 1992, entered into force 6 October 1996) 1936 UNTS 269.

⁶⁵ Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes, London, 17 June 1999, UN Doc. MP.WAT/2000/1.

42. The 1997 Convention on the Law of the Non-navigational Uses of International Watercourses⁶⁶ sets out several obligations of watercourse States that may protect RoN although the overwhelming emphasis is on anthropocentric interests. The watercourse States have an obligation to “protect and preserve the ecosystems of international watercourses” (Article 20) and to “prevent, reduce and control the pollution of an international watercourse that may cause significant harm to” to the environment of other watercourse States, including harm to the living resources of the watercourse (Article 21(2)). These States also have obligations to prevent the introduction of alien or new species into international watercourse which may have detrimental effects on the ecosystem of the watercourse (Article 22) and to protect and preserve the marine environment, including estuaries (Article 23). The ILC has clarified that obligations incorporating an ecosystem protection are applicable to transboundary aquifers.⁶⁷ One form of an ecosystem approach in the context of international watercourses is the requirement to maintain minimum environmental flows.⁶⁸

43. The International Law Association (ILA) has already envisaged a role for international law in protecting the intrinsic value of water and advancing ecosystem-based approaches. The 1966 Helsinki Rules on the Uses of the Waters of International Rivers incorporated early ecological awareness by clarifying that the international law on the uses of rivers applies to the entirety of river basins.⁶⁹ The 2004 Berlin Rules on Water Resources revised the 1966 Helsinki Rules and extended its scope beyond international drainage basins to cover the management of all waters. They also expanded the original focus on water pollution control towards the protection of aquatic ecosystems by setting out principles on sustainability, minimization of environmental harm, ecological integrity, the precautionary approach, ecological flows, among other.⁷⁰ Wetlands are bodies of water to which international environmental law accord ecosystem protection requirements.⁷¹ The preamble of the 1971 Convention on Wetlands of International Importance especially as Waterfowl Habitat considers “the fundamental ecological functions of wetlands as regulators of water regimes and as habitats supporting a characteristic flora and fauna”, and the “ecological character” of wetlands plays a key role in the operation of the Convention. However, the anthropocentric orientation that leads to wetland protection is evident from recognition, in the preamble, that “wetlands constitute a resource of great economic, cultural, scientific, and recreational value, the loss of which would be irreparable”. Recent initiatives, albeit soft law in nature, seek to protect RoN in specific waterbodies such as wetlands and rivers. These include the proposed draft resolution on Rights of Nature in Wetlands for the 64th meeting of the Standing Committee of the Ramsar

⁶⁶ *Convention on the Law of the Non-Navigational Uses of International Watercourses* (adopted 21 May 1997, entered into force 17 August 2014) 2999 UNTS 77. See also ILC’s Commentary, II(2) Yearbook of the International Law Commission 1994, 118-25.

⁶⁷ Draft Articles on the Law of Transboundary Aquifers, UN Doc A/63/10(SUPP) 19, arts 5(1)(i), 10. See also UNECE, Model Provisions on Transboundary Groundwaters, UN Doc ECE/MP.WAT/40 (2014), Provision 2(1).

⁶⁸ *Indus Waters Kishenganga Arbitration (Pakistan v India)* (Partial Award on 18 February 2013) (Permanent Court of Arbitration) [455]; *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v Nicaragua)* (Judgment of 16 December 2015) *ICJ Reports 2015*, [105].

⁶⁹ International Law Association, *The Helsinki Rules on the Uses of the Waters of International Rivers* (1966), Report of the Committee on the Uses of the Waters of International Rivers (1967) art II & Chapter 3.

⁷⁰ International Law Association, *The Berlin Rules on Water Resources* (2004) art 7, 8, 22-28, 40-41.

⁷¹ *Convention on Wetlands of International Importance especially as Waterfowl Habitat*, Ramsar, 2 February 1971, 996 UNTS 245. See also Ramsar Conference of the Parties Resolution IX.1 (2005), Annex A.

Convention, which was withdrawn;⁷² and the IUCN resolution on Living in Harmony with Rivers through the Rights of Nature and Ecocentric Law adopted at the 2025 IUCN World Conservation Congress.⁷³

4.3. Antarctica

44. The continent of Antarctica is governed by the Antarctic Treaty System (ATS), which prioritizes peace, science, and environmental protection over sovereignty or exploitation. The ATS demonstrates an evolution from anthropocentric to ecocentric frameworks in international law. While the 1959 Antarctic Treaty operates within anthropocentric objectives of peaceful use and scientific cooperation, the 1964 Agreed Measures for Conservation of Antarctic Fauna and Flora contain implicit ecocentric elements, recognizing the “unique nature” and “defencelessness” of Antarctic species, though lacking explicit intrinsic value language.⁷⁴ Further, the ATS includes several non-use measures that could promote RoN indirectly.⁷⁵

45. The 1991 Protocol on Environmental Protection to the Antarctic Treaty (Madrid Protocol) explicitly recognizes Antarctica’s intrinsic value.⁷⁶ It establishes that “[t]he protection of the Antarctic environment and dependent and associated ecosystems and the intrinsic value of Antarctica, including its wilderness and aesthetic values” shall be “fundamental considerations” in planning and conducting all Antarctic activities (Article 3(1)). This provision requires State Parties to protect Antarctica for its own sake, independent of human utility. Further, Antarctica is designated as a “natural reserve, devoted to peace and science” (Article 2) and activities causing degradation to areas of “aesthetic or wilderness significance” are prohibited (Article 3(2)(b)(vi)). Moreover, Annex V requires protection of areas with “outstanding aesthetic and wilderness values” (Article 3(1)(e)), operationalizing intrinsic value through spatial protection mechanisms. Despite explicit recognition, the Madrid Protocol does not define “intrinsic value”, creating interpretive challenges. For example, Article 3(3) states that activities shall accord priority to scientific research, creating tension with Article 3(1)’s intrinsic value protection mandate. Overall, implementation of the intrinsic value has remained limited.

46. Recent Antarctic Treaty Consultative Meetings (ATCM) have not substantively advanced intrinsic value operationalization. ATCM Decision 5 (2024) references “intrinsic natural wilderness values” in tourism management but provides no concrete implementation mechanisms.⁷⁷ More recently, during the 2025 World Conservation Congress, the IUCN has adopted a resolution on the rights of the Antarctica calling for recognition of Antarctica’s “inherent rights and freedoms to exist, be wild, and continue regenerative cycles free of human disruption”.⁷⁸

⁷² SC64 Doc.29.7 (2024); *Report and Decisions of the 64th meeting of the Standing Committee* (2025), paras. 135-141, 224.

⁷³ IUCN World Conservation Congress, Resolution 8.066 Living in Harmony with Rivers through the Rights of Nature and Ecocentric Law (2025).

⁷⁴ Agreed Measures for Conservation of Antarctic Fauna and Flora, Brussels, 2 June 1964.

⁷⁵ Solène Guggisberg, ‘Rights of Nature and Non-use of Nature for Environmental Protection in Antarctica’ (2024) 14(2) *The Polar Journal* 446.

⁷⁶ Protocol on Environmental Protection to the Antarctic Treaty, Madrid, 4 October 1991, 2941 UNTS 3.

⁷⁷ Decision 5 (2024) Development of a Framework for the Regulation of Tourism and Other Non-Governmental Activities in Antarctica (ATCM 46 - CEP 26, Kochi) <www.ats.aq/devAS/Meetings/Measure/835>.

⁷⁸ IUCN World Conservation Congress, Resolution 8.054, Recognition of the Rights of Antarctica (2025).

47. In parallel to these various soft law developments, non-State actors are also calling for the recognition of the rights of Antarctica and each Antarctic being. Campaigns like Antarctic Rights and the 2023 draft Antarctica Declaration seek legal personhood for the continent as “an independent, autonomous entity with unique international legal status and personality”.⁷⁹ Its proposed Article IV establishes the rights of Antarctica, and each Antarctic being, to “exist, and to maintain and regenerate themselves and the relationships which create the living communities which sustain them” and “the freedom to be wild and the right to continue their regenerative cycles and processes”, etc. Article VIII sets out the duties of human beings, states, and public or private entities recognised by law to “respect and protect the presence, dignity, beauty and intrinsic value, of Antarctica and Antarctic beings” etc. Interestingly Article X also calls for Antarctica’s effective representation in “human decision-making that affects them, their legal status, rights or freedoms”. However, for the time being, this proposal remains a civil society led initiative.

4.4. Land and Soils

48. International law addresses land and soil protection through non-binding soft law instruments rather than dedicated global treaties, emphasising sustainable use, prevention of degradation, and links to food security and climate goals. Key instruments frame land and soil as finite resources tied primarily to anthropocentric human rights but also broader ecological concerns.

49. The UN Food and Agriculture Organization (FAO) is a key international actor when it comes to defining international approaches to land and soil. The FAO’s Revised World Soil Charter (Charter), promotes sustainable soil management by urging states to monitor degradation, limit contaminants, and integrate soil data into national policies. It requires individuals to “act as stewards of the soil to ensure that this essential natural resource is managed sustainably to safeguard it for future generations”.⁸⁰ The Charter frames soil as a “key enabling resource” for “goods and services integral to ecosystems and human well-being”.⁸¹ It adopts an anthropocentric approach notably framing protection through ecosystem services and sustainable development rather than recognizing the intrinsic value of the soil. It acknowledges soil’s role in “climate regulation” but solely as ecosystem services, reflecting the instrumental value of soil throughout.⁸²

50. This utilitarian approach persists across FAO soil governance frameworks. The FAO Voluntary Guidelines for Sustainable Soil Management define sustainable soil management as maintaining soil services “without significantly impairing either the soil functions that enable those services or biodiversity”.⁸³ Although the FAO State of Knowledge of Soil Biodiversity

⁷⁹ See Antarctic Rights Working Group, Draft Antarctica Declaration (2023) <https://antarcticrights.org/wp-content/uploads/2023/11/Antarctica-Declaration_draft_2023.11.30c-1.pdf>.

⁸⁰ FAO, Revised World Soil Charter 2015, p. 6 <<https://openknowledge.fao.org/handle/20.500.14283/i4965e>>.

⁸¹ Ibid, para 3.

⁸² Ibid, para 9.

⁸³ FAO, Voluntary Guidelines for Sustainable Soil Management 2017, para 1.5 <<https://openknowledge.fao.org/server/api/core/bitstreams/9a5b9373-3558-43b3-b732-f69326a7314d/content>>.

Report documents soil as containing 25 percent of global biodiversity, yet it frames protection through “nature-based solutions” rather than recognition of rights of nature.⁸⁴

51. Another important area of international law when it comes to land and soil is the 1992 UN Convention to Combat Desertification (UNCCD) which addresses arid land degradation, requiring parties to combat soil erosion and restore productivity, especially in drylands. Article 2 defines the objective as combating desertification “with a view to contributing to the achievement of sustainable development”.⁸⁵ The UNCCD contains no intrinsic value provisions perhaps reflecting limited scientific understanding of soil as a complex living ecosystem at that time. Nonetheless more ecocentric approaches have been explored during recent COPs of the UNCCD. For example, COP16 supported the creation of an Indigenous Peoples’ Caucus, and took note of the Indigenous Peoples Declaration.⁸⁶ Decision 7/COP.16 invites parties to prioritize “nature-based solutions and/or ecosystem-based approaches” to achieve “combined environmental and socio-economic gains”, maintaining anthropocentric framing.

52. Complementary frameworks like the Convention on Biological Diversity (CBD) indirectly protect soils via biodiversity. For example, at the CBD COP15 adopted a Plan of Action (2020-2030) acknowledging soil biodiversity’s importance in “underpinning the functioning of terrestrial ecosystems and, therefore, most of the services it delivers”.⁸⁷

53. Lastly, the IUCN is also an important actor in the complex and fragmented international law landscape on soil and land. For example, the 2000 IUCN Amman Soil Resolution proposed the development of a soil treaty, framework convention, or protocol to existing treaties.⁸⁸ In 2025, the IUCN World Conservation Congress decided to work towards an international convention or a global legal instrument on soil security.⁸⁹

V. KEY INTERNATIONAL LEGAL PRINCIPLES AND THE RIGHTS OF NATURE

54. This section explores the potential connections between some of the key international law principles and RoN, notably the principles of sustainable development, and intra and intergenerational equity, as well as cultural diversity.

⁸⁴ FAO, State of Knowledge of Soil Biodiversity - Status, challenges and potentialities – Report 2020, p. 111 <<https://openknowledge.fao.org/handle/20.500.14283/cb1928en>>.

⁸⁵ United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, Paris, 14 October 1994, 1954 UNTS 3.

⁸⁶ Decision 5/COP.16, ‘Participation and involvement of civil society organizations in meetings and processes of the United Nations Convention to Combat Desertification’ and Decision 34/COP.16, Declaration of the Indigenous Peoples, United Nations Convention to Combat Desertification, Report of the Conference of the Parties on its sixteenth session, UN Doc ICCD/COP(16)/24/Add.1 (2024).

⁸⁷ Decision 15/28, ‘Biodiversity and Agriculture’, Conference of the Parties to the Convention on Biological Diversity, UN Doc CBD/COP/DEC/15/28 (2022).

⁸⁸ I D Hannam, ‘The Amman Soil Resolution: Towards Improved International and National Legislation for Sustainable Use of Soil’ (13th International Soil Conservation Organisation Conference, Brisbane 2004) <<https://topsoil.nserl.purdue.edu/isco/isco13/PAPERS%20F-L/HANNAM%202.pdf>>.

⁸⁹ IUCN World Conservation Congress, Resolution 8.007 Soil Security Law (2025).

5.1. Sustainable Development and Intra- and Inter-Generational Equity

55. Sustainable development has been the umbrella notion guiding the development and operationalisation of environmental law at the international and national levels for close to four decades. Environmental law in its present form cannot be understood without reference to sustainable development. In particular, it reflects the Rio Declaration's framing of integration between development and environmental protection.⁹⁰ One of the characteristics of this framing is that environmental protection and exploitation of natural resources are put on the same level but the former is not prioritised. Progressively, the idea of integration between development and environment reflected in the Rio Declaration came under strain. The push at Rio+20 in 2012 to introduce the concept of green economy echoed a trend towards giving economic growth priority over environmental protection.⁹¹ The framing of sustainable development in the context of the Sustainable Development Goals (SDGs) has not substantially changed the balance between environmental protection and economic development.⁹² In fact, there are few SDGs that are specifically focusing on the environment and the ones that do are framed at best in a context of integration, as in the case of SDG 8 that simply calls for decoupling economic growth from environmental degradation. Sustainable development was at the outset and remains fundamentally welded to the ideology of development, which is anthropocentric. This has limited the potential of sustainable development to be a vehicle for the development of RoN. This is potentially problematic in a context where the UN Harmony with Nature programme was conceived from the outset as falling within sustainable development.⁹³

56. The potential contribution of sustainable development, as it has developed through soft law instruments since the 1990s, has been limited regarding the ecocentric dimensions of RoN. Yet, sustainable development has a lot to offer in relation to its focus on poverty, equity, more recently inequality. The original definition of sustainable development found in the report of the World Commission on Environment and Development (WCED) defined sustainable development as development that meets the needs of the present without compromising the ability of future generations to meet their own needs.⁹⁴ The WCED definition also emphasised 'the concept of 'needs', in particular the essential needs of the world's poor, to which overriding priority should be given'.⁹⁵ The focus on poverty is reflected in SDG 1, which focuses on the eradication of extreme poverty.

57. Inequality between people was not acknowledged as a sustainable development concern until 2015 when a specific goal focusing on inequality was added to the SDGs.⁹⁶ Inequality between states had already been in focus since the Rio Declaration through the principle of common but differentiated responsibilities (CBDR).⁹⁷ CBDR reflects an attempt to shift from an understanding of equity focused on formal equality, which stops at measuring equity in

⁹⁰ Rio Declaration on Environment and Development, 14 June 1992, UN Doc A/CONF.151/26/Rev. 1 (Vol. I), Annex II (1992), principle 4.

⁹¹ UNEP, *Towards a Green Economy – Pathways to Sustainable Development and Poverty Eradication* (UNEP, 2011).

⁹² Sustainable Development Goals and Targets, in UN General Assembly Resolution 70/1, *Transforming our World: The 2030 Agenda for Sustainable Development*, UN Doc. A/RES/70/1 (2015).

⁹³ UNGA Resolution 64/196 (n 14) para 3.

⁹⁴ Report of the World Commission on Environment and Development "Our Common Future", UN Doc. A/42/427 (1987), p 54.

⁹⁵ *ibid.*

⁹⁶ SDG10 (n 92).

⁹⁷ Rio Declaration (n 90) principle 7.

relation to the sovereign equality of states and the principle of reciprocity of obligations. With CBDR, an attempt is made to ensure substantive equality by focusing on the result of the application of the norms, leading for instance to differential commitments or implementation aid for Global South countries.

58. Overall, sustainable development offers entry points to focus on poverty, inequality, intra-generational equity and inter-generational equity. As RoN are concerned not only with a shift from anthropocentricity to ecocentricity but also towards more equitable legal regimes that reflect, in particular, the specific needs of marginalized communities, such as Indigenous peoples, sustainable development has lessons to offer for the further development of RoN at the international level.

59. The recent Advisory Opinion on the Climate Emergency signals a further shift in the legal approach to the RoN, sustainable development and future generations. The IACtHR affirmed that “recognition of Nature’s right to conserve its essential ecological processes contributes to strengthening a truly sustainable development model [...] and ensures the availability of crucial resources for present and future generations”.⁹⁸ The Court further affirmed that “such a system is essential to preserve the conditions that support life on our planet and to guarantee a decent and healthy environment, essential for the realisation of human rights”.⁹⁹ The Court emphasised that this approach “towards building a global legal system for sustainable development” (para. 281) is compatible and aligned with international environmental law, including the inter-generational equity, and “the realisation of the economic, social, cultural and environmental rights”.¹⁰⁰ However, it left unspecified how these legal tools, some of which are not binding, would integrate and operate in practice. Legal scholars, practitioners and this Committee will be tasked to provide clarity on such an issue.

5.2. Cultural Diversity and the Rights of Nature

60. The United Nations Educational, Scientific and Cultural Organization (UNESCO) is the only UN agency with a mandate on culture. Through its culture conventions, recommendations, and programmes, UNESCO plays a unique role in promoting human creativity and safeguarding culture and heritage worldwide. Although UNESCO has not, so far, directly made a connection between RoN and culture, some UNESCO treaties indicate a relational understanding of culture in which human creativity and natural environments are interdependent.

61. The ecocentric conception of culture as jointly shaped by human-nature relations is affirmed in the context of the World Heritage Convention. Under this Convention, “sites” are defined not only as “works of man” but also as “the combined works of nature and man”.¹⁰¹ This formulation recognises that certain forms of cultural heritage emerge through long-term interaction between human communities and their natural environments. Outstanding Universal Value (OUV), as defined in the World Heritage Convention and its Operational

⁹⁸ Inter-American Court of Human Rights, Advisory Opinion OC-32/25 of 29 May 2025 – Climate Emergency and Human Rights, para 279.

⁹⁹ cf *Case of Kawas Fernández v Honduras*. Merits, reparations and costs. Judgment of April 3, 2009. Series C No. 196, para 148, and *Advisory Opinion OC-23/17, supra*, para 47.

¹⁰⁰ Cf. *Case of Kawas Fernández v Honduras*. Merits, reparations and costs. Judgment of April 3, 2009. Series C No. 196, para 148, and *Advisory Opinion OC-23/17, supra*, para 47.

¹⁰¹ Convention Concerning the Protection of the World Cultural and Natural Heritage, Paris, 16 November 1972, 1037 UNTS 151, Art 1.

Guidelines, may therefore derive from processes in which natural and human factors are interrelated rather than isolated.¹⁰² A similar recognition underlies the category of “cultural landscapes”, which the Operational Guidelines describe as representing the “combined works of nature and of man” and as embracing “a diversity of manifestations of the interaction between humankind and the natural environment”.¹⁰³ Cultural landscapes illustrate the evolution of human societies under the influence of physical constraints and opportunities presented by specific environments, as well as successive social, economic, and cultural forces.¹⁰⁴ Notably, cultural landscapes often reflect techniques of sustainable land use adapted to ecological conditions and may embody distinctive spiritual or cultural relationships to nature. Their protection may contribute to the maintenance of biological diversity and the continuity of traditional land-use systems.¹⁰⁵ In this respect, the World Heritage Convention does not treat nature merely as a passive backdrop to cultural achievement but acknowledges that cultural value can arise from long-term human–environment interactions. At the same time, inscription, protection, and monitoring remain structured through criteria-based evaluation, advisory bodies’ assessments, and integrity/authenticity standards. Thus, while the World Heritage Convention institutionally links nature and culture, it operationalises that linkage within a technocratic conservation framework grounded in scientifically informed evaluation and management processes in which heritage is preserved for the whole of humanity and for transmission to future generations.¹⁰⁶

62. Beyond the World Heritage Convention, UNESCO’s heritage regime as a whole reflects this recognition of dynamic human–environment relations, most notably in the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage (ICH Convention). Its Article 2(1) defines “intangible cultural heritage” (ICH) as practices, representations, expressions, knowledge and skills that communities recognize as part of their cultural heritage, and which are “constantly recreated ... in response to their environment, their interaction with nature and their history”.¹⁰⁷ In this formulation, intangible heritage is not treated as static tradition but as an ongoing process shaped by human engagement with environmental and historical contexts. The ICH Convention’s reference to the various forms of ICH as the product of ‘response to environment’ and ‘interaction with nature’ can be read as affirming that the emergence of innumerable forms of ICH is inseparable from diversity in the natural world, and safeguarding the diversity of cultural communities requires safeguarding the diversity of natural elements that enable ICH to be continuously recreated.¹⁰⁸ The ICH Convention may therefore be read as implying that safeguarding cultural diversity entails attention not only to

¹⁰² UNESCO World Heritage Centre, *Operational Guidelines for the Implementation of the World Heritage Convention* (2025) para 49.

¹⁰³ UNESCO World Heritage Centre, *Operational Guidelines for the Implementation of the World Heritage Convention* (2025), para 47. As of 2025, the World Heritage List includes 1,248 properties considered to have Outstanding Universal Value, comprising 972 cultural, 235 natural and 41 mixed properties. Of these, 121 properties (including 6 transboundary properties and one delisted property) have been inscribed as cultural landscapes. See UNESCO World Heritage Centre, World Heritage List <<https://whc.unesco.org/en/list>>.

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

¹⁰⁶ Lucas Lixinski, *International Heritage Law for Communities: Exclusion and Re-imagination* (Oxford University Press 2019), p 169.

¹⁰⁷ Convention for the Safeguarding of the Intangible Cultural Heritage, Paris, 17 October 2003, 2368 UNTS 3, art 2(1).

¹⁰⁸ eg Francesco Francioni, ‘Article 2(1): Defining Intangible Cultural Heritage’, in Janet Blake and Lucas Lixinski (eds), *The 2003 UNESCO Intangible Heritage Convention: A Commentary* (Oxford University Press 2020), p 48-57, 53.

communities and their practices, but also to the environmental contexts that enable those practices to persist and evolve.

63. The UNESCO Man and the Biosphere (MAB) Programme further reflects this systemic recognition of human–environment interdependence. Established as an intergovernmental scientific programme, MAB aims to develop a scientific basis for improving the relationship between people and their environments by integrating natural and social sciences and promoting sustainable development approaches that are socially and culturally appropriate as well as environmentally sound. Its World Network of Biosphere Reserves, comprising 784 sites across 142 countries as of 2025, functions as a dynamic and interactive network designed to foster sustainable interaction between communities and ecosystems.

VI. AREAS OF CONTENTION WITH THE RIGHTS OF NATURE

6.1. Energy and Climate Change

64. The major sources of international law governing climate change include the UN Framework Convention on Climate Change (UNFCCC), the Kyoto Protocol, and the Paris Agreement.¹⁰⁹ However, the intersection of energy, climate change and rights of nature at the international level is still evolving, and the existing legal frameworks largely adopt an anthropocentric perspective. There are arguably more than 200 bilateral and multilateral treaties on energy; yet most of these treaties focus on economic concerns rather than ecological integrity and conservation.

65. The Paris Agreement’s Preamble contains some ecocentric elements, stating “the importance of ensuring the integrity of all ecosystems, ... recognized by some cultures as Mother Earth.”¹¹⁰ Further, Article 5 of the Paris Agreement highlights the role of conservation in reducing greenhouse gas emissions.

66. Recent developments suggest a growing trend towards bridging the gap between anthropocentric and ecocentric perspectives in international energy and climate law. Judicial systems and international tribunals such as the International Court of Justice are increasingly recognizing duties that protect human interests related to climate change, conservation, and energy, and ecological integrity and the value of nature.¹¹¹ This normative shift reflects an evolving understanding and a new approach that climate action must integrate the protection of “Mother Earth” alongside economic and social development goals.

6.2. International Investment and Trade Law

¹⁰⁹ UN Framework Convention on Climate Change, New York, 9 May 1992, 1771 UNTS 107; Kyoto Protocol to the United Nations Framework Convention on Climate Change, Kyoto, 11 December 1997, 2303 UNTS 162; Paris Agreement, Paris, 12 December 2015, in Report of the Conference of the Parties on its Twenty-First Session, UN Doc FCCC/CP/2015/10/Add.1.

¹¹⁰ Paris Agreement (n 109).

¹¹¹ International Court of Justice, *Obligations of States in Respect of Climate Change*, Advisory Opinion, 23 July 2025 <<https://icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf>>.

67. The RoN movement stems from the postulate of empowering nature with subjectivity, and by according a new status to nature and its resources. It may counterbalance the liberalization underpinnings of international investment and trade law.

68. In two environmental counterclaims investment decisions, RoN played a noticeable role and were expressly mentioned: *Perenco v Ecuador*¹¹² and *Burlington v Ecuador*.¹¹³ In both of them, the responding (host) state lost the main case due to acts which amounted to expropriation, but managed to prove that investors contaminated the Amazon forest in the course of their oil extraction activities, securing a win in the counterclaim phase. While quoted, RoN did not constitute a self-standing legal basis for determining the scope of investor's or responding state's responsibility. It played a contextual role alongside more precise norms, such as the principle of strict liability and the standard of restoration. Furthermore, the environmental counterclaim compensation granted to Ecuador was considerably lower than the compensation it had to pay due to its violation of investment protection standards.

69. WTO case law, which is the most representative body of international trade jurisprudence, does not contain decisions with direct references to RoN. Nevertheless, the rise of RoN in various WTO Members may lead to tensions with WTO obligations, similar to those previously encountered in the context of environmental regulation. However, the WTO Appellate Body has acknowledged Members' capacity to determine their own level of environmental protection,¹¹⁴ which may also accommodate a legal regime grounded in RoN. In case of trade in goods, tensions may be addressed through Article XX of the GATT which lists different exceptions to freedom of trade. These exceptions may introduce measures aiming at "conservation of exhaustible natural resources" (g) and the protection of "animal or plant life or health" (b). Based on RoN, limitations of natural resources' extraction or export will be WTO compatible if they are introduced without "arbitrary or unjustifiable discrimination [...]" or a disguised restriction on international trade". The *EC-Seals case* also proved that "animal welfare" may serve as a valid reason for invoking Article XX (a), GATT which refers to "public morals".¹¹⁵

VII. PAVING THE WAY FORWARD: BASES AND UNDERLYING DEBATES CONCERNING RIGHTS OF NATURE

7.1. Value-Addition of Rights of Nature

70. The growing movement towards the recognition of RoN has been both supported and opposed on various grounds. A diverse set of philosophical and legal contributions have been

¹¹² *Perenco Ecuador Ltd v Republic of Ecuador*, ICSID Case No. ARB/08/6, Interim Decision on the Environmental Counterclaim (11 August 2015).

¹¹³ *Burlington Resources Inc v Republic of Ecuador*, ICSID Case No. ARB/08/5, Decision on Ecuador's Counterclaims (7 February 2017).

¹¹⁴ *Brazil – Measures Affecting Imports of Retreaded Tyres*, Appellate Body Report, WT/DS332/AB/R (adopted 17 December 2007) para 140.

¹¹⁵ *European Communities—Measures Prohibiting the Importation and Marketing of Seal Products*, Appellate Body Report, WT/DS400/AB/R and WT/DS401/AB/R (2014).

in made in this regard.¹¹⁶ The issues raised need to be addressed before moving forward with further recognition at the international level.

71. At the international level, there is now a complex web of international environmental legal instruments with varying degrees of participation and protection. The recent advisory opinions concerning the climate crisis have shown the complexity and richness of this system. Among the three advisory opinions already issued, the IACtHR has provided some specific reflections on why the recognition of RoN in the inter-American legal system:

- The recognition of nature's right to conserve its essential ecological processes contributes to strengthening a truly sustainable development model;
- It provides coherent and effective legal tools in relation to the triple planetary crisis to prevent existential harm before the latter becomes irreversible; and
- It allows to transcend inherited legal concepts that conceived Nature exclusively as an object of ownership or an exploitable resource.¹¹⁷

72. The underlying rationale is that recognising inherent rights of nature would strengthen international environmental law by overcoming the fractious nature of its regulation, allowing for a systematic protection of ecosystems vital to the survival of humankind and all life on Earth. Further, since the rules of public international law are part of the national body of law due to its incorporation by constitutional provisions, the concept would indirectly lead to a higher level of protection in many national jurisdictions.

73. At the national level, one of the arguments that has been made is that the added value of RoN differs depending on the type of environmental regulation existing in different countries. In jurisdictions where the protection of nature and the environment is low, the added value of the introduction of rights of nature may be more obvious. Providing nature, for example ecosystems, with subjective rights automatically raises the level of protection for all components of the ecosystem. Furthermore, since those rights must be accompanied by means to enforce them, such an introduction would provide access to courts. The guardianship can be designed in various ways, for example by every citizen, by custodians or by civil society organisations.

74. In jurisdictions that have more developed environmental legislation, the value addition of RoN may be less obvious as existing tools available may be used in less anthropocentric ways. This is, for instance, illustrated by the Aarhus and Escazu conventions.¹¹⁸

75. Yet, even in more developed systems of environmental protection, providing ecosystems with access to justice would add another layer of protection since subjective rights have a greater legal weight: they introduce a legal position comparable to the constitutional rights of citizens (or corporations in many systems). Courts would thus have to weigh the arguments to a much higher degree – rights of nature would establish a more level playing field. Rights are furthermore more open to new developments and RoN can provide the basis to “transcend

¹¹⁶ eg Visa A J Kurki, ‘Can Nature Hold Rights? It’s Not as Easy as You Think’ (2022) 11(3) *Transnational Environmental Law* 525; Julien Bétaille, ‘Rights of Nature: Why it Might Not Save the Entire World’ (2019) 16 *Journal for European Environmental & Planning Law* 35.

¹¹⁷ Inter-American Court of Human Rights (n 41) paras 279 et seq.

¹¹⁸ Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, Aarhus, 25 June 1998, 2161 UNTS 447; Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, Escazú, 4 March 2018.

inherited legal concepts”.¹¹⁹ Giving nature the right to defend itself may amount to a reversal of the burden of proof: Instead of defenders having to raise objections against a planned interference with an ecosystem, any intervention in an ecosystem would have to be justified and weighed against its rights.

76. Additionally, a recent development in Germany points to a further advantage stemming from the subjective rights of ecosystems. The Regional Court of Erfurt held in its judgement of 2 August 2024 that the inherent rights of nature can be derived from Article 2 (1) (right to life) and Article 3 (1) (right to the integrity of the person) in conjunction with Article 37 (principle of environmental protection) of the EU Charter of Fundamental Rights.¹²⁰ The court further considered the inherent rights of nature as “protection-enhancing” (*schutzverstärkend*) and applied them to the plaintiffs private damages claim based on § 823 (2) of the German civil code.¹²¹ This judicial move effectively amounts to an indirect horizontal application of the inherent rights of nature derived from the EU Charter of Fundamental Rights.¹²² Thus, the inherent rights of nature are not only recognised with regard to acts by authorities or their failure to protect against interferences by corporations, but also in cases between private actors – in German law called “mittelbare Drittwirkung” (indirect third-party effect). The court thus justified a higher compensation from an automaker, because not only the buyer was negatively affected but also nature as such. This points to a much larger benefit of providing subjective rights to nature, because these would have an impact on the mutual obligations between private actors.

77. Overall, the need for a paradigm change is borne by the fact that despite the complex web of environmental protection rules in many countries, the deterioration of all ecosystems continues. At this juncture, the worsening environmental polycrisis¹²³ requires a new language to address the shortcomings of existing environmental law.

7.2. Degrowth, Post-Growth and Buen Vivir

78. The development of RoN frameworks aligns with increasing recognition that continuous economic growth is fundamentally incompatible with ecological stability. Degrowth, post-growth, and *buen vivir* each offer interconnected critiques of growth-oriented development, significantly influencing the evolution of environmental law. These approaches reject the premise that environmental protection can coexist with unlimited economic expansion, instead advancing conceptual models rooted in ecological limits, social equity, and relational understandings of human–nature interactions. Such perspectives elucidate the rationale behind the RoN movements' challenges to prevailing forms of environmental governance.

79. Degrowth theory originated as a critique of sustainable development narratives. It asserts that ecological sustainability necessitates a reduction in material throughput, particularly

¹¹⁹ Inter-American Court of Human Rights (n 41) para 280.

¹²⁰ Regional Court Erfurt, 8th Civil Chamber, judgment of 2 August 2024, file number 8 O 1373/21, ECLI:DE:LGGERFUR:2024:0802.8O137, para 27.

¹²¹ *ibid* paras 16, 26, 37.

¹²² For a comparable indirect horizontal application of the European Convention on Human Rights (ECHR), see ECLI:NL:GHDHA:2024:2100, *Shell Plc v Milieudefensie et al.*, Appeal Judgment, paras. 7.18-7.28.

¹²³ eg M Lawrence et al., ‘Global Polycrisis: The Causal Mechanisms of Crisis Entanglement’ (2024) 7 *Global Sustainability* e6, 1–16.

within affluent nations.¹²⁴ Rather than relying on technological decoupling, degrowth advocates emphasise the need to downscale production and consumption to remain within planetary boundaries. Post-growth perspectives similarly challenge the association of human well-being with continuous accumulation, proposing alternative metrics focused on sufficiency, equity, and ecological resilience. For international environmental law, these frameworks suggest that regulation should extend beyond managing pollution and resource extraction to include restructuring property relations, resource distribution, and governance institutions, as well as critically examining investment law regimes that prioritise corporate interests over ecological protection.

80. Buen vivir, rooted in Andean concepts such as *sumak kawsay* (Quechua) and *suma qamaña* (Aymara), articulates a vision of well-being based on harmonious relationships between humans and non-human entities. Ecuador's 2008 Constitution grants nature the right 'to exist, persist, maintain, and regenerate its vital cycles',¹²⁵ while Bolivia's Law of the Rights of Mother Earth recognises Mother Earth as a collective legal subject.¹²⁶ However, the implementation of these legal innovations reveals tensions with ongoing growth imperatives. As a result, Rights of Nature clauses may be rendered ineffective when economic and international legal frameworks remain oriented toward growth. Indigenous legal orders articulate more far-reaching alternatives. Meaningful economies reject the pursuit of *mercadería* (commodity) in favour of forms of life premised on care, subsistence, and reciprocity.¹²⁷ Indigenous agroecological practices across Latin America embody these principles and demonstrate governance of socio-ecological interdependencies as part of enduring legal traditions that refuse commodification of land, waters, and other-than-human beings.

81. Post-growth and Indigenous perspectives indicate that environmental crises expose the ontological limitations inherent in growth-oriented legal systems. Contemporary legal frameworks typically assume a singular nature, distinct from culture and reducible to quantifiable resources, thereby excluding alternative relationships with more-than-human worlds. A transformative RoN approach requires more than extending legal personality to ecosystems within state-centric frameworks. It necessitates legal pluralism, recognising Indigenous and local legal orders as autonomous systems with jurisdiction over their territories.

82. Degrowth, post-growth, and *buen vivir* challenge the foundational assumptions of growth-centred environmental law and reveal how legal systems contribute to ongoing ecological degradation. These perspectives align with Rights of Nature movements by proposing alternatives rooted in ecological limits, relational ontologies, and legal pluralism. For international environmental law, a central question is whether Rights of Nature will be treated as a technical extension of existing regimes or as a catalyst for transforming legal relations with more-than-human entities through a reinterpretation of international environmental law. A post-growth and buen vivir-oriented approach supports the latter, suggesting that law should function less as a tool for accumulation and more as a medium for preserving life and fostering collective flourishing within diverse juridical and ontological contexts.

83. Provisions regarding sustainable use and conservation in multilateral environmental agreements may be understood through a limits-based framework that prioritises ecological integrity over economic expansion and supports commitments to phase out carbon-intensive

¹²⁴ Jason Hickel, *Less Is More: How Degrowth Will Save the World* (Penguin Random House 2020); Bram Büscher and Robert Fletcher, *The Conservation Revolution: Radical Ideas for Saving Nature Beyond the Anthropocene* (Verso Books 2020).

¹²⁵ Constitution of Ecuador, 2008, art 71.

¹²⁶ Ley de Derechos de la Madre Tierra (Law of the Rights of Mother Earth), Bolivia, 2010.

¹²⁷ A Krenak, *Ideias para adiar o fim do mundo* (Companhia das Letras 2019).

industries and restrict destructive resource extraction. Implementing post-growth legality also requires material redistribution, such as land restitution, recognition of Indigenous territorial sovereignty, and the removal of legal instruments that enable large-scale extraction in Indigenous and local territories. In the absence of such structural changes, even ambitious RoN reforms risk becoming merely symbolic within systems that remain committed to growth. The United Nations Declaration on the Rights of Indigenous Peoples, particularly its provisions on self-determination and free, prior, and informed consent, provides a framework for institutionalising Indigenous authority within both international and domestic legal systems.¹²⁸

7.3. Rationale for protection

84. RoN are universal and transcendent, which locates them at the heart of global justice – and therefore of international law. Modern international law began with the realization, well-expressed by Hugo Grotius, that all its fundamental principles would be true even if one were to concede (“*etiamsi daremus*”) that there was no universal God. Thus, the central foundations and doctrines of international law must transcend particular cultures and regions to embrace the entire world. This is deeply true both of nature and of rights. “Nature” by definition includes all of reality and is shared by everyone. “Rights” are also inalienable and universal, discovered, not made, and derived from the nature of the world. In this way, nature and rights both precede and together justify international law. Law derives both its legitimacy and its effectiveness from recognizing preexisting rights, including RoN.

7.3.1. Foundations

85. The recognition of RoN marks a decisive moment in the evolution of legal thought. It requires transcending the traditional divide between morality and norm, between natural law and positivism, to build a vision that acknowledges both the intrinsic value of nature and its normative dimension within law. From a natural law perspective, nature possesses rights because it is part of a rational and teleological order whose disruption constitutes injustice. From a positivist view, such rights become effective only when incorporated into valid legal norms and institutions that ensure protection and enforceability.

86. Rather than opposing each other, these traditions could be mutually complementary. Natural law provides the ethical and philosophical foundation—the “why” of law—while positivism supplies the procedural and institutional “how.” Law thus should become a bridge between moral reason and structure, translating ethical imperatives into duties, institutions, and procedures.

7.3.2. First Principles

87. Evolving international law demonstrates how moral reasoning grounded in natural law can be transformed into binding legal obligations. What was once a moral duty not to destroy ecological balance has become a positivized duty whose breach entails international responsibility. Within this evolving framework, the guiding principles of RoN acquire both philosophical and normative dimensions:

¹²⁸ Declaration on the Rights of Indigenous Peoples, UN General Assembly Resolution 61/295, UN Doc A/RES/61/295 (2007).

- Interdependence expresses the essential relationship among all living beings and corresponds to the international principle of environmental cooperation.¹²⁹
- Ecological integrity reflects the duty to preserve ecosystem structure and functionality; the ICJ confirms this through the obligation to prevent significant environmental harm.
- Ecological dignity recognizes the intrinsic worth of nature; the IACtHR affirms it by acknowledging that “nature and its components may be subjects of rights”.¹³⁰
- Intergenerational justice unites moral responsibility for the future with its expression in Principle 3 of the Rio Declaration and the Paris Agreement (2015), reaffirmed by the ICJ as interpretative principle and the IACtHR incorporates it in the domain of human rights in their respective Advisory Opinions in 2025.
- Reciprocity or shared responsibility materializes in the principle of common but differentiated responsibilities, ensuring equitable distribution of environmental duties.

7.3.3. *Synthesis*

88. These principles illustrate that natural law and positivism, once viewed as antagonistic, operate or should operate at different but complementary levels. Natural law provides the why—the moral legitimacy for recognizing nature as part of the community of justice—while positivism provides the how—the procedural and institutional mechanisms for enforcing that recognition. Philosophically, this convergence reflects the evolution of law itself. For the natural lawyer, law discovers the rational order of the cosmos; for the positivist, it creates normative structures to preserve it. In today’s ecological paradigm, law must both discover and create: it must acknowledge the moral rationality of nature and encode it within enforceable legal frameworks. Within this integrated vision, the human being ceases to be the absolute ruler of nature and assumes the role of rational custodian of ecological balance. This role does not diminish human dignity but redefines it as relational and responsible—an obligation to safeguard the living community that makes human existence possible. The human person’s unique rationality thus imposes not domination but stewardship, binding moral capacity to legal responsibility.

89. The convergence between natural law and positivism is therefore not theoretical but operational. It underpins the ongoing development of international law, where environmental protection is no longer a matter of policy discretion but of legal obligation. The IACtHR’s advisory opinion illustrates how universal ethical imperatives are translated into positive legal norms with enforceable consequences. This synthesis exemplifies international law’s capacity to evolve in harmony with moral understanding—transforming ethical awareness of ecological interdependence into a juridical framework of accountability. The challenge facing international law is to consolidate this synthesis between universal morality and positive normativity, between nature and juridicity. The task is not merely to regulate human conduct but to restore harmony between humanity and the living order of creation/nature.

7.4. Whole of Nature Approaches

¹²⁹ Rio Declaration (n 90) principle 27.

¹³⁰ Inter-American Court of Human Rights (n 41) 230.

90. Nature embraces all of reality and therefore provides the ultimate foundation for law, justice, and rights. This is particularly true of rights under international law, which claim a universal validity. Rights of any kind arise both etymologically and conceptually from the perception of what is or would be right in the relevant community or context. International law concerns the global community of justice and therefore all of nature, as a whole. Everything must be considered.¹³¹

91. Every human community that has ever existed has recognized the reality and necessity of a global order that transcends humanity – that which is *ius*, in the Grotian vocabulary of modern international law. Rights are the *iures* that make justice real, not only for humanity, but for everything. Already in antiquity the Greeks spoke of δίκη, the just and proper order of the world, which embraces all reality.

92. The ever-deepening understanding of rights in international law since the second World War, reflects the truth that international law will have and deserve no authority unless it can capture what is “*ius*” or “right” in reality. Like all law, the legitimacy of international law rests on being just. To exclude any aspect of nature from this calculus would vitiate the enterprise.¹³²

93. The recognition of nature in this wider sense as a subject of rights, enjoying legal personality and capable of receiving legal protection, reflects this long-acknowledged truth. The splendour of nature has global resonance, which has led multiple nations to enact laws respecting and supporting RoN. As was also the case with the various rights of human beings, RoN, once well-articulated, should and do elicit recognition and the formal protection of the law.

94. This should not be surprising when analysed from a dual perspective. First, RoN coincide easily, not only with the western legal tradition, but also with Indigenous worldviews, such as those of pre-Columbian cultures across South America that venerated Mother Earth (Pachamama) as the source of all life and daily sustenance. Second, the history of modern law reflects a progressive expansion of the formal recognition of rights. The first to secure their rights were property-owning men, but logic and justice eventually brought rights’ protection to women, children, and the enslaved. Nature is the obvious next step on this historical trajectory.

95. The formal incorporation of “cutting-edge” rights is a feature of modern constitutionalism. Constitutions often include not only consolidated and widely accepted rights but also aspirational principles that set a programmatic vision for the future.¹³³

96. Within this framework, it becomes clear why legal systems like Bolivia's elevate “living in harmony with nature” to a constitutional principle.¹³⁴ This expresses itself in specific mandates, such as the requirement that international treaties and the industrialization of natural resources, or the recognition of Indigenous territories’ right to their resources in accordance with this vision.¹³⁵

¹³¹ eg Ramiro Ávila Santamaría, ‘El derecho de la naturaleza: fundamentos’ in Alberto Acosta y Esperanza Martínez (eds), *La naturaleza con derechos de la filosofía a la política* (Abya-Yala 2011), p 173.

¹³² Yaffa Epstein et al., ‘Science and the Legal Rights of Nature’ (2023) 380(6646) *Science* adf4155.

¹³³ Ecuador, Constitución de la República del Ecuador, 2008.

¹³⁴ Bolivia, Constitución Política del Estado Plurinacional, 2009.

¹³⁵ Bolivia, Ley de Derechos de la Madre Tierra (Ley N° 071) 2010.

7.4.1. Pachamama

97. The ancient civilizations of South America, most prominently the Inca, cultivated a profound spiritual and philosophical relationship with the Earth. Central to their worldview was a concept that transcends the simple translation of "Mother Earth": Pachamama.¹³⁶

98. In Quechua cosmology, the term itself is rich with meaning. "Pacha" encompasses not just the physical earth, but also time, space, and the universe, while "mama" signifies the generative power of motherhood. This holistic perspective positioned the Earth as a living, divine entity, not merely a resource to be exploited, but a being deserving of respect, worship, and reciprocal care. For the Inca, this understanding was fundamental to their social and spiritual order.¹³⁷

99. Despite colonial attempts to suppress Indigenous spirituality, reverence for the Earth and its interconnectedness endured. Preserved within Indigenous communities, this worldview maintained a deep, practical, and spiritual relationship with the natural world, passing down its wisdom through generations.

100. This enduring philosophy found groundbreaking legal expression in the early 21st century, as Ecuador and Bolivia led a transformative movement. By establishing plurinational states, they formally acknowledged these ancient worldviews. Ecuador's constitution explicitly recognizes Pachamama, guaranteeing its right to exist, maintain vital cycles, and be restored. Similarly, Bolivia's constitution invokes this principle to "refound" the nation on a basis of ecological respect and Indigenous wisdom.

101. This constitutional evolution represents a paradigm shift in legal thought. It redefines the relationship between human societies and the natural world by anchoring modern law in ancestral wisdom and a comprehensive understanding of ecological interdependence.

7.4.2. Multispecies

102. In recent years, the boundaries of family have expanded beyond traditional human relationships, as both society and the law increasingly recognize the genuine bonds formed between humans and animals. This "multispecies" approach views animals not as mere possessions, but as integral family members, actively sharing in the emotional and social life of the household. This shift is slowly taking place in several countries where legal and social developments are beginning to reflect the reality of multispecies families. In these families, both human and animal members assume their roles in an equitable relationship, raising the critical question: should not all members, human or non-human, enjoy equal protection under the law? Embracing this approach not only aligns with modern interspecies psychology and evolving social values, but also advances stronger legal and ethical safeguards for animals and the environment.¹³⁸

¹³⁶ Daniela Di Salvia, 'La Pachamama en la época incaica y postincaica: Una visión andina a partir de las crónicas peruanas coloniales (siglos XVI y XVII)' (2013) 43/1 *Revista Española de Antropología Americana* 89.

¹³⁷ Zelma Tomaz Tolentino and Liziane Paixao Silva Oliveira, 'Pachamama and the Right to Life: Thoughts in the Perspective of the New Latin American Constitutionalism' (2015) 12(23) *Veredas do Direito* 313.

¹³⁸ eg Erin Fitz-Henry, 'Multi-species Justice: A View from the Rights of Nature Movement' (2022) 31(2) *Environmental Politics* 338.

7.4.3. “More-Than-Human”

103. The term "more-than-human" refers to everything in the natural world, like animals, plants, rocks, rivers, weather, and ecosystems, that exists outside of humans, but also includes us as part of it.¹³⁹ This way of thinking highlights how humans and the natural world are deeply connected and depend on each other. Instead of seeing humans as separate from or more important than nature, the more-than-human approach sees us as just one part of a much bigger community of living and non-living things. It questions the idea that there is a strict line between people and nature, suggesting that this division is something humans made up and not truly real.

104. This view also sees animals and other natural things as active parts of the world, not just objects. It recognizes that different cultures have their own ways of understanding nature, and some do not separate people from the natural world at all. Overall, the more-than-human approach shows that our lives are closely linked with the wider natural world, and because of this, it encourages us to build more caring and respectful relationships with everything around us.¹⁴⁰

¹³⁹ David Abram, *The Spell of the Sensuous: Perception and Language in a More-Than-Human World* (Vintage 1997).

¹⁴⁰ eg César Rodríguez-Garavito, ‘More-Than-Human Rights: Law, Science, and Storytelling Beyond Anthropocentrism’ in César Rodríguez-Garavito (ed), *More Than Human Rights* (NYU MOTH Project 2024), p 21-47; John Cianchi, *Radical Environmentalism: Nature, Identity and More-than-human Agency* (Palgrave Macmillan 2015), p 28-38.