

Teremtés
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ON THE GLOBAL PHENOMENON OF RIGHTS OF NATURE FROM A EUROPEAN ENVIRONMENTAL LAW PERSPECTIVE

A New Alliance with Nature

Ágnes Tahyné Kovács

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On the Global Phenomenon of Rights of Nature from a European Environmental Law Perspective. A New Alliance with Nature

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ENVIRONMENTAL LAW PERSPECTIVE

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Ágnes Tahyné Kovács

ON THE GLOBAL PHENOMENON
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OF RIGHTS OF NATURE FROM
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A EUROPEAN ENVIRONMENTAL
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LAW PERSPECTIVE
.....

A New Alliance with Nature

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Pázmány Péter Katolikus Egyetem
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MINISTRY OF ENERGY

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*“Are not five sparrows sold for two pennies?
Yet not one of them is forgotten by God.”
Luke 12:6*

To all those who have nurtured my love for nature, I extend my heartfelt gratitude – especially to my ancestors and family, whose wisdom and care for the Earth have shaped my path.

This book is dedicated to my children and my students, with the hope that they will carry forward the commitment to cherish and protect our natural world.

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On the evening of the fifth day of creation, God saw that it was good: On the blue planet, the material world operated as a beautiful, harmonious system, following the established physical, chemical, biological, and ecological laws. The troubles began with the fall, when humanity – created in God’s own image – gained the ability to discern good and evil, and could only earn their bread by the sweat of their brow. Yet, in His mercy, God gradually allowed humanity to understand the inner laws of the material world and endowed them with the ability to transform it, making them partners in its development. However, the inclination to sin remains an inseparable part of human nature. Selfishness and the relentless pursuit of profit, coupled with advancements in science and technology, have led to the exploitation of Earth’s resources, turning the flourishing garden God gifted us into a wasteland of ruin, desert, and pollution (Laudato Si’). The concept of ecological sin, as an act against God, neighbour, community, and the world, has become a recognized term in both religious and scientific discourse. We may consider granting legal personhood to nature to ensure that the right of future generations to a healthy environment is not violated. Science and technology, as magnificent products of God-given creativity, must be used for the benefit of all. This is no easy task.

Sopron
Summer 2025

*Péter Vig, PhD
Climatologist, Forestry Engineer, Plant Protection Engineer,
Retired Associate Professor*

PREFACE

In an era where ecological crises – deforestation, polluted waters, and climate upheaval – demand urgent attention, *Rights of Nature and Creation Care* offers a nuanced exploration of a transformative legal and ethical concept: the Rights of Nature. This book does not advocate for blindly adopting this framework but seeks to deepen understanding of its principles, origins, and potential within the context of environmental law and the Catholic Church’s teachings on creation care.

The Rights of Nature represents a bold shift in environmental thought, emerging over the past fifty years, to grant legal personhood and inherent rights to ecosystems, rivers, forests, and species – rights to exist, flourish, and regenerate free from excessive human harm. Rooted in traditions outside Europe’s Roman law systems, this concept challenges conventional legal paradigms by recognizing nature’s intrinsic value, distinct from its utility to humans. Through global examples, such as New Zealand’s Whanganui River, granted legal status, or Ecuador’s constitutional protections for Pachamama, the book illuminates diverse approaches to this idea and examines how it might resonate within European legal and cultural frameworks.

To interpret the phenomenon, we will also highlight some elements of the social teaching of the Catholic Church that reflect on the relationship between the created world and man. Although the church does not interpret the Rights of Nature phenomenon, the message of many teaching elements carries respect for nature. The volume does not aim to conduct an examination of theological teachings in the area of the rights of nature, but rather to highlight those elements of the church’s social teaching that help us think about the phenomenon.

This preface invites legal scholars, policymakers, theologians, and concerned readers to engage with the Rights of Nature as a concept worth understanding. By blending rigorous legal analysis with theological insights, *Rights of Nature and Creation Care* fosters informed dialogue about reimagining humanity’s relationship with the natural world, encouraging reflection on how legal and spiritual frameworks can together address our shared ecological responsibilities.

I extend my heartfelt gratitude to my parents, godparents, husband, and children, as well as to all my teachers who instilled in me a deep respect for nature.

I would like to express my heartfelt gratitude to Pázmány Péter Catholic University and to esteemed Professor Gyula Bándi, who initiated me on the path of environmental law. I would like to express my special thanks for the thorough review work to Professor Lóránd Ujházi. I express my gratitude to János Szilágyi for providing reliable administrative support. I also thank Brigitta Pulay Hidvéghiné and János Zlinszky for the opportunity to participate in the book series “TeremtésVédelem”.

Special thanks are due to Jeremy Parrott for his expert editorial work. I also express my gratitude to the publishing house for its author-friendly efforts.

“Only a contemplative gaze can change our relationship with created things and lead us out of the ecological crisis caused by the rupture of relationships – with God, with our neighbour, and with the earth – resulting from sin.”¹

With the words of Pope Leo XIV. I thank the Reader for taking this book into your hands and for embarking with us on the journey of discovering the Rights of Nature. I ask that you, too, through a contemplative reflection, renew your loving relationship with our Creator’s most beautiful gift, nature.

Budapest, Hungary
Summer 2025

¹ Devin Watkins, “Pope at Mass for Care of Creation: Ecological Crisis Requires Contemplative Gaze,” *Vatican News*, 9 July 2025, <https://www.vaticannews.va/en/pope/news/2025-07/pope-leo-xiv-mass-care-creation-borgo-laudato-si-castel-gandolfo.html>.

1. INTRODUCTION

1.1. Where the Thought Is Born

The year 2023 was in many ways a milestone in the history of Pázmány Péter Catholic University (PPCU), especially because His Holiness Pope Francis visited the Faculty of Information Technology and Bionics (PPCUFITB). He began his speech with² a metaphor related to the Danube, according to which the river connects countries, peoples and cultures in a geographical and historical sense, just like culture.

In his address at our university (PPCU) on April 30, 2023, His Holiness emphasized that in the contemporary, rapidly evolving world, where human interactions with technology increasingly foster a one-dimensional existence, community engagement is diminishing, and individuals are becoming desensitized, with the erosion of national languages and cultures occurring under the guise of universal peace. Consequently, the role of culture and the universities in preserving and promoting cultural identity becomes increasingly vital.

“The university, as its name suggests, is the place where thought is born, grows and matures, is open and symphonic in nature; not monotonous, not closed, but open and symphonic This is the temple where knowledge is called to free itself from the narrow limits of possession and accumulation, to become a culture, that is, to be a ‘cultivation’ of man and the relationships that underpin him: with the supernatural, with society, with history, with creation. In this regard, the Second Vatican Council states that culture must serve the complete perfection of the personality, the good of the community and of the whole human race. For this reason, the spirit must be cultivated in such a way as to increase its capacity for admiration, for insight, for contemplation, for independent judgment, and for the

² Pope Francis, *Address to Academics and Cultural Representatives: “The Key to Truth Is Knowledge”* (speech, Pázmány Péter Catholic University, Budapest, 30 April 2023), *Magyar Kurír*, <https://www.magyarkurir.hu/hirek/ferenc-papa-az-egyetemi-es-kulturalis-elet-kepviselohez-az-igazsag-kulcsa-megismeres>.

development of religious, moral and social senses (Pastoral Constitution *Gaudium et Spes*, 59).³ Already in ancient times it was said that the beginning of philosophizing is the ability to wonder, to be amazed.”⁴

In the early 1990s, the administration of Pázmány Péter Catholic University recognized that the environmental crisis represents both a technological and a societal challenge, necessitating a holistic, creative, and innovative approach. Consequently, foundational environmental literacy is deemed essential for intellectuals, particularly those trained in law. It is noteworthy that the Apostolic See has addressed the emerging sustainability crisis, with relevant ecclesiastical guidelines being issued from the 1980s.⁵ In the light of these considerations, the Department of Environmental Law was established in 1995 at the Faculty of Law and Political Sciences of Pázmány Péter Catholic University, making it the first such department in Hungary. The founding of the Research Institute for the Integrity of Creation in 2022 represented a further advancement for the university and the Hungarian academic community, subsequently complemented by the establishment of the junior research community the GENESIS College of Excellence. Where this volume was born, the research institute’s goal is to research and disseminate the spirit

³ Pope Paul VI, *Gaudium et Spes* (Pastoral Constitution on the Church in the Modern World), Rome, 1965, para. 53, https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651207_gaudium-et-spes_en.html.

⁴ Pope Francis, *Address to Academics and Cultural Representatives: “The Key to Truth Is Knowledge”* (speech, Pázmány Péter Catholic University, Budapest, 30 April 2023), *Magyar Kurír*, <https://www.magyarkurir.hu/hirek/ferenc-papa-az-egyvetemi-es-kulturalis-elet-kepviseleihez-az-igazsag-kulcsa-megismeres>.

⁵ Pope John Paul II, *Address at the Conclusion of the Thirty-Fifth General Assembly of the World Medical Association* (29 October 1983), https://www.vatican.va/content/john-paul-ii/en/speeches/1983/october/documents/hf_jp-ii_spe_19831029_ass-medica-mondiale.html; Pope Francis, *Address to the General Assembly of the United Nations* (United Nations Headquarters, New York, 25 September 2015), Apostolic Journey to Cuba, the United States of America, and Visit to the United Nations Headquarters, 19–28 September 2015, https://www.vatican.va/content/francesco/en/speeches/2015/september/documents/papa-francesco_20150925_onu-visita.html; Pope John Paul II, *Message for the Celebration of the World Day of Peace* (1 January 1990), https://www.vatican.va/content/john-paul-ii/en/messages/peace/documents/hf_jp-ii_mes_19891208_xxiii-world-day-for-peace.html; Pope Leo XIV, *Message to Participants in the 44th Session of the Food and Agriculture Organization Conference* (30 June 2025), <https://press.vatican.va/content/salastampa/en/bollettino/pubblico/2025/06/30/250630d.html>; Pope Francis, “Speech at World Meeting of Popular Movements,” *Vatican Radio*, 10 July 2015, http://www.archivioradiovaticana.va/storico/2015/07/10/pope_francis_speech_at_world_meeting_of_popular_movements/en-1157291; Pope Francis, *Laudate Deum* (apostolic exhortation, Rome, 4 October 2023), https://www.vatican.va/content/francesco/en/apost_exhortations/documents/20231004-laudate-deum.html; Pope Francis, *Laudato Si’: Encyclical Letter on Care for Our Common Home* (24 May 2015), https://www.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20150524_enciclica-laudato-si.html.

of the papal encyclical beginning with *Laudato Si*,⁶ which is the Magna Carta of creation care approach.

Creation care differs fundamentally from environmental protection framed in religious terms. It emphasizes the stewardship of God's created world and thus integrates ecological perspectives with contributions from diverse disciplines, such as the legal sciences.

The effectiveness and practical results of the anthropocentric legal regulatory methods that are predominantly widespread globally – despite the numerous international (multilateral) conventions, declarations, commitments and institutional protection activities implemented by states – are now highly questionable.⁷ Surveys of the results inspire new goals⁸ as humanity is in the final hours of the possibility of change, of ecological conversion.

The protection of creation appearing between approaches expressing the relationship between man and nature appears in legal codification only partially and not explicitly consciously, for example, in the approach following the precautionary principle. The protection of creation, which is also recognized and urged to be implemented in Christian religious social teachings,⁹ but other religions also set a similar priority of values¹⁰ and think in a similar way about nature, which they identify with creation.¹¹ The place and role of man is a key issue in the protection of creation.

Man's responsibility and obligations for the created world as a whole also strengthen its reaping of its benefits. Géza Kuminetz identifies the religious worldview (theocentric type) as the third typology of the relationship between

⁶ Pope Francis, *Laudato Si'* (encyclical letter), *Acta Apostolicae Sedis* 107 (2015): 887–945, https://www.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20150524_enciclica-laudato-si.html.

⁷ See, for example, *Decision (EU) 2022/591 of the European Parliament and of the Council of 6 April 2022 on the General Union Environment Action Programme to 2030*, Official Journal of the European Union L 114 (12 April 2022): 22–39.

⁸ *Intergovernmental Panel on Climate Change (IPCC), Special Report on the Impacts of Global Warming of 1.5°C* (Geneva: IPCC, 2018), <https://www.ipcc.ch/sr15/>; Sir Partha Dasgupta, *The Economics of Biodiversity: The Dasgupta Review* (Final Report, HM Treasury, London, 2021), <https://www.gov.uk/government/publications/final-report-the-economics-of-biodiversity-the-dasgupta-review>.

⁹ See, Brigitta Hidvéghiné Pulay, *Az egyházi tanítások és a környezetvédelem párhuzamos útja [The Parallel Path of Church Teachings and Environmental Protection]* (Budapest: Szent István Institute, 2022), <https://szentistvanintezet.hu/tanulmanyaink/6>.

¹⁰ See, Harold Coward, "Hindu Views of Nature and the Environment," in *Nature across Cultures: Views of Nature and the Environment in Non-Western Cultures*, vol. 4, ed. Helaine Selin (Dordrecht: Springer, 2003), 411–19. https://doi.org/10.1007/978-94-017-0149-5_21, https://link.springer.com/chapter/10.1007/978-94-017-0149-5_21.

¹¹ See, e.g., Tamás Béres, "Kortárs protestáns ökoteológiák" ["Contemporary Protestant Ecotheologies"], in *Isten látta, hogy jó: A teremtés igazsága, a teremtésvédelem kötelezettsége. Teológiai tanulmányok [“God Saw That It Is Good”: The Truth of Creation, the Obligation of Creation Protection. Theological Studies]*, ed. Attila Puskás and Máté Gárdonyi (Budapest: Szent István Társulat, 2024), 200–12, *Varia Theologica* 15.

man and the environment.¹² He quotes the work of József Halasy-Nagy, according to which the spring of the religious worldview is the fear arising from man's state of being, which only ceases when man reaches the primordial source of existence, that is, he encounters God. According to Géza Kuminetz's approach, Christian ecological-ethical view, "man is both a part of nature, but somehow he is also above it, and he is morally responsible for the preservation of nature and for shaping it to the Creator."¹³ This view avoids the pantheistic way of thinking, which elevates man to the same level as other creatures, as well as the exploitative view, which is free of the intrinsic value of nature and sees it as a purely objective reality.

The approach to the protection of creation in the broadest sense means the protection of life. In contrast to other approaches that protect the environment and nature, it does not only mean the protection of the natural and built environment, but the role of humans is key in it. Man, who dominates the earth, reaps its fruits, and with it, and because of it, is more and more responsible for it. What is it responsible for? On the one hand, for the preservation and flourishing of nature, and on the other hand, for passing it on to future generations.

1.2. The Unfolding of the Creation Protection Approach in the Social Teaching of the Church

Pope Leo XIII's encyclical *Rerum Novarum*, published in 1891,¹⁴ sought to provide a Christian answer to social questions in connection with the Industrial Revolution. Although he did not deal with the issue of environmental protection, it is indirectly of great importance from the point of view of sustainability, because its key themes were the common good, the purpose of goods, the responsibility, duty, rights of political and social communities, or even human nature and human rights.¹⁵ Pope Pius XI wrote in his encyclical *Quadragesimo anno*¹⁶ that all created goods are understood as purely subordinate

¹² Géza Kuminetz, *Az igaz világnézet... [The True Worldview...]*, 167; József Halasy-Nagy, "A világnézet" ["The Worldview"], in Gyula Kornis, *A mai világ képe I. Szellemi élet [The Image of the World of Today I: Intellectual Life]* (Budapest: Királyi Magyar Egyetemi Nyomda, 1938), 35–36.

¹³ Géza Kuminetz, *Teremtésvédelem és emberi jogok – katolikus szemmel. Tanulmányok a keresztény spiritualitás és teremtésvédelem köréből [Creation Protection and Human Rights]* (Budapest: JEL Könyvkiadó, 2025), 204.

¹⁴ Pope Leo XIII, *Rerum Novarum* (encyclical, 15 May 1891), *Acta Sanctae Sedis* 23 (1891): 641–70, https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_15051891_rerum-novarum.html.

¹⁵ Ibid., para. 13.

¹⁶ Pope Pius XI, *Quadragesimo Anno* (encyclical, 15 May 1931), *Acta Apostolicae Sedis* 23, no. 6 (1931): 177–285, https://www.vatican.va/content/pius-xi/en/encyclicals/documents/hf_p-xi_enc_19310515_quadragesimo-anno.html.

instruments to God, which can be used to the extent that they lead to the attainment of this ultimate end (i.e. God – ed.).¹⁷ Pope John XXIII put it this way in his encyclical *Pacem in terris*.¹⁸ The common good must include all that is due to each nation individually.¹⁹ One interpretation of the idea of the common good now appears as a common heritage (authentically: *common heritage* or *common concern of humanity*). In his encyclical *Gaudium et spes*, Pope Paul VI wrote that man must therefore regard his rightfully possessed wealth as not only his own, but also common, in the sense that he may benefit not only himself but also others.²⁰ The process of the Catholic Church's turning towards ecological problems, which began in the sixties, *culminates in the Pope Paul VI's message to the UN Conference in Stockholm in 1972*, which firmly takes a stand for the goodness of creation as a whole, our responsibility towards our natural environment and future generations, and the idea of solidarity.²¹ He pointed out that never before was there such a need to appeal to the moral consciousness of man as it is today, in this age so strongly defined by human development. For the danger does not arise from development, nor from science: on the contrary, if they are used well, they can solve many of the problems threatening humanity. The real danger lies in man, who has ever more powerful tools, such as those capable of destruction, but also of the noblest achievements.

The modern concept of development itself is questioned only in Pope John Paul II's encyclical *Redemptor hominis*.²² The question of development, its impact on the natural environment and its compatibility with the goals of Christian human life are also dealt with in the encyclicals *Laborem exercens*²³ *Sollicitudo rei socialis*.²⁴

¹⁷ Ibid.

¹⁸ Pope John XXIII, *Pacem in Terris* (encyclical, 11 April 1963), *Acta Apostolicae Sedis* 55 (1963): 257–304, https://www.vatican.va/content/john-xxiii/hu/encyclicals/documents/hf_j-xxiii_enc_11041963_pacem.html.

¹⁹ Ibid., paras. 55–56.

²⁰ *Gaudium et Spes: Pastoral Constitution on the Church in the Modern World* (7 December 1965), para. 60, https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651207_gaudium-et-spes_en.html.

²¹ Pope Paul VI, *Visit of His Holiness Pope Paul VI to the United Nations: Address to the United Nations Organization* (4 October 1965), https://www.vatican.va/content/paul-vi/en/speeches/1965/documents/hf_p-vi_spe_19651004_united-nations.html.

²² Pope John Paul II, *Redemptor Hominis* (encyclical, 4 March 1979), *Acta Apostolicae Sedis* 71 (1979): 257–324, https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_04031979_redemptor-hominis.html.

²³ Pope John Paul II, *Laborem Exercens* (encyclical, 14 September 1981), *Acta Apostolicae Sedis* 73, no. 9 (1981): 577–647, https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_14091981_laborem-exercens.html.

²⁴ Pope John Paul II, *Sollicitudo Rei Socialis* (encyclical, 30 December 1987), *Acta Apostolicae Sedis* 80 (1988): 513–86, https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_30121987_sollicitudo-rei-socialis.html.

While prior to the work of Pope Francis, the social teaching of the Catholic Church referred to the common good, social justice and natural resources, explicit protection of creation appeared in the encyclical *Laudato si'*.²⁵ In his 2015 address to the UN General Assembly, he said, that the environment itself imposes ethical limits that human action must recognize and respect.²⁶

“The protection of creation, [...] In its approach, the Church goes beyond mere practical issues. In his encyclical *Laudato si'*, Pope Francis warns that “the root of the current situation” must be reached. It is not enough to just notice ‘the symptoms’ and propose their treatment (*Laudato si'* 15). In the words of Lóránd Ujházi, this means that it is not enough to explore the problems of waste management, climate change, biodiversity and water management, but we must see the ‘deepest causes’ behind them.²⁷ Géza Kuminetz expresses himself similarly in relation to the search for harmony between man and the created world. “We must look for the root of the crisis in the human attitude that does not want to step out of the role of co-creator and desires to take on a sovereign creative role driven by the desire for domination.”²⁸

Creation care approach addresses all the issues that are specific to our time, especially the social, natural, and economic contexts of sustainability. The popes call for a renewed relationship with creation. Pope Francis called for ecological conversion not only in his encyclical *Laudato Si* but also in his apostolic exhortation *Laudate Deum*.²⁹ Continuing the work of his predecessors, Pope Leo XIV dedicated a special liturgy to the protection of creation in July 2025.³⁰ Pope Leo said our mission as Christians to care for creation was entrusted to us by the Lord, so that we might bring peace and reconciliation

²⁵ Pope Francis, *Laudato Si'*, 887–945.

²⁶ Pope Francis, *Address to the General Assembly of the United Nations on the Occasion of the Sustainability Summit* (United Nations Headquarters, New York, 25 September 2015), Apostolic Journey of His Holiness Pope Francis to Cuba, to the United States of America, and Visit to the United Nations Headquarters, 19–28 September 2015, https://www.vatican.va/content/francesco/en/speeches/2015/september/documents/papa-francesco_20150925_onu-visita.html.

²⁷ See, e.g., Lóránd Ujházi, “A környezetvédelem és a természetvédelem mint találkozási pont a katolikus egyház és az Európai Unió kapcsolatában” [“Environmental Protection and the Protection of Creation as a Meeting Point in the Relationship between the Catholic Church and the European Union”], *Európai Tükör* 25, no. 1–2 (2022): 71–90, <https://doi.org/10.32559/et.2022.1-2.4>.

²⁸ Kuminetz, *Creation Protection and Human Rights*, 203.

²⁹ Pope Francis, *Laudate Deum* (apostolic exhortation, 4 October 2023), https://www.vatican.va/content/francesco/en/apost_exhortations/documents/20231004-laudate-deum.html.

³⁰ Pope Leo XIV, *Homily, Holy Mass for the Care of Creation, Borgo Laudato si', Castel Gandolfo* (9 July 2025), <https://www.vatican.va/content/leo-xiv/en/homilies/2025/documents/20250709-omelia-custodia-creazione.html>.

to our troubled world.³¹ “We hear the cry of the earth and of the poor,” he said, “for that cry has reached the heart of God. Our indignation is His indignation; our work is His work.”³² The Church bears witness to the “indestructible covenant between Creator and creatures.”³³ He recalled St. Francis of Assisi’s focus on God’s love for all of creation, which gives everything life. In conclusion, Pope Leo invited Christians to spread harmony throughout the world, drawing inspiration from St. Augustine.³⁴ “O Lord, your works praise you so that we may love you, and we love you so that your works may praise you.”³⁵

The above documents are just a few of the many that have been issued in order to protect creatures and the created world. Although the social teaching of the Catholic Church does not speak of the rights of nature, it does pay increasing attention to the protection of creation.

1.3. The Environmental Crisis Also Threatens the Enforceability of Human Rights

Humanity faces devastating pandemics alongside a triple environmental crisis – encompassing climate disruptions induced by climate change, dramatic biodiversity loss, and severe environmental pollution – which collectively hinder progress toward the 2030 Sustainable Development Goals.

A principal consequence of climate change is the exacerbation of inequalities, both within contemporary generations (among diverse social groups) and between current and future generations. In certain regions, specific social groups may derive advantages from activities associated with carbon dioxide emissions, as well as from localized positive effects of climate change. Conversely, in the same regions, other social groups – and populations in disparate areas – endure the adverse impacts. For future generations, climate change imperils not only the quality of life but also the viability of human existence. The anticipated extinction of entire populations and cultures underscores this threat, with indigenous peoples’ rights particularly jeopardized by habitat loss (e.g. due to rising sea levels) or ecosystem alterations that preclude the continuation of traditional lifestyles.

Lower socioeconomic strata and less affluent nations bear a disproportionate burden from the consequences of global warming, thereby perpetuating the

³¹ Pope Leo XIV, *Homily – Holy Mass for the Care of Creation, Borgo Laudato Si’, Castel Gandolfo* (9 July 2025), *Vatican News*, 29 September 2025, <https://www.vaticannews.va/en/pope/news/2025-07/pope-leo-xiv-mass-care-creation-borgo-laudato-si-castel-gandolfo.html>.

³² Ibid.

³³ Ibid.

³⁴ Ibid.

³⁵ Ibid.

escalation of poverty and widening social disparities. Concurrently, combating hunger persists as a pressing challenge and this problem is intensifying in severity. These dynamics profoundly undermine the realization and enforcement of human rights.

On World Environment Day, 5 June 2022, the UN Special Rapporteur on human rights and the environment, David R. Boyd, drew attention to the catastrophic environmental impacts of conflicts that threaten the enforceability of human rights worldwide.³⁶ The consequences of environmental destruction will persist for years after the cessation of armed conflicts and will also exert a significant negative impact on regions not directly affected by warfare. On 19 May 2021, the European Parliament adopted a resolution on the effects of climate change on human rights and the role of environmental defenders in this matter, underscoring the distinctive characteristics of the complex phenomenon of climate change, including its uneven spatial and temporal distribution, as well as its predominantly unpredictable and stochastic nature.³⁷

The intimate connection between environmental conditions and the enforceability of the right to a healthy environment is evident. A pivotal milestone was reached, marking the culmination of an era that began with the 1972 UN Conference on the Human Environment in Stockholm, when, on 8 October 2021 in Geneva, the UN Human Rights Council adopted a resolution for the first time recognizing access to a clean, healthy, and sustainable environment as a universal human right.³⁸

The human rights-based approach to climate change underscores the principles of universality and non-discrimination, emphasizing that rights are assured to all individuals worldwide, including vulnerable groups, without discrimination on any grounds, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or any other status. In the light of the foregoing, it is pertinent to inquire how the escalating processes initiated by anthropogenic activities can be influenced through regulatory measures.

In the modern context, numerous historical precedents for environmental protection regulations – such as Plato’s Laws – demonstrate that since humans have inhabited the Earth, they have exerted an increasingly significant impact

³⁶ United Nations Office of the High Commissioner for Human Rights, “Catastrophic Environmental Impacts of Conflicts Jeopardize Human Rights,” media advisory, 23 June 2022, <https://www.ohchr.org/en/media-advisories/2022/06/catastrophic-environmental-impacts-conflicts-jeopardize-human-rights>.

³⁷ European Parliament, *Resolution of 19 May 2021 on the Effects of Climate Change on Human Rights and the Role of Environmental Defenders* (2020/2134(INI)), *Official Journal of the European Union* C 15 (12 January 2022): 111–24, https://www.europarl.europa.eu/doceo/document/TA-9-2021-0245_EN.html.

³⁸ United Nations General Assembly, *Resolution 48/13: Establishment of a Nuclear-Weapon-Free Zone in the Region of the Middle East* (7 December 1993), <https://www.un.org/documents/ga/res/48/a48r013.htm>.

on their environment. Consequently, actions to mitigate harmful environmental effects have been necessary across various eras.³⁹

Examining the history of environmental regulation, the 20th century saw growing evidence of environmental damage, such as the infamous London smog of 1952, which acted as a warning signal, prompting decision-makers to respond. The vision of exponential economic growth, population explosion, and overconsumption painted a particularly grim future. In the early 1970s, Aurelio Peccei founded the Club of Rome to develop potential world models and address the question of the limits to growth. Until recent decades, the world was shaped by three relatively stable, interacting elements: nature, humanity, and society. Today, a fourth element – technology – is emerging as a significant component of the human system.

The United Nations' international environmental conferences, numerous multilateral treaties and declarations, and the efforts of states over the past fifty years reflect a concerted effort across political, legal, and economic spheres to preserve the planet's natural resources by thinking and acting globally.⁴⁰

The development of environmental law represents an ongoing response to global changes, serving as a search for solutions. In this process, decision-makers seek the most effective tools to protect both human and environmental health. The emergence of the concept of the Rights of Nature is considered one such pathway forward.

1.4. One Planet – One Hope

The International Day of Mother Earth, widely recognized, acknowledges the collective responsibility outlined in the 1992 Rio Declaration to promote harmony with nature and the Earth and to achieve a just balance among the economic, social, and environmental needs of present and future generations. In 2009, the United Nations General Assembly designated April 22 as International Mother Earth Day through Resolution A/RES/63/278. Introduced by Bolivia and supported by over 50 member states, the resolution recognizes that “the Earth and its ecosystems are our home” and emphasizes the need to foster harmony with nature to meet the environmental needs of current and future generations in an economically and socially just manner. This initiative draws global attention to the challenges facing the planet's well-being and the life it supports. In December 2010, the General Assembly

³⁹ See, Gyula Bándi, *Környezetjog [Environmental Law]* (Budapest: Szent István Társulat, 2022), 14; Ludwig Kramer, *European Environmental Law: A Comparative Perspective* (London: Routledge, 2003), <https://doi.org/10.4324/9781315255958>.

⁴⁰ UNEP (*United Nations Environment Programme*), <https://www.unep.org/>.

adopted a second resolution on Harmony with Nature. Since 2011, the United Nations has annually invited scientists, professionals, and others to participate in an interactive dialogue on this day, promoting harmony with nature and exploring ways to strengthen human connections with the natural world.

Similarly, motivated by a commitment to care for our common home, interdisciplinary dialogue, and spiritual renewal, Pope Francis, in his letter to cardinals on August 6, 2015, stated:

“(...) we wish to contribute to resolving the ecological crisis which humanity is presently experiencing. In doing so, we must first rediscover in our own rich spiritual patrimony the deepest motivations for our concern for the care of creation. (...) The annual World Day of Prayer for the Care of Creation will offer individual believers and communities a fitting opportunity to reaffirm their personal vocation to be stewards of creation, to thank God for the wonderful handwork which he has entrusted to our care, and to implore his help for the protection of creation as well as his pardon for the sins committed against the world in which we live.”⁴¹

The initiatives mentioned above reflect a universal desire for renewal in humanity’s relationship with nature, both at individual and societal levels, emphasizing the need for harmony with the natural world. Legal cultures have long embodied this relationship, as evidenced by regulations on nature conservation, environmental protection, agricultural law, and, in many cases, international legal frameworks.

Economic profit motives often underlie the failure of environmental protection, highlighting the growing importance of effective environmental control mechanisms. In accordance with the principle of subsidiarity, the consensus that shapes legislation plays a critical role in determining the most effective social regulatory instruments for protecting nature. This consensus is in turn shaped by social processes, traditions, worldviews, historical institutional frameworks, geographical factors, and, notably, the affiliation to specific legal families, as will be discussed later. Excessive long quotations and under-documented.

⁴¹ Pope Francis, “Letter for the Establishment of the ‘World Day of Prayer for the Care of Creation’ (1 September)” (6 August 2015), Libreria Editrice Vaticana, https://www.vatican.va/content/francesco/en/letters/2015/documents/papa-francesco_20150806_lettera-giornata-creato-creato.html.

1.5. Regulatory Concepts in Environmental Codifications

In recent decades, three types of legal regulatory concepts related to the protection of nature and the environment have emerged. These approaches reflect the level of development in environmental regulation and, to some extent, are incorporated into legislation, without which they would remain merely theoretical constructs.

The predominant regulatory approach throughout much of the brief history of environmental law has been anthropocentrism. This perspective views humans as separate from and superior to nature, assigning value to any living or non-living component of nature only insofar as it serves human interests. However, an anthropocentric approach does not inherently advocate for environmental harm. An environmental ethic rooted in anthropocentrism ascribes moral value exclusively to humans, making the human person the central criterion of ethical considerations. This human-centred worldview has characterized Western thought since the time of the ancient Greeks.

A new phase in expanding the anthropocentric approach involves recognizing the interests of future generations. The theoretical foundation of this philosophy holds that no generation has the right to deprive future generations of the environmental conditions it currently enjoys. In this sense, the rights of future generations impose obligations on the present generation. Emphasizing the interests of future generations has also contributed to the development of the concept of sustainable development.

A further group of regulatory philosophies are those ideas that refer to the protection and preservation of the environment or certain environmental factors in themselves. The topic of the volume is not a detailed presentation of these concepts, though some characteristics are highlighted in order to contextualize the discussion.

Following the research of Ottó Pál Harsányi,⁴² we point out that, according to Warwick Fox,⁴³ two fundamentally different lines of development can be observed within these ideas: the theory of the intrinsic value of nature and a psychological-cosmological approach, the latter being Deep Ecology (according to Fox: Transpersonal Ecology). In the system of non-anthropocentric theories created by J. Baird Callicott,⁴⁴ two directions of environmental ethics emerge: biocentrism and ecocentrism. Unlike anthropocentrism, biocentrism puts the

⁴² See, Ottó Pál Harsányi, "Tájékozódás az ökofilozófiai irányzatok sokaságában és a keresztény környezetetika kulcspontjai," OMF, <https://teremtesvedelem.hu/content/korlevel/tanulmánygyujtemeny-kornyezettudatos-gondolkodashoz#2>.

⁴³ Warwick Fox, "Fondamenti antropocentrici e non antropocentrici nelle decisioni sull'ambiente," in *L'etica nelle politiche ambientali*, ed. Chiara Poli and P. Timmerman (Padova: Fondazione Lanza-Gregoriana Libreria Editrice, 1991).

⁴⁴ J. Baird Callicott, "Environmental Ethics: Overview," in *Encyclopedia of Bioethics*, ed. Warren T. Reich, vol. 2 (New York: Macmillan, 1995), 676, <https://doi.org/10.1002/047001590X>.

natural world at the top of the list of priorities. According to this view, all living beings in the world are equally important, that is to say, the lives of animals are as important as those of humans. Biocentrism is a philosophical and ethical view, arguing that all living organisms have equal moral and intrinsic value, regardless of their role for humans or in the ecosystem. Biocentrism puts life at the centre and believes that all living things – humans, animals, plants, or even microorganisms – deserve respect and consideration. Biocentric ethics encourages us to take into account the well-being of all living beings in human decisions, such as environmental protection, resource use or technological developments. It is often associated with the ideals of deep ecology and sustainability, emphasizing the unity of ecosystems and the interdependence of living beings.

Although it cannot be defined as a legal regulatory concept, the approach present in society and thus ecocentrism is also worth mentioning in this context, attaching special importance to the ecosystem as a whole, and considering both living and inanimate components to be important. Ecocentrism is thus another philosophical and ethical approach that places ecosystems as a whole, as well as their internal connections and processes, at the centre of moral and value considerations. Unlike anthropocentrism (anthropocentrism) or biocentrism (all living beings are equal), ecocentrism considers not only individual living beings, but the entire ecological system, including the interactions of living and non-living elements (e.g. rivers, mountains, soil), as valuable and worthy of protection. According to an ecocentric approach, the destruction of a river (e.g. pollution or dam construction) is problematic not only because of the fish or plants that live in it, but also because the balance of the entire ecosystem, including the surrounding forests, soil and human communities, is disrupted. Ecocentrism is often associated with the deep ecology movement, which was founded by the philosopher Arne Naess. Deep ecology emphasizes the intrinsic value of ecosystems and the need for a radical transformation of the human way of life. Aldo Leopold, in his *Sand County Almanac*, introduced the concept of “land ethics”, which reflects an ecocentric view and treats man as part of the Earth’s community.⁴⁵

A fourth perspective on the relationship between humanity and nature is emerging, though it has not been explicitly incorporated into legal frameworks. This perspective emphasizes the protection of creation’s integrity, a principle recognized and promoted in Christian social teachings.⁴⁶ Other religions

⁴⁵ Aldo Leopold, *A Sand County Almanac and Sketches Here and There* (New York: Oxford University Press, 1949).

⁴⁶ Pope Leo XIII, *Rerum Novarum* (encyclical, 15 June 1891), *Acta Sanctae Sedis* 23 (1891): 641–70; Pope Pius XI, *Quadragesimo Anno* (encyclical, 15 May 1931), *Acta Apostolicae Sedis* 23, no. 6 (1931): 177–285; Pope John XXIII, *Mater et Magistra* (encyclical, 15 May 1961), *Acta Apostolicae Sedis* 53 (1961): 401–64; Pope Paul VI, *Populorum Progressio* (encyclical, 26 March 1967), *Acta Apostolicae Sedis* 59 (1967): 257–99; Pope Paul VI, *Octogesima Adveniens*

similarly prioritize values that view nature as the created world. A central issue in this approach is the role and responsibility of humanity in safe-guarding creation. By fulfilling its obligations to protect the entirety of creation, humanity also benefits from its resources and blessings.

“Each community can take from the bounty of the earth whatever it needs for subsistence, but it also has the duty to protect the earth and to ensure its fruitfulness for coming generations.”⁴⁷

“Together with our obligation to use the earth’s goods responsibly, we are called to recognize that other living beings have a value of their own in God’s eyes: ‘by their mere existence they bless him and give him glory’,^[41] and indeed, ‘the Lord rejoices in all his works’ (Ps 104:31).”⁴⁸

This work does not aim to compare the philosophical underpinnings of various environmental approaches and legal codifications. Instead, it seeks to underscore the critical importance of regional and global environmental protection. In the pursuit of more effective strategies, a relatively novel phenomenon has emerged within the framework of the third regulatory concept discussed earlier: the Rights of Nature paradigm. The objective of this study is not to provide a detailed analysis of the effectiveness of this phenomenon but to draw on findings from prior research.

In the concluding chapter, an evaluation of environmental protection is presented, informed by the social teachings of the Catholic Church.

1.5.1. Creation Protection Approach

Religions have significantly influenced the development of humanity’s relationship with the natural environment, with Christianity playing a particularly prominent role. The Christian Church, as an institution operating within the world, seeks to comprehensively interpret both its own role and the broader created order. This includes analysing the interconnections within the created world, the immediate existential conditions of its inhabitants, and the ultimate purpose of creation, including the roles and functions of created beings within the divine framework.

(apostolic letter, 14 May 1971), *Acta Apostolicae Sedis* 63, no. 8 (1971): 401–44; Pope John Paul II, *Laborem Exercens* (encyclical, 14 September 1981), *Acta Apostolicae Sedis* 73, no. 9 (1981): 577–647; Pope John Paul II, *Sollicitudo Rei Socialis* (encyclical, 30 December 1987), *Acta Apostolicae Sedis* 80, no. 5 (1988): 513–86; Pope John Paul II, *Centesimus Annus* (encyclical, 1 May 1991), *Acta Apostolicae Sedis* 83, no. 10 (1991): 793–867.

⁴⁷ Pope Francis, *Laudate Deum*, para. 67.

⁴⁸ *Ibid.*, para. 69.

Pope Leo XIII's encyclical *Rerum Novarum*,⁴⁹ published in 1891, aimed to provide a Christian perspective on social issues arising from the Industrial Revolution. Although the encyclical does not explicitly address environmental protection, it holds significant implications for sustainability. Its central themes include the common good, the purpose and distribution of resources, the responsibilities and duties of political and social communities, as well as human nature and human rights, all of which are relevant to sustainable development and creation protection.

In his encyclical *Quadragesimo Anno* (1931),⁵⁰ Pope Pius XI discussed the benefits of *Rerum Novarum* to the Church and society, defends its doctrine, and further develops points related to the social and economic question, including a judgment on Socialism and a call for the Christian reform of morals. While *Quadragesimo Anno* addresses human relations within society and the proper use of resources in an economic context, it does not explicitly delve into the theological or philosophical connection between human beings and nature in the way that later encyclicals like *Laudato Si'* or other Church documents might. The focus remains on social justice and economic order rather than environmental stewardship or the intrinsic value of creation.

Pacem in Terris (Peace on Earth) by Pope John XXIII,⁵¹ while primarily focused on establishing universal peace in truth, justice, charity, and liberty, does touch upon the connection between human beings and the natural order, albeit indirectly through the lens of moral order and the common good. In his encyclical *Pacem in Terris* (1963), Pope John XXIII stated that a marvellous order predominates in the world of living beings and in the forces of nature, is the plain lesson which the progress of modern research and the discoveries of technology teach us. And it is part of the greatness of man that he can appreciate that order, and devise the means for harnessing those forces for his own benefit.⁵²

In the encyclical *Gaudium et Spes*,⁵³ the Second Vatican Council disclosed the following: "By its very nature private property has a social quality which

⁴⁹ Pope Leo XIII, *Rerum Novarum* (encyclical, 15 May 1891), *Acta Sanctae Sedis* 23 (1891): 641–70, https://www.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_15051891_rerum-novarum.html.

⁵⁰ Pope Pius XI, *Quadragesimo Anno*, 177–285.

⁵¹ Pope John XXIII, *Pacem in Terris* (encyclical, 11 April 1963), *Acta Apostolicae Sedis* 55 (1963): 257–304, https://www.vatican.va/content/john-xxiii/hu/encyclicals/documents/hf_j-xxiii_enc_11041963_pacem.html.

⁵² The encyclical *Pacem in Terris* has the great merit of clearly pointing out the environmental damage caused by weapons. Chapter 8 Teachings of the Catholic Church on Environmental Harm Caused by Military Operations In: Loránd Ujházi, "Military Ethics and the Changing Nature of Warfare," chap. 128–52.

⁵³ Second Vatican Council, *Gaudium et Spes: Pastoral Constitution on the Church in the Modern World* (7 December 1965), Vatican City: Libreria Editrice Vaticana, <http://www.vatican.va/>

is based on the law of the common destination of earthly goods. If this social quality is overlooked, property often becomes an occasion of passionate desires for wealth and serious disturbances, so that a pretext is given to the attackers for calling the right itself into question.”

The Catholic Church’s focus on ecological issues, which began in the 1960s, was highlighted at the United Nations Conference on the Human Environment in Stockholm in 1972.⁵⁴ This process culminated in Pope Paul VI’s papal message, which firmly affirmed the goodness of creation, our responsibility to steward the natural environment for future generations, and the principle of global solidarity.

“But how can we ignore the imbalances caused in the biosphere by the disorderly exploitation of the physical reserves of the planet, even for the purpose of producing something useful, such as the wasting of natural resources that cannot be renewed; pollution of the earth, water, air and space, with the resulting assaults on vegetable and animal life? All that contributes to the impoverishment and deterioration of man’s environment to the extent, it is said, of threatening his own survival. Finally, our generation must energetically accept the challenge of going beyond partial and immediate goals in order to prepare a hospitable earth for future generations.”⁵⁵

This period laid the groundwork for later papal teachings, such as Pope John Paul II’s 1990 *World Day of Peace message*, which explicitly called for ecological responsibility, and Pope Francis’s 2015 encyclical *Laudato Si’*, which comprehensively addresses the ecological crisis.

Paul VI’s contributions were foundational, blending theology with a call to action for environmental care and global solidarity. In his message, Paul VI emphasized humankind’s responsibility, stating that:

“The care of preserving and improving the natural environment, like the noble ambition of stimulating a first gesture of world cooperation in his field, so precious for everyone, meets needs that are deeply felt among the men of our times. Today, indeed, there is a growing awareness that man and his environment are more inseparable than ever. The environment

archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651207_gaudium-et-spes_en.htm.

⁵⁴ United Nations Conference on the Human Environment (Stockholm, 5–16 June 1972), <https://www.un.org/en/conferences/environment/stockholm1972>.

⁵⁵ Pope Paul VI, *Message on the Occasion of the International Conference of the United Nations on the Environment Held in Stockholm* (1 June 1972), Vatican, https://www.vatican.va/content/paul-vi/en/messages/pont-messages/documents/hf_p-vi_mess_19720605_conferenza-ambiente.html.

essentially conditions man's life and development, while man, in his turn, perfects and ennoble his environment through his presence, work and contemplation. But human creativeness will yield true and lasting benefits only to the extent to which man respects the laws that govern the vital impulse and nature's capacity for regeneration. Both are united, therefore, and share a common temporal future. So man is warned of the necessity of replacing the unchecked advance of material progress, often blind and turbulent, with new-found respect for the biosphere of his global domain, which has become 'one Earth', to quote the fine motto of the Conference."⁵⁶

The modern concept of development is critically examined in Pope John Paul II's encyclical *Redemptor Hominis* (1979),⁵⁷ which questions its implications for human dignity and the created world. This theme is further explored in *Laborem Exercens* (1981),⁵⁸ which addresses the impact of development on human work and the environment, and in *Sollicitudo Rei Socialis* (1987), which evaluates development in light of Christian anthropology, emphasizing its compatibility with the goals of authentic human life and stewardship of creation. Yet it was the Creator's will that man should communicate with nature as an intelligent and noble "master" and "guardian", and not as a heedless "exploiter" and "destroyer".

The development of contemporary civilization, marked by the ascendancy of technology, demands a proportional development of morals and ethics. For the present, this last development seems unfortunately to be always left behind. Accordingly, in spite of the marvel of this progress, in which it is difficult not to see also authentic signs of man's greatness, there are signs that the seeds of this were revealed to us in the pages of the Book of Genesis⁵⁹

Laborem Exercens does not have a direct message concerning environmental responsibility as explicitly as the others, but it implies stewardship through its discussion of work transforming creation responsibly (e.g., §4).⁶⁰

Written to mark the 20th anniversary of *Populorum Progressio*, this encyclical explicitly critiques models of development that prioritize economic growth over human dignity and environmental sustainability. It introduces the concept of "authentic development," which respects both people and creation (e.g., §34).⁶¹

⁵⁶ Ibid.

⁵⁷ Pope John Paul II, *Redemptor Hominis*, 310.

⁵⁸ Pope John Paul II, *Laborem Exercens* (encyclical, 14 September 1981), *Acta Apostolicae Sedis* 73, no. 9 (1981): 577–647, https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_14091981_laborem-exercens.html.

⁵⁹ Pope John Paul II, *Redemptor Hominis*, 257–324.

⁶⁰ Pope John Paul II, *Laborem Exercens*, 577–647.

⁶¹ Pope Paul VI, *Populorum Progressio* (encyclical, 26 March 1967), *Acta Apostolicae Sedis* 59 (1967): 257–99, e.g., §34, https://www.vatican.va/content/paul-vi/en/encyclicals/documents/hf_p-vi_enc_26031967_populorum.html.

“Nor can the moral character of development exclude respect for the beings which constitute the natural world, which the ancient Greeks – alluding precisely to the order which distinguishes it – called the ‘cosmos.’ Such realities also demand respect, by virtue of a threefold consideration which it is useful to reflect upon carefully. The first consideration is the appropriateness of acquiring a growing awareness of the fact that one cannot use with impunity the different categories of beings, whether living or inanimate – animals, plants, the natural elements – simply as one wishes, according to one’s own economic needs. On the contrary, one must take into account the nature of each being and of its mutual connection in an ordered system, which is precisely the ‘cosmos’. The second consideration is based on the realization – which is perhaps more urgent – that natural resources are limited; some are not, as it is said, renewable. Using them as if they were inexhaustible, with absolute dominion, seriously endangers their availability not only for the present generation but above all for generations to come.

The third consideration refers directly to the consequences of a certain type of development on the quality of life in the industrialized zones. We all know that the direct or indirect result of industrialization is, ever more frequently, the pollution of the environment, with serious consequences for the health of the population.

Once again it is evident that development, the planning which governs it, and the way in which resources are used must include respect for moral demands.”⁶²

The enforcement of the right to a healthy environment is a prerequisite for the realization of many other fundamental human rights. In his work on the relationship between human rights and the Catholic Church’s teachings on the protection of creation, Gyula Bándi references Pope John Paul II’s first encyclical, *Redemptor Hominis* (1979),⁶³ particularly its discussion of human rights and their deeper spiritual significance. Bándi highlights how the encyclical connects the dignity of the human person to responsible stewardship of the created world, emphasizing that environmental protection is integral to upholding human rights.

⁶² Pope John Paul II, *Sollicitudo Rei Socialis* (encyclical, 30 December 1987), *Acta Apostolicae Sedis* 80, no. 5 (1988): 513–86, e.g., §34, https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_30121987_sollicitudo-rei-socialis.html.

⁶³ Pope John Paul II, *Redemptor Hominis* (encyclical, 4 March 1979), *Acta Apostolicae Sedis* 71 (1979): 257–324, https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_04031979_redemptor-hominis.htm.

The establishment of the United Nations and the adoption of the Universal Declaration of Human Rights in 1948⁶⁴ were not only intended to prevent the recurrence of the horrors of the Second World War but also aimed to establish a foundation for evaluating systems, programs, and forms of government based on the fundamental criterion of the good of the human person. The human person, living in a community, is an essential component of the common good, which must serve as the primary standard for all plans, systems, and governments. This perspective aligns with the Church's teaching⁶⁵ that the common good is rooted in the dignity of the human person and the responsible stewardship of creation.

In Bándi's interpretation, the common good serves as a key link between the protection of creation and human rights, with the state playing a central role in both domains. The common good, as a foundational principle, must be realized primarily through the state's actions, regardless of the specific aspect under consideration. Human dignity provides another fundamental connection, as its scope continues to expand and evolve. While some aspects of human dignity have long been addressed, others, such as environmental protection, are still emerging as critical components of this evolving framework.⁶⁶

In 1990, Pope John Paul II dedicated his *World Day of Peace* message to the theme "Peace with God the Creator, Peace with All of Creation," emphasizing human rights and environmental protection. "The ecological crisis reveals the *urgent moral need for a new solidarity*, especially in relations between the developing nations and those that are highly industrialized. States must increasingly share responsibility, in complimentary ways, for the promotion of a natural and social environment that is both peaceful and healthy. The newly industrialized States cannot, for example, be asked to apply restrictive environmental standards to their emerging industries unless the industrialized States first apply them within their own boundaries. At the same time, countries in the process of industrialization are not morally free to repeat the errors made in the past by others, and recklessly continue to damage the environment through industrial pollutants, radical deforestation or unlimited exploitation of non-renewable resources."⁶⁷

⁶⁴ United Nations, *Universal Declaration of Human Rights* (10 December 1948), <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

⁶⁵ See, Second Vatican Council, *Gaudium et Spes: Pastoral Constitution on the Church in the Modern World* (7 December 1965), Vatican City: Libreria Editrice Vaticana, §26, https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651207_gaudium-et-spes_en.html.

⁶⁶ Bándi, Gyula: A teremtés védelme és az emberi jogok, In.: *Acta Humana: Hungarian Centre for Human Rights Publications* 8, no. 4 (2020): 9–33, <https://doi.org/10.32566/ah.2020.4.1>.

⁶⁷ Pope John Paul II, *Peace with God the Creator, Peace with All of Creation* (1 January 1990), §10, https://www.vatican.va/content/john-paul-ii/en/messages/peace/documents/hf_jp-ii_mes_19891208_xxiii-world-day-for-peace.html.

The *World Peace Day message* on rethinking the economic system contains the following teaching:

“It must also be said that the proper ecological balance will not be found without *directly addressing the structural forms of poverty* that exist throughout the world. Rural poverty and unjust land distribution in many countries, for example, have led to subsistence farming and to the exhaustion of the soil. Once their land yields no more, many farmers move on to clear new land, thus accelerating uncontrolled deforestation, or they settle in urban centres which lack the infrastructure to receive them. Likewise, some heavily indebted countries are destroying their natural heritage, at the price of irreparable ecological imbalances, in order to develop new products for export. In the face of such situations it would be wrong to assign responsibility to the poor alone for the negative environmental consequences of their actions. Rather, the poor, to whom the earth is entrusted no less than to others, must be enabled to find a way out of their poverty. This will require a courageous reform of structures, as well as new ways of relating among peoples and States.”⁶⁸

His Holiness highlighted the global nature of ecological problems and human responsibility with the following. “Today the ecological crisis has assumed such proportions as to be *the responsibility of everyone*. As I have pointed out, its various aspects demonstrate the need for concerted efforts aimed at establishing the duties and obligations that belong to individuals, peoples, States and the international community. This not only goes hand in hand with efforts to build true peace, but also confirms and reinforces those efforts in a concrete way. When the ecological crisis is set within the broader context of *the search for peace* within society, we can understand better the importance of giving attention to what the Earth and its atmosphere are telling us: namely, that there is an order in the universe which must be respected, and that the human person, endowed with the capability of choosing freely, has a grave responsibility to preserve this order for the well-being of future generations. I wish to repeat that *the ecological crisis is a moral issue*.”⁶⁹

The fact that the ecological crisis is also a moral crisis is emphasized by numerous other documents, as did the encyclicals *Laudato Si*⁷⁰ and apostolic exhortation *Laudate Deum*.⁷¹ Pope Leo XIV also called for moral renewal,

⁶⁸ Ibid., §11.

⁶⁹ John Paul II: *Peace with God the Creator, Peace with All of Creation*, §15, January 1, 1990, https://www.vatican.va/content/john-paul-ii/en/messages/peace/documents/hf_jp-ii_mes_19891208_xxiii-world-day-for-peace.html

⁷⁰ Francis: 2015. *Laudato si*, 887–945.

⁷¹ Francis: *Laudate Deum*.

most recently at Castel Gandolfo at the conference on the Tenth Anniversary of the Encyclical *Laudato Si'*.⁷²

The Message of *Laudato Si'* on the Care for Creation⁷³

Laudato Si' Encyclical (On Care for Our Common Home) by Pope Francis in 2015,⁷⁴ is a landmark encyclical addressing the ecological crisis and the intimate relationship between humankind and nature. Rooted in Catholic social teaching, it builds on earlier papal teachings (e.g., Paul VI's 1972 Stockholm message and John Paul II's 1990 World Day of Peace message) and emphasizes an "integral ecology" that links environmental care with human dignity, social justice, and the common good.

Pope Francis teaches that humans are deeply connected to nature as part of God's creation. He describes the Earth as "our common home" (§1) and stresses that "everything is interconnected" (§16, §138). The degradation of the environment harms both nature and humanity, particularly the poor, who suffer most from ecological crises (§25–26). Drawing on Genesis, the encyclical calls humans to be responsible stewards of creation, not exploiters. Pope Francis critiques the "throwaway culture" and consumerism that lead to environmental destruction, urging a moral responsibility to "till and keep" the Earth. He writes that "(t)his implies a relationship of mutual responsibility between human beings and nature. Each community can take from the bounty of the earth whatever it needs for subsistence, but it also has the duty to protect the Earth and to ensure its fruitfulness for coming generations." (§67).

The encyclical links environmental protection to human dignity, asserting that the right to a healthy environment is inseparable from human rights. Environmental degradation violates the dignity of the poor and future generations, necessitating global solidarity. "Today, however, we have to realize that a true ecological approach *always* becomes a social approach; it must integrate questions of justice in debates on the environment, so as to hear *both the cry of the Earth and the cry of the poor*." (§49).

His Holiness goes on to write that "(t)he notion of the common good also extends to future generations. The global economic crises have made painfully obvious the detrimental effects of disregarding our common destiny, which cannot exclude those who come after us. We can no longer speak of sustainable development apart from intergenerational solidarity. Once we start to think

⁷² Pope Leo XIV, *Address to the Participants in the "Raising Hope" Conference on the Tenth Anniversary of the Encyclical Laudato Si'* (Mariapolis Center, Castel Gandolfo, 1 October 2025), <https://www.vatican.va/content/leo-xiv/en/speeches/2025/october/documents/20251001-conferenza-mariapoli.html>.

⁷³ Francis: 2015. *Laudato si'*, 887–945.

⁷⁴ Ibid.

about the kind of world we are leaving to future generations, we look at things differently; we realize that the world is a gift which we have freely received and must share with others. Since the world has been given to us, we can no longer view reality in a purely utilitarian way, in which efficiency and productivity are entirely geared to our individual benefit. Intergenerational solidarity is not optional, but rather a basic question of justice, since the world we have received also belongs to those who will follow us. The Portuguese bishops have called upon us to acknowledge this obligation of justice: ‘The environment is part of a logic of receptivity. It is on loan to each generation, which must then hand it on to the next’. An integral ecology is marked by this broader vision.” (§159).

Pope Francis introduces the concept of integral ecology, which integrates environmental, social, economic, and ethical dimensions. This approach sees humans as part of nature, not separate from it, and calls for sustainable practices that respect both creation and human communities (§137–142). The encyclical urges collective action – by individuals, communities, and states – to address climate change, pollution, and biodiversity loss. It emphasizes the role of international cooperation and personal conversion to ecological awareness (§169–172, §217–221). *Laudato Si’* has influenced global environmental discourse, inspiring policies and movements that integrate ecological and social justice, reinforcing the Church’s commitment to addressing the ecological crisis as a moral and human issue.

1.5.2. Integral Ecology in *Laudato Si’*

Integral ecology rejects fragmented approaches to environmental issues, which often prioritize economic or technical solutions without considering social and ethical consequences. Pope Francis argues that “everything is closely interrelated” (§138), meaning that environmental problems cannot be addressed in isolation from social injustices, economic inequalities, or moral values. This holistic perspective requires solutions that simultaneously address ecological degradation, poverty, and cultural erosion.

With respect to the environmental dimension, Francis highlights issues like climate change, pollution, water scarcity, and biodiversity loss (§137). He stresses that the Earth is “our common home” and that its degradation harms both nature and human communities, particularly the most vulnerable.

In emphasizing the social dimension, the encyclical links environmental harm to social injustices, noting that the poor suffer disproportionately from ecological crises (e.g., lack of clean water or displacement due to climate change). “We are faced not with two separate crises, one environmental and the other social, but rather with one complex crisis which is both social and environmental.” (§139).

Concerning the economic dimension, Francis critiques systems driven by consumerism and short-term profit, which exploit both people and the planet (§138). He calls for sustainable economic models that prioritize long-term human and environmental well-being, writing that “when we speak of “sustainable use”, consideration must always be given to each ecosystem’s regenerative ability in its different areas and aspects” (§ 140).

As regards the ethical dimension, integral ecology is grounded in moral responsibility. Francis invokes the principle of stewardship, rooted in Genesis, urging humans to act as “guardians” of creation rather than exploiters. This ethical call aligns with John Paul II’s 1990 message, which is referenced, labelling “senseless damage to the environment” as an act of violence against human dignity. “Due to the number and variety of factors to be taken into account when determining the environmental impact of a concrete undertaking, it is essential to give researchers their due role, to facilitate their interaction, and to ensure broad academic freedom. Ongoing research should also give us a better understanding of how different creatures relate to one another in making up the larger units which today we term ‘ecosystems’. We take these systems into account not only to determine how best to use them, but also because they have an intrinsic value independent of their usefulness. Each organism, as a creature of God, is good and admirable in itself; the same is true of the harmonious ensemble of organisms existing in a defined space and functioning as a system. Although we are often not aware of it, we depend on these larger systems for our own existence.” (§140).

1.5.3. The relationship between creatures

A central tenet of integral ecology is that humans are not separate from nature but are an integral part of it. Francis writes, “Nature cannot be regarded as something separate from ourselves or as a mere setting in which we live. We are part of nature, included in it and thus in constant interaction with it” (§139). This perspective challenges anthropocentric views that treat the environment as a resource to be dominated. Instead, it emphasizes interdependence, where human flourishing depends on the health of the natural world. This aligns with Paul VI’s 1972 *Stockholm message*, which you cited, affirming the “goodness of creation” and human responsibility to protect it.

1.5.4. Ecological sin

The formulation of ecological sin also appears in the relationship between nature and man. In response to human intervention and exploitation of nature, numerous civil and legislative initiatives have emerged, some evolving into

broader movements.⁷⁵ The focus of our study is not to present ecocide but to explore its role within the framework of environmental protection approaches.

The final document of the Pan-Amazonian Synod, held in October 2019, specifically addressed the issue of environmental protection. On November 15, 2019, the Pope spoke to participants at the World Congress of the International Criminal Law Society, emphasizing the importance of environmental protection within the Church and stating that acts committed at the expense of the environment may also be considered sins.⁷⁶

On November 15, 2019, the Holy Father, in his address to the World Congress of the International Association of Penal Law,⁷⁷ entitled “In the Church’s Evangelizing Mission and in the Service of Justice and Peace,” highlighted a global phenomena.

According to Pope Francis, an elementary sense of justice requires that certain behaviours, for which companies are often responsible, do not go unpunished. These include “ecocides,” such as the mass pollution of air, land, and water resources, the large-scale destruction of flora and fauna, and any actions that could cause an ecological catastrophe or destroy an ecosystem. The Pope emphasized that ecological sins – sins against our common home – must be recognized and incorporated into Catholic teachings, viewing this as a moral duty. In this context, the Synod of Bishops for the Pan-Amazon Region proposed defining an ecological sin as an act or omission against God, neighbour, community, and the environment. Such a sin affects future generations and manifests in actions and habits that cause environmental pollution, disrupt the harmony of the environment, violate the principles of interdependence, and undermine the networks of solidarity among creatures.

“It is true that the criminal response comes when the crime has been committed, that it does not repair damage or prevent repetition, and that it rarely has dissuasive effects.(...)”

Instead, an elementary sense of justice would require that certain conduct, for which corporations are usually responsible, does not go unpunished. In particular, all those that can be considered as “ecocide”: the massive contamination of air, land and water resources, the large-scale destruction

⁷⁵ Orsolya Johanna Sziebig, “A háború ‘csendes áldozata’: Gondolatok a környezet védelméről fegyveres konfliktusok idején, különös tekintettel az ökokóidum kérdésére,” *Pro Futuro* 14, no. 2 (2024).

⁷⁶ Synod of Bishops, Special Assembly for the Pan-Amazonian Region, *The Amazon: New Paths for the Church and for an Integral Ecology. Final Document of the Synod on the Pan-Amazon Region* (Vatican, 26 October 2019), https://www.vatican.va/roman_curia/synod/documents/rc_synod_doc_20191026_sinodo-amazonia_en.html.

⁷⁷ Pope Francis, *Address to Participants at the World Congress of the International Association of Penal Law* (Sala Regia, 15 November 2019), https://www.vatican.va/content/francesco/en/speeches/2019/november/documents/papa-francesco_20191115_diritto-penale.html.

of flora and fauna, and any action capable of producing an ecological disaster or destroying an ecosystem. We must introduce – we are thinking about it – in the Catechism of the Catholic Church the sin against ecology, the ecological sin against the common home, because it is a duty.

In this sense, recently, the Synod Fathers for the Pan-Amazon Region proposed to define ecological sin as action or omission against God, against one's neighbour, the community and the environment. It is a sin against future generations and is manifested in acts and habits of pollution and destruction of the harmony of the environment, in transgressions against the principles of interdependence and in the breaking of networks of solidarity between creatures (cf. Catechism of the Catholic Church, 340–344)[2].

(...) 'ecocide' is to be understood as the loss, damage or destruction of the ecosystems of a given territory, so that its utilization by inhabitants has been or can be seen as severely compromised. This is a fifth category of crimes against peace, which should be recognised as such by the international community."⁷⁸

Pope Francis's apostolic exhortation *Laudate Deum*,⁷⁹ a follow-up to his encyclical *Laudato Si'* (2015), was published on October 4, 2023, the Feast of St. Francis of Assisi, symbolically timed before the UN COP28 climate conference in Dubai (November 30–December 12, 2023). In this document, Pope Francis urgently called on global leaders to address the climate crisis with unwavering honesty and decisive action to protect the environment. He emphasized, "It is no longer possible to doubt the human – 'anthropogenic' – origin of climate change" (*Laudate Deum*, para. 11), urging a renewed commitment to live in harmony with creation.

He highlighted the moral imperative for humanity in the third millennium to recognize the obligations that earlier societies upheld: to live in balance with the Earth, our common home. Pope Francis noted that a growing number of individuals and organizations worldwide are dedicated to protecting and preserving God's creation. While numerous ecclesiastical documents, such as *Laudato Si'* (2015) and the Final Document of the Synod on the Pan-Amazon Region (2019), address environmental stewardship from various perspectives, *Laudate Deum* does not aim to reiterate these comprehensively. Instead, it underscores the gravity of ecological harm.

In the apostolic exhortation *Laudate Deum*,⁸⁰ Pope Francis calls for a journey of ecological conversion, urging each person to take responsibility for their actions and their impact on the environment.

⁷⁸ Ibid.

⁷⁹ Francis, *Laudate Deum*.

⁸⁰ Ibid.

According to the social teaching of the Church, legal regulation is necessary in the sphere of responsibility for our environment. It is important for the international community to develop uniform rules; this will enable states to have a set of rules that effectively control various activities which have a harmful impact on the environment and protect the ecological system by preventing possible accidents.⁸¹

“468. Responsibility for the environment should also find adequate expression on a juridical level. It is important that the international community draw up uniform rules that will allow States to exercise more effective control over the various activities that have negative effects on the environment and to protect ecosystems by preventing the risk of accidents. ‘The State should also actively endeavour within its own territory to prevent destruction of the atmosphere and biosphere, by carefully monitoring, among other things, the impact of new technological or scientific advances ... [and] ensuring that its citizens are not exposed to dangerous pollutants or toxic wastes’⁸².”

The juridical content of ‘the right to a safe and healthy natural environment’⁸³ is gradually taking form, stimulated by the concern shown by public opinion to disciplining the use of created goods according to the demands of the common good and a common desire to punish those who pollute. But juridical measures by themselves are not sufficient.⁸⁴ They must be accompanied by a growing sense of responsibility as well as an effective change of mentality and lifestyle.”

1.6. Our Responsibility to Future Generations

“Responsibility for the environment, the common heritage of mankind, extends not only to present needs but also to those of the future. ‘We have inherited from past generations, and we have benefited from the work of our contemporaries: for this reason we have obligations towards all, and

⁸¹ Pontifical Council for Justice and Peace, *Compendium of the Social Doctrine of the Church* (Vatican City: Libreria Editrice Vaticana, 2004), para. 468, https://www.vatican.va/roman_curia/pontifical_councils/justpeace/documents/rc_pc_justpeace_doc_20060526_compendio-dott-soc_en.html.

⁸² Pope John Paul II, *Message for the 1990 World Day of Peace* (1 January 1990), *Acta Apostolicae Sedis* 82 (1990): 152.

⁸³ Pope John Paul II, *Address to the European Commission and Court of Human Rights* (Strasbourg, 8 October 1988), 5, *Acta Apostolicae Sedis* 81 (1989): 685; cf. Pope John Paul II, *Message for the 1999 World Day of Peace*, 10, *Acta Apostolicae Sedis* 91 (1999): 384–85.

⁸⁴ Cf. John Paul II: *Message for the 1999 World Day of Peace*, 10: *Acta Apostolicae Sedis* 91 (1999), 384–385.

we cannot refuse to interest ourselves in those who will come after us, to enlarge the human family.⁸⁵ This is a responsibility that present generations have towards those of the future, a responsibility that also concerns individual States and the international community.”⁸⁶

The roots of concern for future generations can be traced to earlier encyclicals like *Rerum Novarum* (1891),⁸⁷ which addressed social justice, and *Centesimus Annus* (1991),⁸⁸ which emphasized the responsible use of resources to ensure their availability for future generations. These documents laid the groundwork for viewing humanity’s duties as extending beyond the present.

In *Caritas in Veritate* (2009)⁸⁹ Pope Benedict XVI explicitly linked environmental stewardship to the common good, stating that the environment is a gift from God that must be preserved for future generations. He emphasized solidarity⁹⁰ and intergenerational justice, moving away from anthropocentric notions of dominating nature toward a responsibility to protect it for both the poor and future generations.⁹¹

In *Laudato Si’* (2015) Pope Francis’ encyclical marked a pivotal moment, being the first to focus explicitly on ecology and integral human development. It underscores the moral imperative to care for our “common home” for the sake of future generations, critiquing consumerism and the “throwaway culture” that depletes resources and harms the planet. Francis calls for an “integral ecology” that integrates environmental, social, and ethical considerations, emphasizing that current actions directly affect the well-being of future generations. The encyclical highlights the urgency of addressing climate change and biodiversity loss, framing them as moral issues that demand global action to prevent leaving “rubble, deserts, and refuse” for those to come.

⁸⁵ Paul VI, *Populorum Progressio*, 266.

⁸⁶ Pontifical Council for Justice and Peace, *Compendium of the Social Doctrine of the Church* (Vatican City: Libreria Editrice Vaticana, 2004), para. 467, https://www.vatican.va/roman_curia/pontifical_councils/justpeace/documents/rc_pc_justpeace_doc_20060526_compendio-dott-soc_en.html.

⁸⁷ Pope Leo XIII, *Rerum Novarum*, 15. 5.

⁸⁸ Pope John Paul II, *Centesimus Annus* (encyclical, 1 May 1991), *Acta Apostolicae Sedis* 83, no. 10 (1991): 793–867.

⁸⁹ Pope Benedict XVI, *Caritas in Veritate* (encyclical, 29 June 2009), *Acta Apostolicae Sedis* 101 (2009): 641–709, https://www.vatican.va/content/benedict-xvi/en/encyclicals/documents/hf_ben-xvi_enc_20090629_caritas-in-veritate.html.

⁹⁰ See, Lóránd Ujházi and András Jancsó, “From the Labor Question to the Murderous Economy: Catholic Approach to Economic Policy,” *Religions* 16, no. 2 (2025): 248, § 48, <https://doi.org/10.3390/rel16020248>.

⁹¹ Pope Benedict XVI, *Caritas in Veritate*, 641–709.

“Young people demand change. They wonder how anyone can claim to be building a better future without thinking of the environmental crisis and the sufferings of the excluded.”⁹²

“The notion of the common good also extends to future generations. The global economic crises have made painfully obvious the detrimental effects of disregarding our common destiny, which cannot exclude those who come after us. We can no longer speak of sustainable development apart from intergenerational solidarity. Once we start to think about the kind of world we are leaving to future generations, we look at things differently; we realize that the world is a gift which we have freely received and must share with others. Since the world has been given to us, we can no longer view reality in a purely utilitarian way, in which efficiency and productivity are entirely geared to our individual benefit. Intergenerational solidarity is not optional, but rather a basic question of justice, since the world we have received also belongs to those who will follow us. The Portuguese bishops have called upon us to acknowledge this obligation of justice: ‘The environment is part of a logic of receptivity. It is on loan to each generation, which must then hand it on to the next’.⁹³ An integral ecology is marked by this broader vision.”

Pope Francis continues his train of thought the following:

“What kind of world do we want to leave to those who come after us, to children who are now growing up? This question not only concerns the environment in isolation; the issue cannot be approached piecemeal.”⁹⁴

As a follow-up to *Laudato Si'* (2015), *Laudate Deum* (2023), an apostolic exhortation, reinforces the call for ecological conversion and urgent action to mitigate climate change, which disproportionately affects future generations and vulnerable populations. It continues the trajectory of prioritizing sustainable models and intergenerational responsibility. “If humanity today succeeds in combining the new scientific capacities with a strong ethical dimension, it will certainly be able to promote the environment as a home and a resource for man and for all men, and will be able to eliminate the causes of pollution and to guarantee adequate conditions of hygiene and health for small groups as well as for vast human settlements. Technology that pollutes can also cleanse, production that amasses can also distribute justly, on condition that

⁹² Francis: 2015. *Laudato si'*, 887–945.

⁹³ Portuguese Bishops' Conference, *Pastoral Letter Responsabilidade Solidária pelo Bem Comum* (15 September 2003), 20.

⁹⁴ Francis: 2015. *Laudato si'*, 887–945, e.g. § 160.

the ethic of respect for life and human dignity, for the rights of today's generations and those to come, prevails"⁹⁵96

The Holy Father in his apostolic exhortation *Laudate Deum* no longer speaks about "the future generation", but about "the future of our children". This change in wording brings the need for change even closer.

"May those taking part in the Conference be strategists capable of considering the common good and the future of their children, more than the short-term interests of certain countries or businesses."⁹⁷

1.7. Secular and Ecclesiastical Perception of Subsidiarity

When examining the concept of the rights of nature, the principle of subsidiarity deserves attention, as regulation appears at the level where it is closest to the regulated circle. Its practical implementations are fine examples of subsidiarity. Subsidiarity is now a general legal principle among the constitutional provisions of the EU and has been present in legal thinking for a long time. Before that, it was the encyclical *Quadragesimo Anno* that extended the social teaching of the Catholic Church and referred to the principle of assistance (*principium subsidiaritatis*) in the interest of the common good. The principle of subsidiarity is one of the fundamental pillars of Catholic social doctrine, emphasizing the need to maintain an appropriate level of decision-making and responsibility, preferring smaller, local communities over centralized authority, as long as they are able to carry out their tasks effectively. The principle has its roots in Christian anthropology and ecclesiastical thought, but its explicit formulation and systematic application reached its peak in the teachings of the church in the 19th and 20th centuries.

The concept of subsidiarity is closely linked to the dignity of the person and the natural order of community life. According to the Church's teaching, the human person is a free and responsible being, who has the right and duty to shape his own life and community. This idea is already present in medieval Christian philosophy, especially in the works of St. Thomas Aquinas, who described the social order as a hierarchical but organic unit,⁹⁸ in which each

⁹⁵ Pope John Paul II, *Address to Participants in a Convention on "The Environment and Health"* (24 March 1997), 5; *L'Osservatore Romano*, English edition, 9 April 1997, 2, https://www.vatican.va/content/john-paul-ii/en/speeches/1997/march/documents/hf_jp-ii_spe_19970324_ambiente-salute.html.

⁹⁶ Pontifical Council for Justice and Peace, *Compendium of the Social Doctrine of the Church* (Vatican City: Libreria Editrice Vaticana, 2004), 465, https://www.vatican.va/roman_curia/pontifical_councils/justpeace/documents/rc_pc_justpeace_doc_20060526_compendio-dott-soc_en.html.

⁹⁷ Francis, *Laudate Deum*.

⁹⁸ Aquinas, S. T. (1992). *On Kingship: To the King of Cyprus* (Vol. 2). Aeterna Press., Chapter 15.

level has its own role. Although he did not use the term “subsidiarity”, the natural law and the autonomy of communities that he emphasized paved the way for the later formulation of the principle.

The emergence of the principle of subsidiarity in its modern form can be dated to the end of the 19th century, when the challenges of industrialization, capitalism and socialism forced the Church to formulate a clear social doctrine. Pope Leo XIII's encyclical *Rerum Novarum*⁹⁹ of 1891 can be considered a landmark, focussing on workers' rights and social justice. Although the encyclical does not explicitly use the term subsidiarity, it does refer to a balancing of the role of the state and smaller communities, emphasizing that the state should not suppress the initiatives of families and local associations.

In *Quadragesimo Anno* (1931), Pope Pius XI articulated the principle of subsidiarity as a cornerstone of Catholic social teaching, addressing the proper ordering of responsibilities within society to balance individual initiative, smaller communities, and the role of higher authorities. The encyclical, written in the context of economic crises and rising totalitarianism, critiques both excessive state control and unbridled individualism, proposing subsidiarity as a guiding principle for social organization. This formulation made subsidiarity a key concept in Catholic social teaching, emphasizing the balance between the individual and the community, as well as the limited role of the state.

“As history abundantly proves, it is true that on account of changed conditions many things which were done by small associations in former times cannot be done now save by large associations. Still, that most weighty principle, which cannot be set aside or changed, remains fixed and unshaken in social philosophy: Just as it is gravely wrong to take from individuals what they can accomplish by their own initiative and industry and give it to the community, so also it is an injustice and at the same time a grave evil and disturbance of right order to assign to a greater and higher association what lesser and subordinate organizations can do. For every social activity ought of its very nature to furnish help to the members of the body social, and never destroy and absorb them. 80. The supreme authority of the State ought, therefore, to let subordinate groups handle matters and concerns of lesser importance, which would otherwise dissipate its efforts greatly. Thereby the State will more freely, powerfully, and effectively do all those things that belong to it alone because it alone can do them: directing, watching, urging, restraining, as occasion requires and necessity demands. Therefore, those in power should be sure that the more perfectly a graduated order is kept among the various associations, in observance of the principle of “subsidiary function,” the stronger social

⁹⁹ Leo XIII, *Rerum Novarum*.. 15. 5.

authority and effectiveness will be the happier and more prosperous the condition of the State.”¹⁰⁰

The principle of subsidiarity was further refined in the second half of the 20th century. Pope John Paul II’s encyclical *Centesimus Annus* (1991)¹⁰¹ reaffirmed the importance of the principle in the context of globalization and modern social challenges, emphasizing that subsidiarity is not just important for efficiency, but also for human dignity and participation.

“Malfunctions and defects in the Social Assistance State are the result of an inadequate understanding of the tasks proper to the State. Here again the principle of subsidiarity must be respected: a community of a higher order should not interfere in the internal life of a community of a lower order, depriving the latter of its functions, but rather should support it in case of need and help to coordinate its activity with the activities of the rest of society, always with a view to the common good.”¹⁰²

Pope Benedict XVI, in his encyclical *Caritas in Veritate* (2009),¹⁰³ also highlights the link between subsidiarity and solidarity, pointing out that it is important for human development and social justice that larger communities support smaller ones, while providing them with the opportunity to act independently.

“A particular manifestation of charity and a guiding criterion for fraternal cooperation between believers and non-believers is undoubtedly the principle of subsidiarity[137], an expression of inalienable human freedom. (...) Hence the principle of subsidiarity is particularly well-suited to managing globalization and directing it towards authentic human development.”¹⁰⁴

Pope Francis, in his encyclicals *Laudato Si’* (2015)¹⁰⁵ and *Fratelli Tutti* (2020),¹⁰⁶ interpreted subsidiarity in conjunction with global solidarity and environmental responsibility, emphasizing the role of local communities in solving global problems.¹⁰⁷

¹⁰⁰ Ibid., e.g. §79–80.

¹⁰¹ John Paul II, *Centesimus annus*, 793–867.

¹⁰² Ibid., e.g. § 48.

¹⁰³ Pope Benedict XVI, *Caritas in Veritate*, 641–709.

¹⁰⁴ Ibid., e.g. § 57.

¹⁰⁵ Francis. 2015. *Laudato si’*, 887–945.

¹⁰⁶ Pope Francis, *Fratelli Tutti: Apostolic Letter on Fraternity and Social Friendship* (Vatican City: Libreria Editrice Vaticana, 2020), https://www.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20201003_enciclica-fratelli-tutti.html.

¹⁰⁷ See, Lóránd Ujházi, “Az irgalmas szeretet gyakorlásának jogi és intézményi keretei a Katolikus Egyházban = Promoting Charity and Social Sustainability in the Church’s Legal and Institutional System,” *Humán Innovációs Szemle* 16, no. 1 (2025): 21–47.

In *Fratelli Tutti*, subsidiarity is presented as a principle that empowers individuals and local communities to take responsibility for their own development while contributing to the global common good. Pope Francis emphasizes that higher authorities should support, not supplant, local efforts, critiquing centralized power structures that undermine autonomy. The encyclical integrates subsidiarity with solidarity, advocating a social order where local agency and global cooperation mutually reinforce each other to promote human dignity and universal fraternity.

“228. The path to peace does not mean making society blandly uniform, but getting people to work together, side-by-side, in pursuing goals that benefit everyone. A wide variety of practical proposals and diverse experiences can help achieve shared objectives and serve the common good. The problems that a society is experiencing need to be clearly identified, so that the existence of different ways of understanding and resolving them can be appreciated. The path to social unity always entails acknowledging the possibility that others have, at least in part, a legitimate point of view, something worthwhile to contribute, even if they were in error or acted badly.”¹⁰⁸

Throughout *Fratelli Tutti*, subsidiarity is paired with solidarity, suggesting that local autonomy must work in harmony with global cooperation. While local communities should take initiative, they must also contribute to the broader common good, ensuring that their actions align with universal fraternity.

Overall, the principle of subsidiarity has gradually crystallized in Church teachings, from medieval philosophy to modern encyclicals. The social changes of the 19th and 20th centuries necessitated its explicit expression, and it remains relevant today, as it promotes a balance between local autonomy and global solidarity. The Precautionary Principle

Although it is not a principle of the Church’s teaching to enforce a precautionary approach, we consider it necessary to mention it as a principle concerning the future development of human influences and burdens on the environment. The 2015 encyclical *Laudato Si’* assigns a prominent role to the principle, following the approach generally in international environmental law that corresponds to the content of the principle.

The Rio Declaration of 1992 states that “where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a

¹⁰⁸ Francis, *Fratelli Tutti*, e. g. § 228.

pretext for postponing cost-effective measures”¹⁰⁹ which prevent environmental degradation. “This precautionary principle makes it possible to protect those who are most vulnerable and whose ability to defend their interests and to assemble incontrovertible evidence is limited. If objective information suggests that serious and irreversible damage may result, a project should be halted or modified, even in the absence of indisputable proof. Here the burden of proof is effectively reversed, since in such cases objective and conclusive demonstrations will have to be brought forward to demonstrate that the proposed activity will not cause serious harm to the environment or to those who inhabit it.”¹¹⁰

1.8. Conclusion

While church documents do not explicitly use the term “rights of nature”, the principles articulated in the first green encyclical, *Laudato Si’* and other teachings, reflect a growing recognition of the need to respect and protect the natural world as part of God’s creation. The Church emphasizes stewardship, moral responsibility, and the interconnectedness of all life, which underpins the ethos behind the Nature Rights Movement, advocating a legal and ethical framework that respects the intrinsic value of the environment.

Another important element of teaching is that planning must be long-term. “Here, continuity is essential, because policies related to climate change and environmental protection cannot be altered with every change of government. Results take time and demand immediate outlays which may not produce tangible effects within any one government’s term. That is why, in the absence of pressure from the public and from civic institutions, political authorities will always be reluctant to intervene, all the more when urgent needs must be met. To take up these responsibilities and the costs they entail, politicians will inevitably clash with the mindset of short-term gain and results which dominates present-day economics and politics. But if they are courageous, they will attest to their God-given dignity and leave behind a testimony of selfless responsibility. A healthy politics is sorely needed, capable of reforming and coordinating institutions, promoting best practices and overcoming undue pressure and bureaucratic inertia. It should be added, though, that even the best mechanisms can break down when there are no worthy goals and values,

¹⁰⁹ United Nations, *Rio Declaration on Environment and Development* (UNCED, 14 June 1992), principle 15, A/CONF.151/26 (Vol. I), https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf.

¹¹⁰ Francis: 2015. *Laudato si’*, 887–945.

or a genuine and profound humanism to serve as the basis of a noble and generous society.”¹¹¹

The global spread of the phenomenon of the rights of nature and its appearance in Europe provide a basis for further research.

¹¹¹ Ibid.

2. RIGHTS FOR NATURE?

2.1. Legal Roots of the Concept of Rights of Nature

“...everything has a right to be recognized and revered. Trees have tree rights, insects have insect rights, rivers have river rights, and mountains have mountain rights.”¹¹²

The concept of “rights of nature” is a regulatory framework and global phenomenon present in several countries, fundamentally rethinking humanity’s relationship with the natural world. It has been adopted by some legal systems, opening new avenues for political and legal philosophical discourse. According to radical interpretations of the relationship between humans and nature, ecosystems such as rivers, lakes, and mountains can have rights similar to those of human or natural subjects. This movement seeks a paradigm shift, placing nature at its centre and viewing humans as interdependent with nature rather than dominant over it. This group of ideas aligns with the third category of regulatory philosophies described earlier. The phenomenon is widespread across many regions, reflecting local legal, economic, and political characteristics while exhibiting recurring patterns and emblematic features that mark it as a global movement.

2.2. What Legal Rights Are Granted to Nature?

Although supporters of the concept of the rights of nature like to emphasize that the concept originates from human rights, it is important to point out that the term “rights” appears in relation to nature with a completely different meaning than in the interpretation of human rights. That’s why we’ll use the term entitlement where possible.

According to the doctrine, an ecosystem firstly has the right to the status of a legal entity and, as such, has the right to be defended in court against damages, including protection against environmental degradation caused by

¹¹² Thomas Berry, *The Great Work: Our Way into the Future* (New York: Bell Tower, 1999), 5.

a specific development project or even climate change. The ecosystem would be declared a ‘subject of rights’ with the right to legal representation by a designated guardian – similar to how a charitable trust appoints a trustee – who acts on their behalf and in their interest.

In addition, the doctrine recognizes that an ecosystem has the right to exist, to flourish, to reproduce its life cycles, and to evolve naturally, without man-made disturbances.¹¹³ The purpose of the rights and entitlements conferred on nature is to ensure the “highest level” of environmental protection, emphasized by the supporters of the idea, in conjunction with the right to a clean and healthy environment.¹¹⁴

2.3. Beginnings – The Theory of Christopher D. Stone

Christopher D. Stone’s 1972 article¹¹⁵ entitled ‘Should Trees Have Standing? Toward Legal Rights for Natural Object’ is a landmark in the fields of environmental law and philosophy. Stone’s work introduced the concept of the rights of nature, proposing that natural objects – such as trees, rivers, or ecosystems – can be recognized as legal entities with their own rights. Stone’s argument redefined legal thinking about natural values, challenging traditional anthropocentric legal frameworks, and drew on Roman legal traditions to support his case.

Stone’s work was born out of the *Sierra Club vs. Morton* case¹¹⁶, in which the environmental organization Sierra Club protested against the Mineral King Valley development planned by Walt Disney Enterprises. In the case, the Supreme Court dismissed Sierra Club’s claim because the organization had no direct interest in the case. Stone used this case as a starting point to raise the question, what if natural objects such as a valley or trees had their own legal status and could represent themselves in court?

¹¹³ Roderick Frazier Nash, *The Rights of Nature: A History of Environmental Ethics* (Madison: University of Wisconsin Press, 1989).

¹¹⁴ Rafi Youatt, “Personhood and the Rights of Nature: The New Subjects of Contemporary Earth Politics,” *International Political Sociology* 11, no. 1 (2017): 39–54.

¹¹⁵ Christopher D. Stone, “Should Trees Have Standing? Toward Legal Rights for Natural Objects,” *Southern California Law Review* 45, no. 2 (1972): 450–501.

¹¹⁶ *Sierra Club v. Morton*, 405 U.S. 727 (1972).

2.4. Stone's Three Pillars

2.4.1. Possibility of Extending Legal Personality

The first point is the extension of legal personality. Throughout European legal history, rooted in Roman law, the concept of legal personality has continually expanded, and according to Stone, recognizing natural objects as legal entities is the next logical step. Stone argues that the protection offered by legal systems has traditionally extended only to people or human-created entities, such as corporations, while nature has been treated as mere property. Through the concept of the rights of nature, he proposes a radical paradigm shift: natural objects would be recognized as legal entities with interests that can be protected by legal representatives, or 'guardians.' This idea was not aimed solely at practical legal reform but also raised profound philosophical questions about the relationship between nature and humanity.¹¹⁷ According to Stone, legal history shows a similar development.¹¹⁸

Although the origins are shrouded in obscurity, it is likely that even at the earliest stages of social organization, within the clan-tribal framework, non-family members were typically regarded as strangers without rights. Even within the family, some individuals, such as children or, in certain cases, the elderly, were often not entitled to rights. For example, children's rights have evolved significantly since Roman law, with both the development of the content of these rights and their establishment in legal practice.¹¹⁹ For example, children's rights have changed a lot since Roman law, and in addition to the elaboration of the content of children's rights, they have also become rooted in legal practice.

"The legal rights of children have long since been recognized in principle, and are still expanding in practice. Witness, just within recent time, In re Gault/ guaranteeing basic constitutional protections to juvenile defendants, and the Voting Rights Act of 1970. We have been making persons of

¹¹⁷ Stone discusses the historical resistance to the extension of legal personality, emphasizing that the recognition of the rights of nature may seem unusual at first, but it is a logical step in the development of law. In the original text, he writes the following:

"The fact is, that each time there is a movement to confer rights onto some new 'entity,' the proposal is bound to sound odd or frightening or laughable. This is partly because until the rightless thing receives its rights, we cannot see it as anything but a thing for the use of 'us' — those who are holding rights at the time." (Stone, "Should Trees Have Standing?," 456.)

¹¹⁸ Stone, "Should Trees Have Standing?"

¹¹⁹ See, Kinga Szűcs, *Növényi etika és teológia* (PhD thesis booklet, Evangélikus Hittudományi Egyetem, 2021), 76–77, https://real-phd.mtak.hu/926/2/SzucsKinga_Novenyietikaesteologia_disszertacio_Tezisfuzet.pdf; https://real-phd.mtak.hu/926/3/SzucsKinga_Novenyietikaesteologia_disszertacio.pdf.

children although they were not, in law, always so. And we have done the same, albeit imperfectly some would say, with prisoners, aliens, women (especially of the married variety), the in.; sane, Blacks, foetuses, and Indians.”¹²⁰

According to Stone's argument, a similar trend of expanding rights can be observed for groups such as prisoners, foreigners, women, people with disabilities, black and brown individuals, and foetuses. Moreover, contemporary legal developments also focus on refining the content of these rights. However, not only people can have rights; abstract concepts, such as companies, various organizations, condominiums, municipalities, and states, can also be recognized as legal entities.

“It is this note of the unthinkable that I want to dwell upon for a moment. Throughout legal history, each successive extension of rights to some new entity has been, theretofore, a bit unthinkable. We are inclined to suppose the rightlessness of rightless ‘things’ to be a decree of Nature, not a legal convention acting in support of some status quo. It is thus that we defer considering the choices involved in all their moral, social, and economic dimensions.”¹²¹

In his work, Stone explains that extending rights to a new group has historically seemed frightening and even ridiculous at first. This perception stems from the paradox that it is difficult to grant rights to anyone or anything to which we have not previously attributed inherent value. Recognizing and acknowledging the intrinsic value of something before granting it rights poses a significant challenge. Stone argues compellingly that it is necessary to extend the interpretation of the law to natural objects, such as oceans, rivers, forests, and nature as a whole. In his view, contemporary legislation already shows small shifts that lay the groundwork for recognizing the rights of nature. However, these rights, as Stone interprets them, do not encompass all conceivable rights, nor do they align with the rights granted to humans, nor would they entail equal rights for different entities within the broader scope of nature representation.

“I am quite seriously proposing that we give legal rights to forests, oceans, rivers and other so-called “natural objects” in the environment-indeed, to the natural environment as a whole.”¹²²

¹²⁰ Stone, “Should Trees Have Standing?,” 451.

¹²¹ Ibid., 453.

¹²² Ibid., 456.

Stone's second pillar of argument is the representation of interests, which includes the representation of lawsuits through the institution of guardianship.¹²³ According to Stone, nature cannot communicate directly, so guardians – whether an individual, a group of people, or an organization – must be appointed to represent its interests, similar to the representation of minors or incapacitated persons. In Stone's argument, it is not self-evident that natural objects lack legal remedies; thus, he employs the analogy of the institution of guardianship. In his expansive interpretation, this analogy focuses on the inability to speak. He argues that this inability cannot justify the absence of legal remedies, as lawyers or legal representatives speak on behalf of entities such as companies, states, universities, children, or individuals with limited capacity in judicial proceedings.

Stone proposes that the institution of guardianship could be a viable solution for natural objects unable to represent themselves in court. In practice, this would mean that natural objects could be entitled to absolute (or nearly absolute) rights, with their enforcement monitored through the development of environmental quality assurance regulations. A society environmentally conscious enough to grant rights to natural objects might also be capable of defining these rights, although this approach would necessitate a transformation of the entire legal system.

“The guardian concept, too, would provide the endangered natural object with what the trustee in bankruptcy provides the endangered corporation: a continuous supervision over a period of time, with a consequent deeper understanding of a broad range of the ward's problems, not ‘just the problems present in one particular piece of litigation. It would thus assure the courts that the plaintiff has the expertise and genuine adversity in pressing a claim which are the prerequisites of a true ‘case or controversy.’”¹²⁴

The legal system's practice, rooted in Roman law, treats nature and objects as entities. The legal system's anthropocentric view holds that nature exists for human benefit. However, the ecological crisis increasingly demonstrates that human well-being cannot be separated from nature's well-being. Despite this, natural objects are still treated as possessing an immaterial, intangible quality within the legal system.

Today, it is evident that the interests of nature can, in many cases, take precedence over purely human (often economic) interests. According to Stone, to facilitate the extension of rights, the concept of ‘we’ should be interpreted more broadly to include non-human beings and natural objects.

¹²³ Ibid., 464.

¹²⁴ Ibid., 471.

Stone continues to present his vision:

“First and most obviously, if the term is to have any content at all, an entity cannot be said to hold a legal right unless and until some public authoritative body is prepared to give some amount of review to actions that are colorably inconsistent with that ‘right.’ For example, if a student can be expelled from a university and cannot get any public official, even a judge or administrative agent at the lowest level, either (i) to require the university to justify its actions (if only to the extent of filling out an affidavit alleging that the expulsion ‘was not wholly arbitrary and capricious’) or (ii) to compel the university to accord the student some procedural safeguards (a hearing, right to counsel, right to have notice of charges), then the minimum requirements for saying that the student has a legal right to his education do not exist. But for a thing to be a holder of legal rights, something more is needed than that some authoritative body will review the actions and processes of those who threaten it. As I shall use the term, ‘holder of legal rights,’ each of three additional criteria must be satisfied. All three, one will observe, go towards making a thing count jurally—to have a legally recognized worth and dignity in its own right, and not merely to serve as a means to benefit ‘us’ (whoever the contemporary group of rights-holders may be). They are, first, that the thing can institute legal actions at its behest; second, that in determining the granting of legal relief, the court must take injury to it into account; and, third, that relief must run to the benefit of it.”¹²⁵

2.4.2. Stone's Compensation Model

The third pillar of Stone's theory is the possibility of protection and compensation. Recognizing the rights of nature would enable compensation for environmental damage based directly on the loss suffered by nature, rather than on harm to human interests (the anthropocentric approach). According to Stone, in traditional legal systems, compensation for environmental damage is typically awarded to human subjects with a direct legal (and often economic) interest in the case, such as property owners or local residents.

“The argument for ‘personifying’ the environment, from the point of damage calculations, can best be demonstrated from the welfare economics position. Every well-working legal-economic system should be so structured

¹²⁵ Ibid., 458.

as to confront each of us with the full costs that our activities are imposing on society.”¹²⁶

However, this approach frequently overlooks the loss suffered by nature itself. Stone proposes a radical innovation: granting legal personality to natural objects would allow damages to be used directly to restore the environment.

“To illustrate this point, let me begin by observing that it makes perfectly good sense to speak of, and ascertain, the legal damage to a natural object, if only in the sense of “making it whole” with respect to the most obvious factors. The costs of making a forest whole, for example, would include the costs of reseedling, repairing watersheds, restocking wildlife—the sorts of costs the Forest Service undergoes after a fire. Making a polluted stream whole would include the costs of restocking with fish, water-fowl, and other animal and vegetable life, dredging, washing out impurities, establishing natural and/or artificial aerating agents, and so forth. Now, what is important to note is that, under our present system, even if a plaintiff riparian wins a water pollution suit for damages, no money goes to the benefit of the stream itself to repair its damages. This omission has the further effect that, at most, the law confronts a polluter with what it takes to make the plaintiff riparians whole; this may be far less than the damages to the stream, but not so much as to force the polluter to desist.”¹²⁷

This approach puts nature at the heart of the compensation process,¹²⁸ rather than human interests.

“But many other interests—and I am speaking for the moment of recognized homocentric interests—are too fragmented and perhaps ‘too remote’ causally to warrant securing representation and pressing for recovery: the people who own summer homes and motels, the man who sells fishing tackle and bait, the man who rents rowboats. There is no reason not to allow the lake to prove damages to them as the *prima facie* measure of damages to it. By doing so we in effect make the natural object (through its guardian) a jural entity competent to gather up these fragmented and otherwise unrepresented damage claims) and press them before the court even where) for legal or practical reasons) they are not going to be pressed by traditional class action plaintiffs. Indeed, one way—the homocentric way—to view what I am proposing so far, is to view the guardian of the natural object as the guardian of unborn generations, as well as of the otherwise unrepresented, but

¹²⁶ Ibid., 474.

¹²⁷ Ibid., 463.

¹²⁸ Ibid., 461–63.

distantly injured, contemporary humans. By making the lake itself the focus of these damages, and 'incorporating' it so to speak, the legal system can effectively take proof upon, and confront the mill with, a larger and more representative measure of the damages its pollution causes."¹²⁹

As a mechanism for compensation, Stone suggests creating a trust fund. The funds received by such a trust could be used exclusively to restore the damaged natural object, such as cleaning a polluted river or replanting a forest. This model ensures that damages awarded are not distributed among plaintiffs whose interests are only indirectly related to nature. Stone emphasizes that the purpose of restitution is not punishment but the restoration of nature's original state as fully as possible.

"The natural object's portion could be put into a trust fund to be administered by the object's guardian, as per the guardianship recommendation set forth above. So far as 'the damages are proved, as suggested in the previous section, by allowing the natural object to cumulate damages to others as prima facie evidence of damages to it, there will, of course, be problems of distribution. But even if the object is simply construed as representing a class of plaintiffs under the applicable civil rules, there is often likely to be a sizeable amount of recovery attributable to members of the class who will not put in a claim for distribution (because their pro rata share would be so small, or because of their interest in the environment). Not only should damages go into these funds, but where criminal fines are applied (as against water polluters) it seems to me that the monies (less prosecutorial expenses, perhaps) ought sensibly to go to the fund rather than to the general treasuries. Guardians fees, including legal fees, would then come out of this fund. More importantly, the fund would be available to preserve the natural object as close as possible to its condition at the time the environment was made a rights-holder."¹³⁰

Stone also connects the institution of guardianship to compensation. The guardian's role is not only to represent the lawsuit but also to ensure that compensation serves the interests of nature. This concept draws on the Roman legal institution of *tutela*, which protected the interests of incapacitated persons.

Stone's model presents practical challenges, such as determining the precise amount of compensation needed to restore an ecosystem.

"How, though, would these costs be calculated? When we protect an invention, we can at least speak of a fair market value for it, by reference

¹²⁹ Ibid., 475.

¹³⁰ Ibid., 480.

to which damages can be computed. But the lost environmental 'values' of which we are now speaking are by definition over and above those that the market is prepared to bid for: they are priceless. One possible measure of damages, suggested earlier, would be the cost of making the environment whole, just as, when a man is injured in an automobile accident, we impose upon the responsible party the injured man's medical expenses. Comparable expenses to a polluted river would be the costs of dredging, restocking with fish, arid so forth."¹³¹

Although he did not develop a detailed legal framework, the trust fund and guardianship institution provide a clear starting point. In Stone's vision, compensation is a critical tool for recognizing nature's rights, outlining a new form of environmental justice.

"The answer for me is simple. Wherever it carves out 'property' rights, the legal system is engaged in the process of creating monetary worth. One's literary works would have minimal monetary value if anyone could copy them at will. Their economic value to the author is a product of the law of copyright; the person who copies a copyrighted book has to bear a cost to the copyright-holder because the law says he must. Similarly, it is through the law of torts that we have made a 'right' of- and guaranteed an economically meaningful value to privacy. (The value we place on gold-a yellow inanimate dirt-is not simply a function of supply and demand-wilderness areas are scarce and pretty too-, but results from the actions of the legal systems of the world, which have institutionalized that value; they have even done a remarkable job of stabilizing the price). I am proposing we do the same with eagles and wilderness areas as we do with copyrighted works, patented inventions, and privacy: make the violation of rights in them to be a cost by declaring the "pirating" of them to be the invasion of a property interest.⁸⁵ If we do so, the net social costs the polluter would be confronted with would include not only the extended homocentric costs of his pollution (explained above) but also costs to the environment per se."¹³²

Stone also formulated procedural considerations as a positive outcome of his vision, as follows.

"Similarly, courts, in making rulings that may affect the environment, should be compelled to make findings with respect to environmental harm-showing how they calculated it and how heavily it was weighed-even if matters outside the present Environmental Protection Act. This would

¹³¹ Ibid., 476.

¹³² Ibid., 476.

have at least two important consequences. First, it would shift somewhat the focus of court-room testimony and concern; second, the appellate courts, through their review and reversals for “insufficient findings,” would give content to, and build up a body of, environmental rights, much as content and body has been given, over the years, to terms like ‘Due Process of Law.’”

The emergence of this concept is closely tied to the environmental movement of the 1960s and 1970s, which called for action against environmental destruction. Stone's work responded to the limitations of the legal system at the time, which failed to provide effective protection for nature. He emphasized that recognizing nature's rights is not merely symbolic but a practical tool for addressing the environmental crisis.

“In order to give a constructive meaning to the activities of human societies all over the globe, these activities—physical and mental—should be understood and given basic value with reference to the wholesome functioning of the entire Earth, and we may add of the entire solar system. This cannot be done (1) if man insists on considering himself an alien Soul compelled to incarnate on this sorrowful planet, and (2) if we can see in the planet, Earth, ‘nothing but a mass of material substances moved by mechanical laws, and in ‘life’ nothing but a chance combination of molecular aggregations.”¹³³

At the end of his work, he also highlights some ethical considerations and, lifting his analysis from the ground of law, he comes to the conclusion that we have already highlighted in previous chapters: the environmental crisis and the human crisis are connected

“A radical new conception of man's relationship to the rest of nature would not only be a step towards solving the material planetary problems; there are strong reasons for such a changed consciousness from the point of making us far better humans.”¹³⁴

¹³³ Ibid., 499.

¹³⁴ Ibid., 495.

3. GLOBAL CASE STUDIES

– NATURE’S RIGHTS IN ACTION

The line of thought initiated by Stone appeared in the judgment of the aforementioned *Sierra Club v. Morton* case.¹³⁵ Although this was a notable but preliminary appearance, its significance lies in the fact that it marked the first practical application of the concept in a judicial proceeding.

3.1. *Sierra v. Morton*

Although the earliest and most notable proposals for recognizing the rights of nature were raised in lawsuits, Justice Douglas dissented, arguing that the *Sierra Club v. Morton* decision represented a relative judicial step backward. The Court of Appeals dismissed the action that could have prevented the construction of a ski resort and its facilities in the Mineral King Valley, finding that the plaintiff lacked the legal standing to sue on behalf of the ecosystem.¹³⁶

The *Sierra Club v. Morton* case (1972), decided by the U.S. Supreme Court, is considered a milestone in the development of the concept of nature’s rights. In this case, the environmental organization *Sierra Club* protested the planned tourism development of California’s Mineral King Valley, supported by Walt Disney Enterprises.¹³⁷ The debate centred on whether the organization had

¹³⁵ *Sierra Club v. Morton*, 405 U.S. 727 (1972), <https://supreme.justia.com/cases/federal/us/405/727/>.

¹³⁶ *Ibid.*, 741.

¹³⁷ The Mineral King Valley is an area of great natural beauty located in the Sierra Nevada Mountains in Tulare County, California, adjacent to Sequoia National Park. It has been part of the Sequoia National Forest since 1926 and is declared a national wildlife sanctuary by a special law of Congress. Although it was once the site of extensive mining activity, Mineral King is now used almost exclusively for recreational purposes. Its relative inaccessibility and underdevelopment limited the number of annual visitors, while at the same time preserving the quality of the valley as a quasi-wilderness area largely free of the effects of civilization.

standing to file a lawsuit to protect nature, specifically the valley and its wildlife.¹³⁸

3.1.1. Dissenting opinion of W.O. Douglas

Justice William O. Douglas's dissenting opinion in *Sierra Club v. Morton* was partly based on Stone's theory and marked one of the earliest judicial endorsements of the concept of nature's rights. Douglas argued that traditional legal frameworks, which focus solely on human interests, are insufficient to address the environmental crisis. In his dissent, he proposed that natural objects, such as the Mineral King Valley, should be treated as legal entities capable of suing in their own right to protect themselves. This approach would recognize nature not merely as human property or a resource but as an entity with intrinsic value and a right to exist.

Douglas contended that damage to nature cannot always be adequately addressed by relying on human interests, such as economic losses or recreational rights. For example, he noted that ships and corporations can function as legal entities, suggesting that granting similar status to natural objects would not be unprecedented. He further proposed that environmentalists with close ties to an area (such as Sierra Club members who use the valley) could represent nature in court, akin to how a guardian represents incapacitated persons. Justice Douglas stated that the ordinary corporation is a 'person' for purposes of the adjudicatory processes, whether it represents proprietary, spiritual, aesthetic, or charitable causes. So it should be understood with respect to valleys, alpine meadows, rivers, lakes, estuaries, beaches, ridges, groves of trees, swampland, or even the air that feels the destructive pressures of modern technology and modern life. The river, for example, is the living symbol of all the life it sustains or nourishes – fish, aquatic insects, water ouzels, otters, deer, elk, bears, and all other animals, including man, who are dependent on it or who enjoy it for its sight, its sound, or its life. The river as plaintiff speaks for the life it supports. Contemporary public concern for protecting nature's ecological equilibrium should lead to the conferral of standing upon environmental objects to sue for their own preservation. Inanimate objects are sometimes parties in litigation. A ship has a legal personality, a fiction

¹³⁸ The final Disney plan, approved by the Forestry Service in January 1969, outlines a \$35 million complex of motels, restaurants, swimming pools, parking lots, and other structures designed to accommodate 14,000 visitors a day. This complex is being built on an 80-hectare part of the valley floor on the basis of a 30-year use permit from the Forestry Service. Other facilities, including ski lifts, ski slopes, cogwheel assisted railways and utility facilities, must be built on the hillsides and other parts of the valley under a special use permit that can be revoked. To ensure access to the resort, the state of California is proposing the construction of a 20-mile-long highway. A section of this road would pass through Sequoia National Park.

found useful for maritime purposes. Permitting a court to appoint a representative for an inanimate object would not be novel. The guardian ad litem for an incompetent or a child is an obvious example.¹³⁹

However, Justice Douglas's dissenting opinion did not fully endorse recognizing the rights of nature in an absolute sense. He advocated for a practical approach that could be integrated into judicial practice, prioritizing environmental protection.¹⁴⁰

Justice Douglas criticized the majority opinion in *Sierra Club v. Morton*, which rejected the Sierra Club's lawsuit on the grounds that the organization had not demonstrated direct personal involvement. He argued that this narrow interpretation overlooks the broader societal significance of environmental issues and the intrinsic value of nature.

The significance of Douglas's dissent lies in its promotion of discourse on the rights of nature, which has subsequently contributed to legal developments, such as the recognition of rivers and forests as legal entities in other countries. Citing and referring to Stone's concept, Justice Douglas opened a new avenue for enforcing environmental rights, although the majority of the Court dismissed the case, and the Mineral King project ultimately did not proceed for other reasons.

3.1.2. Position of the majority opinion

In *Sierra Club v. Morton* (1972), the U.S. Supreme Court dismissed the Sierra Club's claim in a 4–3 decision. The majority opinion, written by Justice Stewart, held that the Sierra Club had not demonstrated that its members were directly and personally affected by the planned tourism development in the Mineral King Valley and thus lacked standing to bring the lawsuit. The Court emphasized that standing requires proof of a specific, individual injury (injury-in-fact), such as an aesthetic or recreational loss experienced during the use of the valley.

The prevailing opinion was that the requirement that a party seeking review must allege facts showing they are personally adversely affected does not insulate agency action from judicial review. However, it serves as a rough attempt to place the decision about whether to seek review in the hands of those with a direct stake in the outcome. The Sierra Club did not allege that it or its members would be affected in any of their activities or pastimes by the Disney development. Nowhere in the pleadings or affidavits did the Club state that its members use Mineral King for any purpose, let alone that they

¹³⁹ *Sierra Club v. Morton*, 405 U.S. 727. (dissenting opinion of Douglas).

¹⁴⁰ *Ibid.*

use it in a way that would be significantly affected by the respondents' proposed actions.¹⁴¹

The majority opinion did not rule out the possibility that the Sierra Club could file a lawsuit again later if it could demonstrate that its members were directly affected. The decision did not address the substance of Christopher D. Stone's concept of natural rights, which Justice William O. Douglas supported in his dissenting opinion.

3.1.3. Views of those in favour of a more flexible approach to protecting the environment

In their joint dissenting opinion, Justices Douglas and Blackmun advocated for a broader interpretation of standing, particularly in the context of environmental matters, but their position did not gain majority support. They did not fully endorse Stone's radical theory that natural objects could have legal standing as entities, but they emphasized the need for a more flexible legal approach to protecting the environment. They expressed concern about the rapid pace of environmental degradation and argued that the Court had interpreted the standing requirements too narrowly.

The planned Mineral King construction project, which was the subject of the case, ultimately did not materialize, partly due to public outcry and other legal obstacles. The valley was incorporated into Sequoia National Park in 1978.

3.2. The Emergence of the Concept at the Constitutional Level

3.2.1. Social and Sociological Processes in Latin America

On September 28, 2008, under the leadership of President Rafael Correa, the people of Ecuador overwhelmingly voted for a new constitution that grants nature – mountains, rivers, forests, air, and islands – the right to exist, flourish, and develop. This made Ecuador the first country in the world to codify the rights of nature. One might ask how this came about. We provide a brief overview of the social processes that led to this unique instrument of nature protection appearing at the apex of Ecuador's legal hierarchy. To understand this, we highlight Ecuador's 21st-century sociological and economic dilemmas, which reveal not only the relationship of its people to nature but also the shared challenges of 21st-century Latin American countries.

¹⁴¹ Ibid. (majority opinion).

These challenges were largely economic in origin. The fate of the South American continent in the 20th century was heavily influenced by the global market price of cocoa, followed by the economic crisis of 1929, and then a boom in banana exports from the 1950s onward.¹⁴² Although Ecuador has never been a major global oil producer, it became an attractive investment destination during this period. Over time, its abundant oil reserves were depleted, rendering production unprofitable and leaving significant environmental damage. A struggling, raw-material-exporting economy, reliant on oil extraction to overcome its economic dependency, faced further challenges due to the lack of a national currency after adopting the U.S. dollar in 2000, which also raised sovereignty concerns. Intensive oil extraction has continuously impacted the environment since the 1970s.¹⁴³

Rafael Correa’s relationship with Indigenous populations and their representative organizations, such as CONAIE,¹⁴⁴ became strained. They found it difficult to accept the prohibition of traditions rooted in age-old customary law as part of efforts to modernize the Ecuadorian state. In 2008, half of the state’s revenue came from petroleum, which shaped social policy opportunities and kept the country dependent on foreign companies and the U.S. market. The petroleum industry was often the only source of employment for Indigenous populations. However, the industry caused significant damage to the environment and public health while perpetuating social norms and customs associated with colonialism.¹⁴⁵

The arguments of environmentalists, the opposition of disaffected Indigenous peoples [CONAIE] in 1986 and the peasantry converged, highlighting the need for an alternative model of development. Following the natural disaster caused by El Niño (1987–1999), the economic crisis peaked, and in January 2000, the national currency (the sucre) was abolished, with the U.S. dollar becoming the country’s currency. The need to preserve sovereignty, promote economic development, and address ecological concerns all pointed toward the realization of an alternative civilizational model, embodied in the concept of *sumak kawsay* (“living well” in Quechua). President Rafael Correa drew on this intellectual current to build an intercultural, multiethnic state.¹⁴⁶

Sumak kawsay,¹⁴⁷ an Andean paradigm, rests on five pillars: knowledge and wisdom (*Tucu Yachay*), connection to Mother Earth (*Pacha Mama*), healthy

¹⁴² See, F. L. B. Dos Santos, “The Dilemmas of Rafael Correa’s Government in Ecuador: Ecology versus Capitalism. Variations on a Theme,” *Eszmélet* 25, no. 98 (2013): 104–14.

¹⁴³ Ibid.

¹⁴⁴ The Confederation of Indigenous Nationalities of Ecuador (Spanish: Confederación de Nacionalidades Indígenas del Ecuador)

¹⁴⁵ Dos Santos, “The Dilemmas of Rafael Correa’s Government in Ecuador,” 110.

¹⁴⁶ Ibid.

¹⁴⁷ “*Sumak Kawsay*,” *Wikipedia*, last modified 2025, https://en.wikipedia.org/wiki/Sumak_kawsay.

living (*Hambí Kawsay*), collective existence (*Sumak Kamaña*), and dreams (*Hatun Musku*). It balances feeling good (*Allin Munay*) and thinking well (*Allin Yachay*) to achieve harmonious action (*Allin Ruay*), as philosopher Javier Lajo explained. The concept critiques globalization and consumerism while promoting defensive environmentalism, embodied in the rights of nature. President Rafael Correa drew on *sumak kawsay* to build an intercultural, multiethnic state.

Although our analysis at this point does not present the church's perspective, which is abundant in assessing the situation of this region, it is important to briefly highlight with a quotation that the complex problems of the region are also reflected in the church's social work.

"The search of the Amazonian indigenous peoples for life in its abundance takes the form of what they call 'good living', *buen vivir*, which is fully realised in the Beatitudes. It is a matter of living in harmony with oneself, with nature, with human beings and with the Supreme Being, since there is intercommunication throughout the cosmos; here there are neither exclusions nor those who exclude, and here a full life for all can be projected. Such an understanding of life is characterized by the interconnection and harmony of relationships between water, territory and nature, community life and culture, God and various spiritual forces. For them, 'good living' means understanding the centrality of the transcendent relational character of human beings and of creation, and implies 'good acting'. This integral approach is expressed in their own way of organizing that starts from the family and the community, and embraces a responsible use of all the goods of creation. Indigenous peoples aspire to better living conditions, especially in health and education. They want to enjoy sustainable development that they themselves choose and shape and that stays in harmony with their traditional ways of life, in a dialogue between their ancestral wisdom and technology and the new ones acquired. (...) [T]he Amazon today is a wounded and deformed beauty, a place of suffering and violence. Attacks on nature have consequences for people's lives. The pre-synodal consultations depicted this single socio-environmental crisis in terms of the following threats to life: appropriation and privatization of natural goods, such as water itself; legal logging concessions and illegal logging; predatory hunting and fishing; unsustainable mega-projects (hydroelectric and forest concessions, massive logging, mono-cultivation, highways, waterways, railways, and mining and oil projects); pollution caused by extractive industries and city garbage dumps; and, above all, climate change. These are real threats with serious social consequences: pollution-related diseases, drug trafficking, illegal armed groups, alcoholism, violence against women, sexual exploitation, human trafficking and smuggling, organ traffic, sex tourism, the loss of original culture and identity (language, customs and

spiritual practices), criminalization and assassination of leaders and defenders of the territory. Behind all this are dominant economic and political interests, with the complicity of some government officials and some indigenous authorities. The victims are the most vulnerable: children, youth, women and our sister mother Earth.”¹⁴⁸

Indigenous ethnic groups in the region commonly live on the societal and geographical periphery, being often among the poorest, with their exclusion deepened by ethnicity and structural causes. In the late 20th century, high population growth and migration driven by economic pressures on their territories linked rural poverty to urban poverty. State policies rooted in 20th-century indigenism failed to alleviate five centuries of Indigenous exclusion. In the 21st century, Indigenous and non-Indigenous societies must find coexistence models that enable human development aligned with their cultural identities.

Ecuador’s situation uniquely combines Venezuela’s challenge of overcoming oil dependency with Bolivia’s need to integrate Indigenous populations, highlighting economic and social conditions for development and the need for change within Latin America’s capitalist framework. In this tense political and economic context, the rights of Mother Earth were enshrined in Ecuador’s 2008 constitution.

In the following subsections, we review cases in which Rights of Nature have been invoked. Below, we group them according to the regulatory level at which they emerged.

3.2.2 Constitution of Ecuador

Ecuador’s 2008 legislation was the first in the world to grant rights to the “*Pachamama*” (Mother Earth), in Articles 71 to 74 of Chapter VII (“Rights of Nature”, in Spanish: *Derechos de la Naturaleza*).¹⁴⁹

“Nature, or Pacha Mama, where life is reproduced and occurs, has the right to integral respect for its existence and for the maintenance and regeneration of its life cycles, structure, functions and evolutionary processes. All persons, communities, peoples and nations can call upon public authorities to enforce

¹⁴⁸ Synod of Bishops, *The Amazon: New Paths for the Church and for an Integral Ecology. Final Document of the Synod on the Pan-Amazon Region* (Vatican City: Libreria Editrice Vaticana, 2019), e.g., 9–10, <https://www.vaticannews.va/en/vatican-city/news/2020-02/final-document-synod-amazon.html>.

¹⁴⁹ *Constitución de la República del Ecuador* (2008), official text, <https://www.asambleanacional.gob.ec/es/constitucion>; English translation, https://www.constituteproject.org/constitution/Ecuador_2008.pdf.

the rights of nature. To enforce and interpret these rights, the principles set forth in the Constitution shall be observed, as appropriate. The State shall give incentives to natural persons and legal entities and to communities to protect nature and to promote respect for all the elements comprising an ecosystem.”¹⁵⁰

The rights declared in the Ecuadorian constitution bear no resemblance to human rights in either wording or content. First, the constitution emphasizes the ecosystem’s right, which encompasses the protection of biodiversity, species, their habitats, and ecological processes. This right explicitly aims to safeguard nature’s constituent elements and processes, emphasizing respect for the “laws of nature.” Second, the constitution underscores the purpose of “social laws” and the role of human-made laws in governing society to fulfil the rights outlined in the first point. This reflects Stone’s theory of compensation, as articulated in the constitution.

“Nature has the right to be restored. This restoration shall be apart from the obligation of the State and natural persons or legal entities to compensate individuals and communities that depend on affected natural systems.”¹⁵¹

The Ecuadorian constitution further recognizes nature’s ‘claim’ to restoration. To strengthen the state’s role in protecting institutions and ensuring effective action, it articulates a preventive and precautionary approach as follows.

“In those cases of severe or permanent environmental impact, including those caused by the exploitation of nonrenewable natural resources, the State shall establish the most effective mechanisms to achieve the restoration and shall adopt adequate measures to eliminate or mitigate harmful environmental consequences.”¹⁵²

The following provision links the right to reap the benefits of nature with the enforcement of nature’s rights through the judiciary.

“All persons, communities, peoples and nations can call upon public authorities to enforce the rights of nature. To enforce and interpret these rights, the principles set forth in the Constitution shall be observed, as appropriate.”¹⁵³

¹⁵⁰ Ibid., Article 71

¹⁵¹ Ibid., Article 72

¹⁵² Ibid., Article 73

¹⁵³ Ibid., Article 71

3.3. The appearance of the concept in regulation at the level of law

3.3.1. Bolivian legislation

Bolivia, another representative of the South American geo-sociological context described earlier, adopted a new environmental law in 2009 which grants all citizens the right to “protect an environment suitable for the development of living beings.” Although Bolivia’s constitution did not explicitly establish the concept of the rights of nature, it laid the groundwork for the 2009 Mother Earth Law (Ley de la Madre Tierra).^{154 155}

3.3.2. Ugandan legislation

Uganda adopted its national environmental protection act¹⁵⁶ in 2009 (referred to in this paragraph as the “Law”). Point 3 of the act provides for the right to a dignified environment. Paragraph 3(1) provides that in Uganda, in accordance with the Constitution and the principle of sustainable development, all people have the right to a clean and healthy environment. According to paragraph 2, everyone has the obligation to establish, maintain and improve the condition of this environment, including the obligation to prevent pollution. A person with the right set out in paragraph 1 who is threatened by an act or omission of a person which is likely to cause damage to human health or the environment or impede the fulfilment of the obligation specified in paragraph 2 may bring a civil action against that person.¹⁵⁷

Point 4 of the law establishes the rights of nature, under which nature is entitled to exist, survive, sustain itself, and regenerate in accordance with its life cycles, structure, functions, and evolutionary processes. Any person may

¹⁵⁴ Paola Villavicencio Calzadilla and Louis J. Kotzé, “Living in Harmony with Nature? A Critical Appraisal of the Rights of Mother Earth in Bolivia,” *Transnational Environmental Law* 7, no. 3 (2018): 397–424.

¹⁵⁵ *Ley Marco de la Madre Tierra y Desarrollo Integral para Vivir Bien [Framework Law of Mother Earth and Integral Development for Living Well]*, Ley N° 300 (2012), <https://madretierra.gob.bo/wp-content/uploads/2024/07/3.-LEY-300.pdf>.

¹⁵⁶ *The National Environment Act, Uganda (2019)*, <https://nema.go.ug/sites/all/themes/nema/docs/National%20Environment%20Act,%20No.%205%20of%202019.pdf>.

¹⁵⁷ In the petition, the court may be asked to: prevent, stop or put an end to any act or omission that is harmful to human health or the environment; Social and environmental risk assessment and impact assessment, environmental audit, monitoring, action by the authorities to prevent or eliminate damage or danger, and other persons may be required to take action to ensure that human health or the environment is not endangered.

Ibid., 3 (5)

initiate legal action before a competent court for potential violations of nature's rights as defined by the law. The government shall implement precautionary and restrictive measures to prevent activities that could lead to species extinction due to permanent changes in ecosystems or natural cycles. For areas subject to the rights outlined in paragraph (1), the Minister shall issue a decree prescribing the preservation of such areas. In relation to the above, Section 5 of the act outlines the principles of environmental management, while Section 6 specifies the tasks and obligations of the Environmental Policy Committee.

3.3.3. New Zealand legislation¹⁵⁸

In New Zealand, the Te Urewera Act of 2014 and the Te Awa Tupua (Whanganui River Claims Settlement) Act of 2017 exemplify legislative efforts to protect natural formations by balancing Indigenous and land management interests.¹⁵⁹

The Te Urewera Act transformed the Te Urewera region from a Crown-owned national park into an independent legal entity with “all its rights, powers, duties, and obligations.” Article 11(2) specifies that these rights are exercised by the Te Urewera Board, comprising Tūhoe iwi members and Crown appointees, which may initiate legal proceedings for damages or court applications on behalf of the region.¹⁶⁰

The Te Awa Tupua Act of 2017 recognized the Whanganui River as a legal entity, resolving the historic struggle of the Whanganui iwi. This followed a 1962 Court of Appeal decision denying Māori customary ownership of the riverbed. The act's preamble acknowledges the river as the spiritual heart of the iwi under the 1840 Treaty of Waitangi. It established Te Pou Tupua, a representative office with one iwi member and one Crown appointee, tasked with advocating for the river and preserving its integrity.^{161 162}

¹⁵⁸ See also János Ede Szilágyi, “A víz jogalanyisága új-zélandi példájának alkalmazhatósága a Balaton és a Magyar Jog viszonyrendszerében,” *Pro Futuro* 8, no. 2 (September 2018): 9–23, <https://doi.org/10.26521/Profuturo/2018/2/4715>.

¹⁵⁹ Te Urewera Act 2014, Public Act 2014, No. 51, New Zealand, accessed [date you accessed it], <https://www.legislation.govt.nz/act/public/2014/0051/latest/whole.html>.

¹⁶⁰ Ibid.

¹⁶¹ Ágnes Tahyné Kovács, “On the Phenomenon of the Rights of Nature,” *Hungarian Yearbook of International Law and European Law* 12, no. 1 (2024): 305–32, accessed [date], <https://www.nomos-elibrary.de/10.5771/9783748946526-305/on-the-phenomenon-of-the-rights-of-nature?page=1>.

¹⁶² Te Awa Tupua (Whanganui River Claims Settlement) Act 2017, Public Act 2017, No. 7 (New Zealand), assent March 20, 2017, accessed [date], <https://www.legislation.govt.nz/act/public/2017/0007/latest/whole.html>.

3.3.4. Law of Colombia

A similar example is that on August 8, 2024, the Colombian Congress passed Law No. 2415 (Ley 2415 de 2024),¹⁶³ which grants legal rights to the Ranchería River. Compared to the previous ones, the novelty of this regulation is that it urges the development of protective measures.

The law, initiated by Senator Martha Peralta (Pacto Histórico party), aims to protect, restore and maintain the Ranchería River, its basin and tributaries, with a special focus on the indigenous (Wayuu, Wiwa), Afro-Colombian and peasant communities living in the La Guajira region, whose way of life depends on the river. The law is a response to the river's historical environmental damage, in particular the construction of the El Cercado dam in 2006, which diverted the river's water to the Cerrejón coal mine, causing severe water shortages for local communities.

Law No. 2415 builds on Article 80 of the Colombian Constitution, which addresses environmental protection, and the 2018 Supreme Court decision (Future Generations v. Ministry of Environment), which recognized the Amazon River as a legal entity. The law aims to grant the Ranchería River similar legal protection and ensure sustainable management with the involvement of local communities.

“The purpose of this law is to declare the Ranchería River, its basin and its tributaries as legal entities for its protection, maintenance and restoration with the effective participation of the State and the communities living in the area of influence of the Ranchería River, in the department of La Guajira.”¹⁶⁴

*“La presente ley tiene por objeto declarar al río Ranchería, su cuenca y afluentes, como un sujeto de derechos para su conservación, mantenimiento y restauración por parte del estado y con la participación efectiva de las comunidades que habitan en el área de influencia del río Ranchería, en el departamento de La Guajira.”*¹⁶⁵

It provided for the creation of the Committee of Guardians of the Ranchería River as follows.

“The Ranchería River Guardians Committee will be established, composed of representatives of the indigenous, Afro-Colombian and peasant

¹⁶³ Ley 2415 de 2024, “Por medio del cual se declara al Río Ranchería, su cuenca y afluentes como sujeto de derechos y se dictan otras disposiciones,” 8 August 2024, Congreso de Colombia, accessed [date], <http://www.suin-juriscol.gov.co/clp/contenidos.dll/Leyes/30052911>.

¹⁶⁴ Ibid., art. 1

¹⁶⁵ Ibid., art. 1

communities, as well as representatives of the environmental authorities. The Commission will be in charge of protecting, preserving and restoring the rights of the Ranchería River, its basin and tributaries, as well as developing an action plan for the restoration of the river and its ecosystems.”¹⁶⁶

*‘Créase la Comisión de Guardianes del Río Ranchería, integrada por representantes de las comunidades indígenas, afrodescendientes y campesinas, así como por autoridades ambientales. La Comisión tendrá como función velar por la protección, conservación y restauración de los derechos del río Ranchería, su cuenca y afluentes, y elaborar un Plan de Acción para la restauración del río y sus ecosistemas.’*¹⁶⁷

The tasks of the committee were disposed of as follows.

“The Ranchería River Guardians Committee is responsible for representing the rights of the Ranchería River, overseeing the implementation of environmental policies and ensuring community participation in the sustainable management of the river.”¹⁶⁸

*“La Comisión de Guardianes del Río Ranchería será responsable de representar los derechos del río Ranchería, supervisar la implementación de políticas ambientales y garantizar la participación comunitaria en la gestión sostenible del río.”*¹⁶⁹

The success of the Commission’s operation depends on how cooperation between the State and the communities is carried out, in particular because of the influence of the Cerrejón mine. The law must respect the legal systems of indigenous communities – in the spirit of legal pluralism – as the sources point out. In addition, the recovery plans and the functioning of the Commission require significant public resources.

3.3.5. Proposal for the Protection of Hawaiian River Basins

Not a specific natural formation, but the need for protection of river basins in general appeared in the example below. The question rightly arises: what would be the need for further regulation or even to give rights to nature, when the river basin already enjoys special legal protection? The Rights of Nature

¹⁶⁶ Ibid., art. 5

¹⁶⁷ Ibid., art. 5.

¹⁶⁸ Ibid., art. 6.

¹⁶⁹ Ibid., art. 15.

phenomenon appeared here at the level of legislative proposals because of its relationship with the rights of the indigenous community. The recognition of the rights of nature in Hawaii may stem from a combination of Native Hawaiian culture and modern legal movements that recognize natural resources as a legal entity. Although the state of Hawaii has not passed a comprehensive law that universally recognizes the rights of nature, several local initiatives and legal developments may still be relevant. The constitution of the state provides for¹⁷⁰ the protection and sustainable use of natural resources, including waters, for the public interest and future generations. “For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii’s natural beauty and all natural resources, including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State. All public natural resources are held in trust by the State for the benefit of the people. [*Add Const Con 1978 and election Nov 7, 1978*]”

This constitutional provision provides a legal basis for the protection of nature. In Hawaii, water resources are considered public trusts which the state must manage in the public interest. This doctrine is a fundamental legal source for the protection of river basins, which has been confirmed by the Hawaii Supreme Court in several rulings (e.g. *In re Water Use Permit Applications*, 94 Haw. 97, 2000).

3.3.6. A Symbolic Campaign: Protecting Iceland’s Glaciers, Raising Awareness of Climate Change

The Snæfellsjökull campaign, centred on a glacier in Iceland, marked the first attempt to establish rights for nature in the country. Unlike typical examples, this campaign uniquely proposed electing the glacier as president, but its foundation for advocating rights for natural formations aligns with broader environmental efforts.

The “Snæfellsjökull fyrir forseta” (“Snæfellsjökull for President”) initiative was spearheaded by Angela Rawlings, a Canadian-Icelandic artist who aimed to place glaciers and climate change at the forefront of Iceland’s elections. The campaign attracted a diverse group of activists, artists, and Icelanders, driven by geologists’ predictions that Iceland’s glaciers will vanish within the next 150 to 200 years.

Proponents argued that addressing this irreversible loss requires a shift from global egocentrism to ecocentrism. Supporters creatively claimed that

¹⁷⁰ The Constitution of the State of Hawai‘i, art. XI, § 1, accessed [date], <https://www.lww-hawaii.com/govt/constitution/constitution.htm#11>.

Snæfellsjökull met Iceland's constitutional requirements for presidential candidacy: it was inherently Icelandic (having existed there for centuries), over 35 years old, and had no criminal record. To address the citizenship requirement, Rawlings humorously adopted "Snæfellsjökull" as her legal middle name, lending the glacier her Social Security number.

The campaign emphasized Snæfellsjökull's significance in Icelandic heritage and environmental protection. It evolved into "jökulskrið" (glacier climbing), a symbolic act where community members moved in slow motion to mimic the glacier's gradual flow. Through these efforts, the campaign sought to foster community bonds and highlight the deep connection between Icelandic communities and glaciers like Snæfellsjökull. Although it did not secure enough votes for the candidacy, the campaign successfully raised targeted awareness through social participation.

3.3.6. Proposal for the Protection of the St. Lawrence River in Quebec

On May 5, 2022, Representative Émilise Lessard-Therrien of the Québec Solidaire party introduced a bill in the National Assembly of Québec to recognize the legal rights of the St. Lawrence River, including its estuary, tributaries, and watersheds. The bill establishes a special legal status for the river, granting it rights to protection, preservation, and restoration.

The legislation creates the *Conseil des gardiens du Fleuve* (Council of River Guardians), a representative body tasked with safeguarding the river's interests. The council comprises seven members, known as 'river guardians,' including two representatives from Indigenous nations. These guardians are responsible for duties such as representing the river in legal proceedings. The bill guarantees the river's rights to exist and flow, maintain its natural life cycles, preserve its biodiversity and integrity, perform essential ecosystem functions, nourish aquifers and tributaries, remain free from pollution, and undergo restoration.¹⁷¹

¹⁷¹ National Assembly of Québec, Second Session, Forty-Second Legislature, Bill 990, *An Act to confer rights on the St. Lawrence River*, accessed [date], <https://ecojurisprudence.org/wp-content/uploads/2024/02/22-990a-3.pdf>.

3.4. Emergence of the Concept at the Level of Local Legislation

The following presents key legal cases that explicitly address the concept of the rights of nature or are closely connected to it. It is important to note that some cases intersect with climate lawsuits. The rights of nature and climate litigation share similarities beyond climate protection, as both respond to the triple environmental crisis (climate change, biodiversity loss, and pollution). These cases often address local issues while responding to global challenges, potentially impacting fundamental rights such as a healthy environment, access to food, water, culture, housing, and the rights of future generations. They frequently involve vulnerable groups, including Indigenous peoples and children, and remain subject to ongoing legal and political debates, with their full implications yet to be established. While borderline cases could be included, this examination focuses on legal cases that specifically apply the concept of the rights of nature.

3.4.1. Local Ordinance Level Example

In the United States, the phenomenon was seen at the local level when in 2010, the Pennsylvania City Council unanimously passed an ordinance recognizing the rights of nature as part of a ban on shale gas drilling.¹⁷² ¹⁷³ Drewes Farms Partnership, supported by the Ohio Farm Bureau, filed a lawsuit in federal court,¹⁷⁴ arguing that the Lake Erie Bill of Rights (LEBOR)¹⁷⁵ exposed the farm to liability for field fertilization practices. In a February 27, 2020, ruling, U.S. District Judge Jack Zouhary declared LEBOR “invalid in its entirety,” stating that it was “unconstitutionally vague” and exceeded Toledo’s municipal authority. The court highlighted that provisions granting Lake Erie the right to “exist, flourish, and naturally evolve” and Toledoans a right to a “clean and healthy environment” lacked clear definitions, risking arbitrary enforcement. Additionally, LEBOR’s attempt to invalidate conflicting state laws was deemed an overreach, as Lake Erie’s health extends beyond

¹⁷² Oliver A. Houck, “Noah’s Second Voyage: The Rights of Nature as Law,” *Tulane Environmental Law Journal* 31, no. 1 (2017): 1–38.

¹⁷³ Devon Alexandra Berman, “Lake Erie Bill of Rights Gets the Ax: Is Legal Personhood for Nature Dead in the Water,” *Sustainable Development Law & Policy* 20, no. 1 (2019): 15–17.

¹⁷⁴ *Drewes Farms P’Ship v. City of Toledo*, No. 3:19 CV 434, 2020 WL 966628 (N.D. Ohio Feb. 27, 2020).

¹⁷⁵ Lake Erie Bill of Rights: *Establishing a Bill of Rights for Lake Erie, Which Prohibits Activities and Projects That Would Violate the Bill of Rights*, accessed [date], <https://www.beyondpesticides.org/assets/media/documents/LakeErieBillofRights.pdf>.

Toledo's jurisdiction. Efforts to revive LEBOR through state court were unsuccessful, with the city of Toledo abandoning its appeal on May 5, 2020.

3.4.2. Federal Decision Regulation

One North American example of recognizing the rights of natural formations was the initiative to prevent the construction of a hydroelectric power plant that would have destroyed the ecosystem of the Magpie River in Canada,¹⁷⁶ as well as to prohibit mining activities in a priority section of the river. In February 2021, the Muteshekau-shipu Alliance announced the adoption of two parallel resolutions granting legal personhood to the river, also known as Muteshekau-shipu in the Innu language.

The Muteshekau-shipu Alliance, comprising the Ekuanitshit Innu Council, the Minganie RCM, CPAWS Quebec, and the Eaux-Vives Minganie Association, exemplifies local cooperation and a shared legislative process in granting legal personhood to the Magpie River (Muteshekau-shipu) in February 2021. This initiative prevented the construction of a hydroelectric power plant, which would have destroyed the river's ecosystem, and prohibited mining activities in a priority section of the river.

3.4.3. The Mar Menor Act¹⁷⁷

In 2022, Spain passed its first European law on the rights of nature to protect one of its lagoons.¹⁷⁸ The combination of surrounding agricultural activities (primarily the use of chemicals and fertilizers), climate change, global warming, and excessive tourism has led to the mass extinction of marine life and an increase in the temperature of natural water bodies above 30 degrees Celsius.¹⁷⁹

¹⁷⁶ Mestokosho and Ekuanitshit, the people of the Innu community in the Gulf of St. Lawrence, interpret the approximately 300 km long river as a family.

¹⁷⁷ Ley 19/2022, de 30 de septiembre, para el reconocimiento de personalidad jurídica a la laguna del Mar Menor y su cuenca, 3 October 2022, Boletín Oficial del Estado, accessed [date], <https://ecojurisprudence.org/wp-content/uploads/2022/02/Spain-Rights-of-Mar-Menor-Law.pdf>.

¹⁷⁸ More than 640,000 Spanish citizens have signed a petition asking for the lagoon to be treated as human.

¹⁷⁹ Fertilizers, for example, caused recurrent algal blooms, leading to oxygen deprivation and mass deaths.

The process has virtually wiped out the lagoon's highly endangered mussel population, including also seahorses, crabs and eels. The citizens' initiative covers an area of 1600 square kilometers, which includes the lagoon and the surrounding coastline.

As stated in the preamble to the law, there were two primary reasons for its adoption. First, the severe socio-environmental, ecological, and humanitarian crisis experienced by the inhabitants of the Mar Menor and its riverside settlements. Second, the “inadequacy of the legal protection system, despite the significant regulatory measures and instruments introduced over the past twenty-five years.” The Mar Menor is the first ecosystem in Europe to be endowed with legal rights by a Western legal system. The lagoon has been granted the rights to protection, conservation, maintenance, and restoration. Its legal guardianship is exercised by three committees: the Representative Committee, consisting of three central government members, three regional government members, and seven civil society representatives; the Audit Committee, composed of delegates from the Mar Menor communities; and a Scientific Committee that provides additional support. Thus, Articles III and IV of the Act confer the legal guardianship and representation of the lagoon on the public administration, with the support of the local community, scientific committees, and a control committee. Additionally, an important regulatory element is that these articles authorize any natural person to enforce the listed rights of the Mar Menor on an *actio popularis* basis.

3.5. Appearance of the Concept in Court Decisions

3.5.1. The Bangladesh Example

In 2009, the Bangladesh Supreme Court also made a decision¹⁸⁰ that affects the rights of nature. In 1995, the Ministry of Environment and Forestry passed a law that made the use of waste-water treatment plants mandatory for all industrial units, but the legal requirements were often ignored. The public interest litigation was conducted under the mandate of Article 102 of the Constitution of Bangladesh when it filed a lawsuit with Human Rights and Peace for Bangladesh on 7 November 2016.¹⁸¹ As a result, the Judicial Commission of Inquiry prepared a report on the illegal construction on the banks of the Turag River. Subsequently, these persons and the representatives of the buildings were treated as parties to the proceedings. The defendants in the lawsuit were the national government represented by the Secretary of State, the Ministry of Shipping represented by the President of the Bangladesh

¹⁸⁰ Supreme Court of Bangladesh, Appellate Division, *Civil Petition for Leave to Appeal No. 3039 of 2019* (17 February 2020), in *Human Rights and Peace for Bangladesh and others v Secretary of the Ministry of Shipping and others, Writ Petition No. 13989 of 2016*, accessed [date], <http://www.hrpbd.org.bd/upload/judgement/Civil-Petition-For-Leave-To-Appeal-No.-3039-of-2019---Legal-and-Living-Status-of-Rivers-of-Bangladesh.pdf>.

¹⁸¹ *Human Rights and Peace for Bangladesh (HRPB) v. Secretary, Ministry of Shipping & Ors.*, Writ Petition No. 3503 of 2009 (Supreme Court of Bangladesh, June 2009).

Inland Waterway Organization, the Transport Authority represented by the Director-General, and the Environmental Director of the Deputy Committee of Gazipur.

According to the court's ruling, "governments around the world pass laws to protect their rivers, and courts make guidelines." It pointed out that no procedure would have been necessary if the authorities had complied with the provisions of the law, but at the same time established that the Tureg River is a living entity and has legal personality.¹⁸² In the justification for the decision, which was made on the basis of the public trust doctrine, it explained that the role of the approximately 450 rivers is of paramount importance from the point of view of the population living there, and their livelihoods depend on it.¹⁸³

To enforce the decision, the court appointed the National River Protection Commission (NRCC)¹⁸⁴ to perform the duties of legal guardian (person *in loco parentis*), who is responsible for legally protecting the river from pollution and unauthorized intrusions (e.g. construction). The Court ordered the State to amend the National River Protection Commission (NRCC) Act (2013) in order to strengthen the NRCC's investigative and enforcement powers as an effective and independent institution by creating new criminal offences and taking immediate action. Following an appeal, on 17 February 2020, the Appeals Division of the Supreme Court of Bangladesh upheld the judgment with some minor amendments and dismissed the appeal.

The court has issued a number of executive orders, such as the freezing of loans for construction projects, the role of education, and education in preserving the natural state of the river. It has issued detailed guidance on how to inform the public about the state of rivers and biodiversity through education. The decision has made it possible to take joint action across borders on common river basins.¹⁸⁵

3.5.2. The Indian Example

On March 23, 2017 the court in Utarakhand, located in the Indian city of Nainital, declared¹⁸⁶ the Yamuna and Ganges rivers to be living creatures,

¹⁸² "A River is a living entity, a legal person and a juristic person."

¹⁸³ South Asia is surrounded by hundreds of rivers, which are the most cross-border and are a natural contribution of the people of Bangladesh, India, Nepal and Myanmar and are closely related to their lives.

¹⁸⁴ The Court appointed the National River Conservation Commission (NRCC).

¹⁸⁵ Ágnes Tahyné Kovács, "On the Phenomenon of the Rights of Nature," *Hungarian Yearbook of International Law and European Law* 12, no. 1 (2024): 305–32, accessed 22 January 2025, <https://www.nomos-elibrary.de/10.5771/9783748946526-305/on-the-phenomenon-of-the-rights-of-nature?page=1>.

¹⁸⁶ The decision of the court in Utarakhand was seen as a measure to protect rivers that are deeply respected in India but heavily polluted. The Ganges River, revered as the "Ganga

citing similar reasons as the Bangladeshi court.¹⁸⁷ The peculiarity of the case is that the court applied the analogy of an injury to a human person to a natural entity. Activities aimed at polluting and damaging rivers have been legally compared to physical assault on a person or murder. The decision was made about 5 days after the New Zealand Parliament passed a bill recognizing the Whanganui River as a legal entity.¹⁸⁸

The decision follows that of Section 80 of the “Uttar Pradesh Reorganization Act” of 2000 which required the central government to establish the Ganges Board of Directors and incorporate Uttarakhand into the ranks of the Upper Yamuna Council, but the Uttarakhand High Court found that none of the legal requirements had been complied with.

The court ordered the government to cease illegal interventions and construction in the area and instructed the central government to establish a Ganges Board of Directors and admit the state of Uttarakhand as a member of the Upper Yamuna Council within three months. Finally, the court banned mining in the bed of the Ganges and its highest floodplain area with immediate effect.

Subsequently, on 20 March 2017, the Uttarakhand Court, indicating the violations of the failure of the governments of Uttar Pradesh and Uttarakhand to cooperate with the central government in setting up the board of directors of the Ganges, issued a series of mandatory additional orders. The court also found that those who violated state land were not evicted, and issued an order for eviction within seven days of the decision being made. The court emphasized that the critical situation requires extraordinary conservation and conservation measures for the existence of the two rivers, the Ganges and the Yamuna. In this context, the court declared the Ganges and Yamuna to be legal entities.

The resolution emphasized the spiritual significance of these two rivers. Following the development of the case-law of the Supreme Court of India in relation to the personalities of Hindu deities and temple idols, the Supreme Court confirmed that the recognition of a Hindu deity or idol as a legal person should be handled by those “who are entrusted with the possession and management of property”. Relying on Hindu spirituality and religious beliefs, the court noted that these rivers support and promote both life and natural resources, the health and well-being of the entire community. The Ganges and Yamuna rivers breathe, live, and sustain communities from the mountains

Mata” or Ganga Ayya by Hinduism, is a lifeline for more than 500 million people in India. This river and its tributary, the Yamuna, are the two largest rivers in the country, but both are heavily polluted by industrial waste, sewage, and even the remains of bodies cremated on their banks.

¹⁸⁷ Mohd. Salim v. State of Uttarakhand, Writ Petition (PIL) No. 126 of 2014 (High Court of Uttarakhand, 20 March 2017).

¹⁸⁸ Te Awa Tupua (Whanganui River Claims Settlement) Act 2017, Public Act 2017, No. 7, assent March 20, 2017.

to the sea. In its argument, referring to Articles 48A and 51A (g) of the Constitution, the court ordered that the Ganges Water Management Council's statutes should also focus on irrigation, rural and urban water supply, hydropower generation, shipping and industry.

Article 48A is the guiding principle of State policy and obliges the State to protect the environment. It stipulates that "the state shall strive to protect and improve the environment and to protect the country's forests and wildlife."¹⁸⁹ Relying on the fundamental obligations set out in the Indian Constitution, the Court referred to Article 51A(g), which provides that every Indian citizen has the fundamental duty to protect and enhance the natural environment, including forests, lakes, rivers and wildlife, and to empathize with living beings.¹⁹⁰

The court declared natural formations to be legal entities in a certain sense as follows. The government of Uttarakhand, where the Ganges originates, argued in its appeal that the ruling is legally untenable and impractical, as it could lead to complex legal situations, such as claims against rivers in the event of flooding or drowning. The Supreme Court of India overturned the Uttarakhand High Court's order, stating that the Ganges and Yamuna rivers cannot be considered living beings and, therefore, do not have the same legal status as humans.

3.5.3. Colombian Example

In 2018, young plaintiffs in Colombia filed a special constitutional lawsuit (*tutela* is the name of the legal institution) against the Colombian government, Colombian municipalities and several companies. The applicants claimed that the government failed to reduce deforestation and achieve the objective of zero net deforestation in the Colombian Amazon by 2020, as outlined in the Paris Agreement and the National Development Plan 2014–2018, thereby jeopardizing their fundamental rights to a healthy environment, life, health, food, and water. According to the reasoning of the decision unfavorable to them, the *tutela* action was deemed inappropriate due to the collective nature of the issue. A *tutela* action is effective only when a causal relationship can be established between a constitutional right and a specific legal violation, the person filing the *tutela* is directly affected, the violation of constitutional rights is supported by evidence, and the legal action seeks to address an individual harm rather than a collective injury. Consequently, the court dismissed the action.

¹⁸⁹ Constitution of India, art. 48A (1950), accessed [date], <https://archive.org/details/the-constitution-of-india-original-1950>.

¹⁹⁰ Constitution of India, art. 51A(g) (1950).

The plaintiffs filed an appeal on February 16, 2018, which led the Supreme Court to reverse the lower court’s decision on April 5, 2018, recognizing that the fundamental rights to life, health, minimum subsistence, liberty, and dignity are intrinsically linked to the state of the environment and ecosystem. Additionally, the Supreme Court recognized the Colombian Amazon as an “entity subject to rights,” referencing the Constitutional Court’s decision recognizing the rights of the Atrato River.¹⁹¹

3.5.4. The Spanish Landfill and Coastal Lagoon Case

As noted above, Spain was the first country in Europe to apply a law granting legal personality to the Mar Menor, thereby recognizing the lagoon as a legal person with rights. The court case examined discharges from the Los Blancos landfill’s hazardous mining waste collection pools into the coastal lagoon. In accordance with the law, the court summoned the Mar Menor Representative Committee to participate in the proceedings. In its court order dated August 31, 2023, the judge informed the Mar Menor lagoon of its right to appear as a private prosecutor in the proceedings and offered a civil action to pursue its claim for damages. The court order was communicated to the Mar Menor Representative Committee, enabling its representatives to act on behalf of and in the interest of the natural formation in this criminal case. The court order upheld the principle of social participation and invited several NGOs (Greenpeace, ANSE, and SOS Mar Menor), as well as seven city councils, to appear at the trial.

3.5.5. Grounds for the German Diesel Emissions Judgment¹⁹²

On August 2, 2024, the Erfurt District Court issued a ground-breaking decision in Germany by recognizing the rights of nature for the first time. The case initially centred on a minor diesel emissions issue, but the court expanded the scope of protection under the Charter of Fundamental Rights of the European Union to include ‘ecological persons’ in its interpretation of the law. Justice Martin Borowsky of the Erfurt District Court argued that, given the urgency of ecological challenges such as climate change and

¹⁹¹ Center for Social Justice Studies et al. v. Presidency of the Republic et al., Judgment T-622/16 (Constitutional Court of Colombia, 10 November 2016), *The Atrato River Case*, accessed [date], <http://files.harmonywithnatureun.org/uploads/upload838.pdf>.

¹⁹² LG Erfurt, Urteil vom 2. August 2024, 8 O 1373/21, ECLI: DE:LGERFUR:2024:0802.8O1373.21.00, accessed [date], <https://ecojurisprudence.org/wp-content/uploads/2024/10/Germany-District-Court-ruling.pdf> and <https://landesrecht.thueringen.de/bsth/document/NJRE001582361>.

biodiversity loss, recognizing the rights of nature in Europe is essential. He described the Charter as a ‘living tool,’ adaptable to contemporary threats, enabling the court to acknowledge nature’s right to exist, regenerate, and preserve ecosystems.

Justice Borowsky’s interpretation emphasized that the German text of the Charter uses the term ‘person’ rather than ‘human being,’ suggesting that natural ecosystems can be considered legal entities. He argued that, for the purposes of the right to life under Article 2 of the Charter, the term ‘person’ aligns with the English term ‘everyone,’ which can encompass natural entities, as opposed to being limited to ‘legal persons.’¹⁹³

This reflects a biocentric approach, though it lacks robust dogmatic support. According to the court’s reasoning, “(...) Article 53 of the Charter requires that comparative aspects of law be considered in its interpretation. In many legal systems, particularly in the Global South, as well as in the United States and New Zealand, the rights of nature are recognized and enforced at the constitutional level, through legislation, or via judicial decisions. The European legal environment is not isolated from this growing global trend.” (The original text uses the term *Rechtskreis* to refer to the European legal environment.) The judge further stated that “in light of these precedents, it is legally justified to enforce nature’s rights in Europe through judicial interpretation.” He cited the example of courts in Colombia and Peru, which have derived such rights through comprehensive examinations of their legal systems, even without explicit legal foundations.¹⁹⁴

Additionally, Justice Borowsky argued that recognizing the rights of nature supports Article 1 of the Charter, which guarantees human dignity, by ensuring that people can live freely and with dignity in a sustainable environment in the future. The judge’s reasoning reflects an openness to global trends in environmental law, as seen in various legal systems worldwide. However, the decision lacks a strong legal dogmatic foundation.

3.5.6. Argentinian Example

In 2020, a group of civilians (and a group of children) filed a lawsuit¹⁹⁵ with the Supreme Court of Argentina against the governments of the province of

¹⁹³ LG Erfurt, 8. Zivilkammer, Urteil vom 2 August 2024, Az. 8 O 1373/21, ECLI:DE:LGGERFUR:2024:0802.8O1373.21.00, para. 31.

¹⁹⁴ Ibid., paras. 35–36.

¹⁹⁵ Asociación Civil por la Justicia Ambiental et al. v. Province of Entre Ríos et al. (Delta del Paraná case), Supreme Court of Argentina, decision 28 December 2021. <http://climatecasechart.com/non-us-case/asociacion-civil-por-la-justicia-ambiental-v-province-of-entre-rios-et-al/>.

Entre Ríos and the municipality of Victoria City, alleging that they had failed to protect environmentally sensitive wetlands.¹⁹⁶

The plaintiffs requested that the court declare the Paraná River Delta a 'rights bearer' and an essential ecosystem for climate change mitigation and adaptation, and appoint a guardian to protect the rights of the Paraná Delta, responsible for overseeing the conservation and sustainable use of its wetlands. The complaint referenced conservation laws passed in other countries, including Bolivia, New Zealand, Colombia, Ecuador, and India.

On August 11, 2020, the court of first instance determined that significant and uncontrollable fires were occurring in the investigated area, resulting in air pollutant concentrations five times higher than the limits set by regulatory standards. The cumulative effect of burnings associated with traditional practices necessitated a measure based on the precautionary principle. In its decision, the court referred to the strategic plan for the conservation and sustainable use of the Paraná Delta, prepared by the Ministry of Development, which identifies the delta as not only an area of ecological importance but also a priority for flood protection. On December 28, 2021, the Supreme Court decided to consolidate all related cases and announced that it would deliver a consolidated judgment.

3.5.7. The Peruvian Case

In 2019, a group of seven Peruvian youths, aged 14 to 16, filed a lawsuit against the Peruvian state, claiming that the government had failed to take necessary actions to address climate change, curb deforestation in the Amazon, and mitigate the effects of climate change, thereby violating their constitutional rights to life, health, water, and a healthy environment.

The defendants in the lawsuit included the Peruvian state, specifically the president, the Ministry of the Environment, the Ministry of Agriculture and Irrigation, the Ministry of Finance, and regional governments. The complaint sought to compel the president, the Ministry of the Environment, the Ministry of Agriculture and Irrigation, the Ministry of Finance, and regional governments to develop action plans to reduce deforestation in the Peruvian Amazon by 2025. The plaintiffs also requested the involvement of regional governments in developing climate change adaptation and mitigation plans. Additionally, they called for a halt to deforestation on state-owned lands and a declaration that environmental degradation in the Amazon is unconstitutional.

¹⁹⁶ "Interpone acción de amparo colectivo ambiental. Solicita medida cautelar urgente. Solicita habilitación feria judicial," complaint (2 July 2020), accessed [date], http://climatecasechart.com/wp-content/uploads/sites/16/non-us-case-documents/2020/20200702_11820_complaint.pdf.

The complaint further sought recognition of the Peruvian Amazon as an entity with rights to protection, preservation, maintenance, and restoration, citing conservation cases in Ecuador, Colombia, and New Zealand. The case is pending a decision before the Superior Court of Justice of Lima. The last virtual hearing took place in July 2023, but no final verdict has been reached.¹⁹⁷

3.5.8. Pakistani Example

According to the Global Climate Risk Index, Pakistan is currently the fifth most climate-vulnerable country in the world. At the same time, Pakistan also faces some of the highest disaster risk levels in the world, ranking 23th out of 194 countries as per the 2024 Inform Risk Index.¹⁹⁸ This risk is driven particularly by the nation's exposure to flooding, earthquakes, tropical cyclones and their associated hazards. It is these alarming statistics which underscore the need to address climate change and mitigate its effect on people and their livelihoods. Since the 1990s, when there were barely any environment-related claims, or more specifically, climate rights-based litigation, the recent trend in the jurisprudential development by courts has seen an exponential increase in public interest litigation using the Constitution as a basis to raise environment related claims.

In 2021, the Pakistan Supreme Court upheld a decision by the Punjab provincial government prohibiting the construction or expansion of cement plants in environmentally vulnerable zones. D.G. Khan Cement Company challenged the Punjab government's decision, arguing that it violated the right to freedom of trade, business, and profession guaranteed by Article 18 of the Constitution of Pakistan and that the government had failed to conduct adequate scientific studies before adopting the decision. The Supreme Court rejected these arguments, deeming the provincial government's decision necessary for environmental protection and sustainability.

The Supreme Court acknowledged¹⁹⁹ that these cement plants could cause, among other things, further depletion of groundwater. As part of the investigation, the court emphasized that the government must adhere to the precautionary principle to protect the rights to life, sustainability, and human dignity of the communities surrounding the project areas. Additionally, the court recognized the need to protect the rights of nature, stating that the environment must be protected in its own right. It went on to state that man and his environment must compromise for the benefit of each other, and this

¹⁹⁷ Álvarez et al. v. Peru (2020), <https://climatecasechart.com/non-us-case/alvarez-et-al-v-peru/>.

¹⁹⁸ European Commission, *INFORM Risk Index 2024* (Luxembourg: Publications Office of the European Union), <https://drmkc.jrc.ec.europa.eu/inform-index>.

¹⁹⁹ D. G. Khan Cement Company v. Government of Punjab, 2021 SCMR 834 (Syed Mansoor Ali Shah, J.).

peaceful coexistence requires that the law treats environmental objects as holders of legal rights. Peaceful coexistence requires that environmental objects be treated by law as holders of legal rights.

3.5.9. Ecuadorian “Milestone”

In 2017, Ecuador granted two mining concessions to the state-owned company ENAMI EP, along with the necessary environmental permits, allowing mining in the Los Cedros forest, a protected area renowned for its exceptional biodiversity. ENAMI EP subsequently entered into several agreements with private companies, which began exploring the area's mineral resources in preparation for mining activities.

In 2018, local authorities in the affected region filed a constitutional lawsuit to halt all mining activities in Los Cedros, alleging violations of the rights of nature and the right of local communities to access information and be consulted prior to the granting of concessions. The lower court partially upheld the lawsuit, ruling that Article 61.4 of the Ecuadorian Constitution, which guarantees the right to prior consultation, had been violated, and ordered a suspension of mining activities until the rights of nature were evaluated. However, a local group appealed the lower court's decision, bringing the case before the Constitutional Court to seek explicit recognition of the rights of nature.

The Constitutional Court, in its judgment No. 1149-19-JP/21 of November 10, ruled²⁰⁰ that the mining concessions and environmental permits previously granted violated three different rights enshrined in the Ecuadorian Constitution: a) the rights of nature Pachayama (Articles 10, 73), which correspond to the rights of the Los Cedros forest; (b) the right to water (Articles 12, 313), as defined by the Court in a previous case, and the right to a healthy environment (Article 14); and (c) the right of local communities to be consulted in advance (Articles 61(4), 398). Although this sentence contains important elements for all three types of law, its most innovative element is the definition of a legal standard for assessing violations of the rights of nature. We shall examine this aspect of the judgment below.

The protection of nature can now be considered a constitutional value, since in 2008 Ecuador adopted a new constitution characterized by an extensive list of rights that includes the rights of mother nature, Pachayama (Article 10).

In its judgment 1149-19-JP/21, the Court defined the legal framework for the rights of nature, defining them as a fundamental constitutional value, and formulated a legal norm that should be applied in specific cases, such as

²⁰⁰ *Corte Constitucional del Ecuador, Caso No. 1149-19-JP/21* (Constitutional Court of Ecuador, 2021).

the Los Cedros case. The Court concluded that the provision of the Constitution recognising the rights of nature is not a rhetorical statement, but a statement of fundamental value. The Court emphasised this as follows (paragraphs 31 and 32).

“This is not rhetorical lyricism, but a transcendent statement and historical commitment [...] These values are part of the constitutional preamble, which sets out the fundamental values of the Ecuadorian people,”²⁰¹

The court revoked the mining permits and water use rights in the Río Magdalena concession area. It stated that the rights of nature apply not only to protected areas but to the entire territory of Ecuador. This decision marks a milestone in Ecuadorian environmental law, as it has strengthened the practical enforceability of the rights of nature and set a precedent for restricting mining to protect biodiversity and community rights.

²⁰¹ Ibid., par 31, 32.

4. COMMON FEATURES OF THE EMERGENCE OF THE CONCEPT OF THE RIGHTS OF NATURE

Several common features can be identified in these examples of this phenomenon. These cases typically involve environmental damage or ongoing degradation in areas of significant biodiversity, often inhabited by indigenous peoples, which is so severe that it not only threatens the living conditions of these communities but also draws the attention of authorities. In such instances, special rights granted to nature often emerge in legislation.

4.1. Representation

This codification solution can be best understood as a common framework, as it has not been proven that the traditional representation by natural persons in courts is less effective at protecting the environment than a guardian or institutional body representing nature. Simultaneously, the spokesperson or guardian of nature serves as a mediator between nature, indigenous peoples, authorities, and the court, extending its role beyond traditional litigation.

In some cases, the representation of the natural element is fulfilled by multiple institutions simultaneously. Assigning a guardian to act in court is a standard requirement in nearly all cases. Additionally, a body may be established with a role that extends beyond merely representing the natural ecosystem. Such a body also represents the harmonious coexistence of indigenous communities with their environment and place of residence, as well as the interests of the broader population (e.g., in New Zealand).

There are also examples of professional bodies that provide scientific expertise to support the protection of the natural environment and assist the guardian or representative body (e.g., in the case of the Mar Menor).

4.2. Multipolar Conflict

The concept of Rights of Nature (RoN) often involves a multi-polar conflict that extends beyond a simple opposition between economic and environmental interests. It also encompasses the close-to-nature lifestyle of indigenous peoples, as well as their political and economic vulnerability. This complexity is further nuanced by the fact that environmentally harmful activities, which may exploit both indigenous peoples and nature, sometimes provide the only livelihood for local populations.

Various manifestations of these conflicts can be observed in the RoN phenomenon. In New Zealand, for example, indigenous interests are prioritized, while environmental concerns are less prominent in comparison. Nevertheless, the Te Urewera Act and the Te Awa Tupua Act were enacted as key reforms in New Zealand's environmental law, emphasizing a more balanced approach to the relationship between nature and humanity than in the past. Similarly, Ecuadorian legislation reflects a shift in priorities, with a clear effort to balance competing interests.

Another notable difference in the RoN phenomenon is the level at which legislation is enacted. In Ecuador, RoN provisions appear at the highest level of the legislative hierarchy, embedded in the constitution. By contrast, New Zealand's legislation serves as preparatory reform, laying the groundwork for broader changes. In North America, RoN examples are typically found at the local or regional level.

There is also variation in the scope of nature's recognition across these examples. Ecuador's constitution grants rights to "Mother Nature" as a whole, whereas other regulations focus on specific natural formations or elements, such as a valley, catchment area, or lagoon. These targeted approaches are often easier to manage, more transparent in their effects, and more straightforward in implementing legal provisions, as they typically address a specific ecosystem.

5. RELATED WORK OF THE UNITED NATION

The United Nations (UN) does not have a program specifically dedicated to the concept of the Rights of Nature, but several of its initiatives and efforts address nature conservation, sustainable development, and the legal recognition of ecosystems, which are closely related to this concept.

Several Sustainable Development Goals (SDGs)²⁰² are explicitly linked to ecosystem protection and are particularly relevant: SDG 13 (Climate Action), SDG 14 (Life below Water), and SDG 15 (Life on Land). These goals focus on combating climate change, promoting the sustainable use of oceans, seas, and marine resources, and protecting, restoring, and sustainably managing terrestrial ecosystems, including efforts to combat desertification, halt land degradation, and mitigate biodiversity loss.

The concept of the Rights of Nature aligns closely with the objectives of the Convention on Biological Diversity (CBD). Adopted at the 1992 Earth Summit in Rio de Janeiro, the CBD has three primary goals: the conservation of biodiversity, the sustainable use of biodiversity components, and the fair and equitable sharing of benefits derived from genetic resources. This concept is also connected to the United Nations Environment Programme (UNEP), which promotes nature conservation and sustainable development. UNEP-coordinated initiatives, such as the Decade on Ecosystem Restoration (2021–2030), focus on restoring and protecting ecosystems.²⁰³

The United Nations Declaration on the Rights of Indigenous Peoples, adopted in 2007, emphasizes the rights of indigenous communities to sustainably use natural resources and protect their environment. This declaration advocates for recognizing the spiritual and physical importance

²⁰² The UN's 2030 Agenda for Sustainable Development (Agenda 2030), adopted in 2015, and the 17 Sustainable Development Goals (SDGs) support the protection of nature in many areas.

²⁰³ UNEP also publishes research and reports on the legal protection of ecosystems and nature-based solutions.

of nature, aligning with the concept of the Rights of Nature, and strongly emphasizes the protection of health and cultural rights.²⁰⁴

UNESCO's biosphere reserves and World Heritage Sites aim to conserve and sustainably manage natural areas. Although these initiatives do not directly address the Rights of Nature, their recognition of the value and protection of nature aligns closely with the concept's objectives.

In 2009, the UN General Assembly adopted the "Harmony with Nature" initiative, which specifically promotes a harmonious relationship between humans and nature. This program is the only UN initiative directly related to the concept of the Rights of Nature. As part of this initiative, the UN produces annual reports and organizes dialogues on recognizing the Rights of Nature, Earth-centred legal systems, and the relationship between indigenous communities and nature.²⁰⁵

The concept of the rights of nature would be difficult to separate from the enforcement of human rights affected by climate change.²⁰⁶

The UN Human Rights Council²⁰⁷ has given increased attention to the human rights impacts of climate change in a second resolution and has established the institution of a special rapporteur specifically on this issue.

The undeniable connection between human rights and the environment was emphasized by David R. Boyd, the UN Special Rapporteur on human rights and the environment, who stressed that Human Rights Council

²⁰⁴ United Nations, *Declaration on the Rights of Indigenous Peoples* (UNDRIP), adopted 13 September 2007, accessed [date], <https://www.ohchr.org/en/indigenous-peoples/un-declaration-rights-indigenous-peoples>.

²⁰⁵ United Nations, *Harmony with Nature* chronology, <http://harmonywithnatureun.org/chronology>.

²⁰⁶ see, for example, India, Supreme Court, *S. Jagannath Vs. Union of India and Ors*, 1996, which dealt with the ecological and social aspects of shrimp farming in India. The petitioner called for a halt to the Indian government's implementation of the regulation of the coastal zone in ecologically vulnerable coastal areas. It also called for a ban on the use of wetlands for shrimp farming by the Coastal Management Authority to protect marine life and coastal areas, and for the formation of a national association. The Supreme Court of India emphasized that the new trend of more intensive shrimp farming – without much control of feed, seeds and other inputs, as well as water management practices – posed serious environmental and ecological threats. Before the establishment of commercial shrimp farms was authorised, an environmental impact assessment had to be carried out, which also took into account the social impact on the different population strata of the area. It also had to take into account intergenerational fairness and compensation for those affected and prejudiced. The court therefore ordered, inter alia, that the central government must establish an authority with all the necessary powers to protect ecologically vulnerable coastal areas. The authority had to introduce the application of the precautionary principle and the polluter pays principle in the procedure.

²⁰⁷ United Nations, *Human Rights Council Resolution 48/14*, "Mandate of the Special Rapporteur on the Promotion and Protection of Human Rights in the Context of Climate Change," A/HRC/RES/48/14, adopted 8 October 2021, <https://docs.un.org/en/A/HRC/RES/48/14>.

Resolution 48/13 should serve as a catalyst for more ambitious action on environmental issues. Beyond the Human Rights Council, more than 150 countries recognize and protect the right to a healthy environment through their constitutions, national laws, court decisions, or international instruments. The significance of this resolution lies in its status as the first international, global recognition of the right to a healthy environment. The right to a safe, clean, healthy, and sustainable environment is essential for the full enjoyment of a wide range of human rights, including the rights to life, health, food, water, and sanitation. Without this right, access to even the minimum standards of human dignity is compromised.

As early as 1990, Pope John Paul II highlighted this connection in his message for the World Day of Peace, noting that the promotion of human dignity is closely tied to the right to a healthy environment, as this right underscores the dynamic relationship between individuals and society. International, regional, and national norms are gradually giving legal form to this right. However, legislation alone is insufficient to ensure its full realization.²⁰⁸

A global trend has emerged in recent years, reflecting a significant increase in the recognition of the relationship between human rights and the environment. The number and scope of international and domestic legislation, court decisions, and scientific studies addressing this relationship have grown substantially. Many states have incorporated the right to a healthy environment into their constitutions. However, numerous questions about the interplay between human rights and the environment remain unanswered, necessitating further investigation.²⁰⁹

With its landmark Resolution 48/13, the UN Human Rights Council urges governments to take more coordinated and effective action to enforce the right to a clean, healthy, and sustainable environment.

²⁰⁸ Pope John Paul II, *Respect for Human Rights Is the Secret of True Peace: Message on the Occasion of the World Day of Peace* (Message of His Holiness Pope John Paul II for the Celebration of the World Day of Peace, 1999), https://www.vatican.va/content/john-paul-ii/en/messages/peace/documents/hf_jp-ii_mes_14121998_xxxii-world-day-for-peace.html.

²⁰⁹ Carl Knight, "Climate Change, Fundamental Interests, and Global Justice," *Critical Review of International Social and Political Philosophy* 19, no. 5 (2016): 629–44, <https://doi.org/10.1080/13698230.2016.1183755>.

6. THE RELATIONSHIP BETWEEN THE CONCEPT OF THE RIGHTS OF NATURE AND THE LEGAL ENVIRONMENT OF THE EUROPEAN UNION

The preceding discussion reviewed the most prominent cases and common elements of the global emergence of the Rights of Nature concept. This concept typically emerged in the legislation or judiciary of states experiencing significant socio-economic instability at the time of its adoption. In most instances, this was accompanied by exploitation or severe damage to natural resources, as well as exposing the vulnerability of indigenous communities whose close-to-nature lifestyles were impacted by these conditions. Consequently, the concept developed in an environment distinct from European legal culture. The following analysis will explore how the Rights of Nature concept relates to European environmental law.

The relationship between the European Union's environmental legal system and the concept of the rights of nature is complex. The EU's environmental law has followed a fundamentally anthropocentric approach from its inception and during its fifty-year history. From the beginning of the 1990s, especially from the Second UN Conference in Rio, the anthropocentric approach was supplemented by regulations that also emphasized the interests of future generations.²¹⁰ EU environmental law is primarily aimed at human welfare, sustainable development and economic interests, while protecting the environment, so legislation often adapts nature conservation to human needs. It treats the environment as a resource whose protection is necessary for the benefit of human health, economic activities and future generations.

In the European Union regulations, nature does not have an independent legal status. The EU's environmental law system is fundamentally oriented toward practical and economic trade-offs, whereas the Rights of Nature concept advocates for a more radical paradigm shift. The 2015 Paris Climate Summit's final document, a product of one of the most significant international events of the past decade addressing climate change, adopted a somewhat one-sided approach to sustainable development. It prioritized broader

²¹⁰ Gyula Bándi, "A jövő nemzedék védelmének egyes jogi eszközei," *Iustum Aequum Salutare* 20, no. 1 (2024): 33–50.

development opportunities and aspects over explicitly supporting environmental rights. The right to a healthy environment – regardless of the adjective used – is not directly recognized as a distinct right within the agreement. Instead, it addresses related issues, such as migration, gender-differentiated impacts, and the protection of vulnerable groups, which are indirectly connected to environmental concerns. However, sustainable development is inseparable from ecological sustainability, as the two are closely intertwined. Therefore, prioritizing environmental interests must become a central focus. Unfortunately, the Paris Agreement places greater emphasis on addressing the consequences of climate change – such as migration, gender-specific impacts, and the challenges faced by vulnerable groups – rather than tackling its root causes.²¹¹

The protection of the environment is a prerequisite for the enforcement of other fundamental rights. This, in addition to international cooperation and the fulfilment of the state's institutional protection obligations, is also embodied in the appropriate regulation of the right to a healthy environment. The right to a healthy environment, as a third-generation right, represents a specific quality. It belongs to the group of human rights that have not only become international as a result of globalization but have been created by globalization itself.

6.1. Key Principles of EU Environmental Law

6.1.1. Sustainable Development: A Core Principle

Although unsustainable economic growth is currently the main focus, the concept of sustainable development remains a significant part of scientific discourse.²¹² International law, European law, and national law all address the issue of sustainability, though characteristically, they usually provide little guidance on its precise content. The concept of sustainable development originally emerged on the international stage, and the international community acknowledges its legal significance. It is also evident that sustainable development has significantly influenced contract law. Relatively few people understand the concept of sustainability in the same way, often applying it loosely to refer to sustainable development. It seems that to date no one has had the courage to produce a clear definition of the concept.

In trying to summarize what is meant by sustainable development, the concept is characterized by the following. On the one hand, the close link between economic and social development and environmental policy objectives, and on the other hand, the recognition that environmental protection is an

²¹¹ Gyula Bándi, "Környezethez való jog – újrátöltve," *Acta Humana: Hungarian Centre for Human Rights Publications* 4, no. 2 (2016): 7–25.

²¹² Donella H. Meadows et al., *The Limits to Growth* (New York: Universe Books, 1972).

integral part of any development measure, and vice versa. In addition, it should impact the long-term determination of political goals, that is, the obligation of states for future generations.²¹³ In the words of Gyula Bándi, “the principle of sustainable development, along with the Bruntland report and other global *soft law* instruments, may exhibit basic normative characteristics that are binding on states, although it is also a double-edged sword. It does not prohibit development in general. At the same time, it expects states to take steps to address their obligation to ‘prevent or at least mitigate harm’.”²¹⁴

Principles 1 and 3 of the Rio Declaration state that people have the right to a healthy and productive life in harmony with nature and that development must meet the needs of both present and future generations. This principle promotes the satisfaction of human needs in harmony with nature. In the practical manifestations of the concept of the rights of nature, this principle is implicitly reflected in the recognition that protecting nature serves not only human interests but also the long-term survival of future generations and ecosystems.

6.1.2. The Precautionary and Preventive Principles

The limit of nature’s ability to regenerate is reached when the environmental impact of human intervention causes serious or irreversible damage. The precautionary and preventive principles are key factors in regulating these human behaviours. These principles permeate EU environmental law and are reflected in the preambles of many pieces of legislation. The 1992 Rio Declaration states that where serious or irreversible damage is threatened, a lack of full scientific certainty cannot be used as a reason to postpone effective measures to prevent environmental degradation.²¹⁵ Although the formulation of the precautionary principle was already raised at the 1972 Stockholm Conference, its content will begin to be filled in after the adoption of the above declaration. When a regulation or measure may affect the environment, the legislator must demonstrate that it does not constitute a step backward and thus does not cause irreversible damage in certain cases, nor create the theoretical possibility of such damage. The preventive principle, which emerged

²¹³ Beyerlin, Ulrich: Sustainable Development in Max Planck Encyclopedia of Public International Law, Max Planck Institute for Comparative Public Law and International Law, Heidelberg and Oxford University Press, 2012.

²¹⁴ Gyula Bándi, “A fenntartható fejlődés jogáról,” *Pro Futuro* 3, no. 1 (2013): 11–30, <https://doi.org/10.26521/Profuturo/2013/1/5542>.

²¹⁵ United Nations General Assembly, *Report of the United Nations Conference on Environment and Development* (Rio de Janeiro, 3–14 June 1992), Principle 15, https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf.

in regulation and practice long before the precautionary principle, will continue to coexist with it, though they are applied in different circumstances and with different approaches – depending on the degree of certainty. In the concept of the Rights of Nature, these principles are implicitly embedded as an approach that prioritizes the protection of nature by safeguarding the integrity of ecosystems and local populations while proactively preventing potential damage through protective measures.

6.1.3. The Subsidiarity Principle

The principle of subsidiarity requires that legal standards and decisions be made at the lowest feasible level, taking into account the ability to address the issue, its feasibility, and enforceability. Together, these factors determine the actual level of power and decision-making, ensuring that authority remains as close as possible to those affected by it. However, the lowest possible level does not inherently carry substantive value. When determining the level of decision-making at the European level, the subsidiarity principle also serves to delineate legislative powers between the Union and Member States, aiming to limit the Union's centralizing efforts and preserve as much Member State sovereignty as possible, while ensuring appropriate effectiveness.

Initially, the principle of subsidiarity appeared only in the environmental title of the EU framework. In this context, it refers to the careful selection of the level of environmental action, reinforced by the criterion of efficiency – often described as ‘more feasible.’ Subsidiarity did not initially imply a division of competences but rather provided a basis for choosing between Member State or Union-level action. The principle of subsidiarity, as enshrined in the Maastricht Treaty, was generalized in the second paragraph of the new Article 3b [now Article 5], complemented by the principle of proportionality in the third paragraph. The Community's actions shall not exceed what is necessary to achieve the Treaty's objectives. The decision on whether the objectives of planned environmental activities can be better achieved at the Union or Member State level is made on a case-by-case basis, considering all relevant factors.

The most important components of the principle of subsidiarity are the EU competence is the exception to national competence, so the Union can act if it has the power to do so. The principle is flexible enough to be measured against the need for EU intervention. Subsidiarity also implies the idea of shared responsibility²¹⁶, if the Union's environmental policy is properly understood.²¹⁷ “Subsidiarity is the next general theoretical requirement, such

²¹⁶ The principle was introduced by the EU's Fifth Action Programme.

²¹⁷ Bándi, 2022, 195.

as finding a sufficiently efficient level, i.e. thinking not along hierarchies, but along rationality and efficiency.”²¹⁸

Examples of the practical application of the Rights of Nature concept demonstrate that the principle of subsidiarity can be effectively implemented in specific cases through this regulatory framework, as regulations are typically enacted at the level closest to the affected community. The application of the subsidiarity principle ensures that legislators receive comprehensive information about the natural ecosystem to be protected, while also considering the willingness and capacity of the affected community to implement these regulations. This approach facilitates the peaceful resolution of relationships between indigenous peoples and other inhabitants (e.g., New Zealand’s Whanganui River settlement), respects indigenous beliefs (e.g., Ecuador’s constitution), and reflects the influence of political and intellectual movements (e.g., Latin America’s Sumak Kawsay). In particular, local ordinances, such as the Lake Erie Bill of Rights (2019) passed by the City of Toledo, a municipal ordinance granting the lake its own rights, exemplify the emergence of the subsidiarity principle.

6.1.4. Principle of Cooperation

One of the first and most important principles of international environmental law is the principle of cooperation, which appeared in the first half of the 20th century and has been continuously growing since then.

In environmental law, we distinguish between different levels of cooperation. International cooperation should be interpreted in the broadest sense, followed by cooperation within the European Union, and finally at the Member State or state level, as well as other levels within it. In the context of international cooperation in environmental law, issues related to the protection and development of the environment must be addressed by all countries, regardless of size, on an equal basis and in a spirit of cooperation. Cooperation through multilateral or bilateral agreements, or other appropriate instruments, is essential to effectively control, prevent, reduce, or eliminate adverse environmental impacts in all areas, while duly respecting the sovereignty and interests of all states. Although the principle, in terms of its international legal origin, originally referred to relationships between states, over the past fifty years of environmental law, it has been applied at lower levels and is exemplified by numerous cases, which are only referenced here.²¹⁹

²¹⁸ Bándi, 2022, 150.

²¹⁹ United Nations, *Report on the United Nations Conference on the Human Environment (Stockholm Declaration on the Human Environment)* (5–16 June 1972), Principle 24, <https://docs.un.org/en/A/CONF.48/14/Rev.1>.

The concept of the rights of nature does not explicitly emphasize the principle of cooperation; however, practical examples demonstrate that protecting a natural formation or ecosystem would be challenging without cooperation. Numerous instances of the rights of nature concept beautifully illustrate cooperation. Among the most notable examples is New Zealand's collaboration with indigenous communities. The law protecting the Te Awa Tupua River exemplifies a consensus between indigenous and land management interests, establishing an independent body, the Whanganui iwi, to represent the river. The rights granted to nature are exercised on behalf of Te Urewera by the Te Urewera Council, which operates based on the objectives of the law. This council comprises members of the Tūhoe iwi and individuals appointed by the Crown. Similarly, the 2017 law established the Te Pou Tupua Representative Office, consisting of one iwi representative and one member acting on behalf of the Crown, who speak for the river and advocate for its integrity.

Likewise, in the spirit of cooperation, the status of the Mar Menor lagoon was regulated through collaboration initiated by the civilian population. Decision-makers and representatives of the scientific community formed a body to work together to protect the lagoon. The Committee of Deputies, composed of three members from the central government, three from the regional government, and seven representatives of civil society, collaborates with the Monitoring Committee, which includes delegates from the Mar Menor communities. A scientific committee further supports their efforts.

6.1.5. The Principle of Public Participation

In environmental law, the principle of public participation ensures that the public and stakeholders are involved in decision-making processes related to environmental matters. This principle guarantees that individuals are informed, can express their opinions, and participate in decisions affecting the environment, such as those involving investments, developments, or legislation. Its elements include the right to information, ensuring citizens have access

“Principle 22. States shall co-operate to develop further the international law regarding liability and compensation for the victims of pollution and other environmental damage caused by activities within the jurisdiction or control of such States to areas beyond their jurisdiction.”

“Principle 24. International matters concerning the protection and improvement of the environment should be handled in a co-operative spirit by all countries, big or small, on an equal footing. Co-operation through multilateral or bilateral arrangements or other appropriate means is essential to prevent, eliminate or reduce and effectively control adverse environmental effects resulting from activities conducted in all spheres, in such a way that due account is taken of the sovereignty and interests of all States.”

to environmental data (e.g., pollution data and impact assessments); the right to express opinions; the opportunity to provide comments and suggestions concerning plans which impact the environment; and, finally, participation in decision-making through consultations, public hearings, or other forums.

The principle of public participation supports democratic decision-making and sustainable development and is enshrined in detail at the international level in the Aarhus Convention (1998).²²⁰

The three pillars of the Convention are access to information, public participation, and access to justice. Article 7 of the Aarhus Convention provides for participation in plans, programs, and policies, stating that Parties shall make appropriate practical and/or other arrangements to enable public participation in the development of plans, programs, and policies affecting the environment within reasonable time-frames and transparent, equitable frameworks. Article 8 regulates participation in the preparation of legislation, requiring all Parties to endeavour (see the principle of cooperation) to promote effective public participation in the preparation of implementing regulations and other legally binding rules that significantly impact the environment.²²¹

Practical examples of the rights of nature demonstrate effective public participation. We highlight a few of the most notable examples.

The cooperation of the population in support of the Mar Menor lagoon prior to the adoption of the decree significantly influenced decision-making.

As illustrated by the Indian example, the Court, relying on the fundamental obligations outlined in the Constitution, referenced Article 51A(g), which states that it is the fundamental duty of all Indian citizens to “protect and improve the natural environment, including forests, lakes, rivers, and wildlife, and to have compassion for living beings.”

The Ecuadorian Constitution links the right to benefit from nature with the enforcement of nature’s rights through justice. It provides that “persons, communities, peoples, and nations have the right to benefit from the environment and natural resources and to enforce the rights of nature through appropriate legal procedures.”²²²

²²⁰ United Nations Economic Commission for Europe, *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters* (Aarhus Convention), adopted in Aarhus on 25 June 1998, <https://unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>.

²²¹ *Aarhus Convention*, 1998, arts. 6(2)–(3).

²²² *Constitución de la República del Ecuador* (2008), art. 71.

6.2. EU Environmental Law and the Rights of Nature

By 2025, the concept of natural rights appeared in symbolic forms in Europe.. The first is its appearance at the legislative level, exemplified by the Spanish Mar Menor regulation, which has already been discussed in several contexts.

Additionally, similar initiatives (not explicitly presenting the concept) can be found in Europe at the level of proposals, such as the EU Natureship initiative,²²³ and they have also appeared in academic discourse.²²⁴

6.2.1. Analysis of the EESC

In its 2020 study entitled ‘Towards an EU Charter of Fundamental Rights of Nature,’ the European Economic and Social Committee (EESC) analysed environmental justice cases and concluded that, while considering other human interests, the claimants’ arguments remained rooted in anthropocentric presuppositions, as their claims were based on human rights to life, health, freedom, property, and similar rights. However, the argument takes on a broader scope by emphasizing the close interdependence between human rights and the rights of nature. This demonstrates that the interests of nature do not necessarily oppose human interests. Instead, they complement and depend on each other, as we are all part of the same ecosystem.²²⁵

The work of the European Economic and Social Committee (EESC) analyses the practical potential benefits of the concept of the rights of nature. We present its position by highlighting several key points. The EESC recognizes that the economy is a subsystem of human society, which, in turn, is a subsystem of the Earth. It emphasizes establishing a human obligation to care for nature, including the responsibility to repair damage caused. Additionally, it advocates creating an appropriate legal instrument to address inequalities, such as those affecting indigenous peoples, women, and children, through the legal recognition of nature’s rights. The EESC also addresses

²²³ The Natureship project is an international initiative aimed at the design and management of traditional rural landscapes along the Baltic Sea coast. Estonia, Finland, Sweden and Latvia are participating in the project. The project is based on integrated, sustainable shore planning and has a particular focus on Natura 2000 sites.

²²⁴ Susana Borràs, “New Transitions from Human Rights to the Environment to the Rights of Nature,” *Transnational Environmental Law* 5, no. 1 (2016); Michele Carducci et al., *Towards an EU Charter of the Fundamental Rights of Nature* (Brussels: European Economic and Social Committee, 2020), <https://www.eesc.europa.eu/sites/default/files/files/qe-03-20-586-en-n.pdf>.

²²⁵ European Economic and Social Committee, *Towards an EU Charter of the Fundamental Rights of Nature*, 48, <https://www.eesc.europa.eu/en/our-work/publications-other-work/publications/towards-eu-charter-fundamental-rights-nature>.

the current imbalance between corporations, financial institutions, and other stakeholders. It suggests that incorporating the rights of nature into the EU legal system could serve as an effective counterweight to policies that concentrate corporate power, such as trade agreements like the Comprehensive Economic and Trade Agreement (CETA), and to the commercial exploitation of nature. Furthermore, it underscores the importance of enhancing coordination between the protection of nature's rights and human rights to create a stable foundation for the human right to life, as people cannot exist and prosper without protecting nature and the integrity of ecosystems.

6.2.2. Analysis for the European Parliament

The European Parliament's Department for Citizens' Rights and Constitutional Affairs commissioned an analytical study titled 'Can Nature Get It Right? A Study on Rights of Nature in the European Context' (2021). The document examines the concept of the rights of nature, aiming to map its philosophical, legal, and practical dimensions within the European Union's legal framework. It explores how this approach can align with European legal systems, particularly in relation to the objectives of the European Green Deal. The concept of the rights of nature diverges from traditional Western legal paradigms, which often treat nature as mere property or a resource. The study assesses the applicability of this concept in the European context, comparing it with other legal concepts and addressing the following key issues and topics.²²⁶

6.2.2.1. Conceptual Outline

The study defines in detail the emerging concept of the rights of nature, which recognizes natural entities as legal entities with their own rights, independent of human interests. This approach is rooted in biocentric and ecocentric philosophies that view nature as inherently valuable, not merely as a resource for human needs. According to this approach, the concept of the rights of nature follows two primary lines of reasoning. First, since the recognition of human rights is partly based on the philosophical conviction that these rights arise from humanity's existence, it logically follows that the natural world also possesses innate rights. Second, a more pragmatic argument posits that humanity's survival depends on healthy ecosystems, and thus, protecting the rights of nature promotes human rights and well-being.²²⁷ The

²²⁶ European Parliament, *Can Nature Get It Right? A Study on Rights of Nature in the European Context* (Brussels: European Parliament, 2021).

²²⁷ *Ibid.*, 11.

study references supporters of the concept, who argue that traditional European regulations separate the natural environment from humans. Without a paradigm shift, the concept of the rights of nature cannot be effectively interpreted within a European legal context.

The concept of the rights of nature differs significantly from the rights to nature, which provide access to nature as part of human rights, such as the right to a clean environment or natural resources. While the right to nature is anthropocentric, the rights of nature place nature at the centre, recognizing its intrinsic value. For example, the right to nature supports human health or well-being, whereas the rights of nature may ensure a river's right to flow without pollution, independent of human interests.

The study highlights that the philosophical roots of the rights of nature partly stem from the worldviews of indigenous cultures, which regard nature as a living, sacred entity. In the European context, however, efforts aim to ground the concept in a scientific framework, such as a systemic approach to ecosystems that emphasizes their complex interactions. The study notes that European legal traditions, which are predominantly anthropocentric, pose challenges to adopting the concept. Nonetheless, existing environmental legislation, such as the Habitats Directive or the Water Framework Directive, already includes elements that implicitly acknowledge the importance of protecting nature.

The study reviews international developments in the concept, highlighting examples such as Ecuador's Constitution (2008), which was the first to recognize the rights of nature, and the case of New Zealand, where the Whanganui River was recognized as a legal entity. Based on these precedents, the study concludes that the rights of nature are not merely a theoretical concept but can also function as a practical legal instrument. The study emphasizes the Aarhus Convention (1998), which is crucial for ensuring public participation in environmental matters and access to justice, serving as a prerequisite for the practical application of the concept. Additionally, the study examines environmental rights within the framework of the European Convention on Human Rights (ECHR) and the EU Charter of Fundamental Rights. Although these instruments primarily focus on human rights, the study considers them relevant because judgments from the European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU) increasingly recognize the link between environmental protection and human rights, such as the right to a clean environment.

6.2.2.2. Is It Possible to Grant Rights to Natural Entities in Europe?

The central question of the analytical study is whether it is possible to grant legal personality or standing in litigation to natural entities within the European Union's legal framework and to identify the benefits and challenges of legally

recognizing natural entities. This analysis was conducted in 2021, before the Spanish Mar Menor case (2022).²²⁸

The question of legal personality and standing in litigation is crucial for the practical application of the rights of nature concept. Legal personality would enable natural entities, such as rivers or forests, to act as ‘persons’ in a legal sense, for instance, by suing polluters or protecting their own interests. Standing in court would allow organizations or individuals acting on behalf of natural entities, such as environmental NGOs, to initiate legal proceedings. The study indicates that legal personality in the EU has traditionally been limited to legal persons (e.g., companies) and natural persons (individuals). However, case law from the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (ECtHR) demonstrates that standing in environmental cases is gradually expanding, particularly for NGOs. For example, the CJEU’s decisions on the implementation of the Aarhus Convention have broadened the ability of environmental organizations to take legal action for breaches of EU environmental law.

Among the challenges, the study highlights the anthropocentric feature of European legal systems, as well as practical issues such as who would represent natural entities in court and how to ensure the enforcement of rights without human interests dominating.

6.2.2.3. Analysis of ECtHR and CJEU Case Law

One of the key hypotheses of the analysis is that civil society participation in the administration of justice is a fundamental pillar for enforcing the rights of nature. The study analyses in detail relevant decisions of the European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU) concerning access to justice and environmental protection. It then seeks to answer how these judgments affect the theoretical possibility of introducing the concept of the rights of nature in the EU.

In the case of the ECtHR, the study highlights that the court has recognized the link between environmental damage and human rights in several cases under Article 8 (respect for private and family life) and Article 2 (right to life) of the European Convention on Human Rights (ECHR). For example, in the case of *López Ostra v. Spain* (1994), the court ruled that severe environmental pollution can violate human rights. The study notes, however, that the ECtHR has not yet recognized nature as an independent legal entity, and its judgments remain anthropocentric.

²²⁸ Ley 19/2022, de 30 de septiembre, para el reconocimiento de personalidad jurídica a la laguna del Mar Menor y su cuenca, Boletín Oficial del Estado, 3 October 2022, <https://ecojurisprudence.org/wp-content/uploads/2022/02/Spain-Rights-of-Mar-Menor-Law.pdf>.

In the case of the Court of Justice of the European Union (CJEU), the study examines cases related to the implementation of the Aarhus Convention, which ensures access to justice in environmental matters. For example, in *ClientEarth v. Commission* (2013), the CJEU confirmed that environmental NGOs can be granted broader litigation rights to enforce EU environmental law. The CJEU's decisions demonstrate that the EU legal system increasingly recognizes the role of civil society in environmental protection, which, according to the study, may be a prerequisite for enforcing the rights of nature. The study notes that the rulings of both the CJEU and the European Court of Human Rights (ECtHR) implicitly support the protection of nature, but explicit recognition of the rights of nature concept is absent. However, these decisions do not preclude the possibility of integrating the concept into the existing legal framework, for instance, by expanding the scope of civil society's litigation rights.

The study emphasizes that independent scientific assessments are critical to environmental permitting processes, as they ensure decisions are based on objective, scientific evidence. EU environmental legislation, such as the Habitats Directive, already mandates ecological impact assessments, but the study argues that these requirements need further strengthening, particularly for large infrastructure projects.²²⁹ The role of civil society is also paramount, as environmental organizations and citizens act as 'watchdogs,' monitoring compliance with EU environmental legislation. In the spirit of the Aarhus Convention, civil society participation in decision-making and access to justice is essential for effective environmental protection. The study cites lawsuits filed by ClientEarth and other NGOs, which have contributed to stricter enforcement of EU environmental legislation. However, it concludes that initiating legal proceedings on behalf of nature would require entirely new legal mechanisms, such as regulations governing the representation of natural entities by 'guardians.'

An example of an idea inspired by the rights of nature trend is the introduction of a constitutional-level provision in the EU recognizing the intrinsic value of biodiversity and principles of ecological integrity. Regarding secondary legislation, the study proposes that relevant directives include stricter adaptability requirements and higher environmental and ecological standards. The concept of 'ecological impact tracking' also appears promising. The study recommends a comprehensive review of the Nature Directives and the strengthening of requirements for independent scientific assessments in certain authorization schemes under EU law.²³⁰

The establishment of national funds to remedy biodiversity damage can help protect the natural environment. Another idea to be considered is the

²²⁹ *European Parliament, Can Nature Get It Right?*, 2021, 62.

²³⁰ *Ibid.*, 61.

creation of an environmental ombudsman at both the EU and national levels.²³¹ According to the study, various measures could also be implemented to strengthen the role of science in public administration and the courts.

²³¹ Ibid., 63.

7. AN OUTLOOK ON A EUROPEAN INTERPRETATION

To illustrate the interpretation of the rights of nature in the European legal context, we consider the example of Germany. One reason for this choice is that the Erfurt judicial decision, discussed earlier, represents a unique European example following the Spanish Mar Menor Act. The latter has been tested and applied in court proceedings, exemplifying the principles of subsidiarity, cooperation, social participation, action at the source, and access to justice. However, the concept of the rights of nature is not enshrined in the Spanish Constitution.

By comparison, the German case is noteworthy in several respects. Section 1 of the German Federal Nature Conservation Act ²³² protects nature and the landscape, not only because they serve as the basis of life for current and future generations, but also due to their intrinsic value.²³³ The Erfurt decision, previously discussed, references the rights of nature through a series of complex arguments lacking a clear dogmatic foundation. Another reason to examine the German example is that, in 2022, a German NGO, the German Network for the Rights of Nature, proposed an amendment to the German Basic Law to include a declaration of the rights of nature.²³⁴

In this chapter, following the civil society initiative, we present literature research predating the Erfurt decision, which clearly illustrates why the European adoption of the rights of nature concept is ambitious but nonetheless lacks a robust foundation.

²³² *Gesetz über Naturschutz und Landschaftspflege* (Bundesnaturschutzgesetz – BNatSchG), § 1, https://www.gesetze-im-internet.de/bnatschg_2009/_1.html.

²³³ Jasper Mührel, “Towards European Rights of Nature: How the Mar Menor Case Lays the Basis for a New Legal Approach in Europe,” *VerfBlog*, 28 February 2023, <https://verfassungsblog.de/towards-european-rights-of-nature/>, <https://doi.org/10.17176/20230228-185321-0>.

²³⁴ “Vorschlag zur Überarbeitung des Grundgesetzes: Im Netzwerk Rechte der Natur haben sich Juristen und Organisationen zusammengeschlossen und gemeinsam folgenden konkreten Vorschlag für eine Grundgesetzreform erarbeitet,” *Rechte der Natur* (April 2022), <https://ecojurisprudence.org/wp-content/uploads/2023/01/German-Basic-Law-Rechte-der-Natur-April-2022.pdf>; <https://www.rechte-der-natur.de/de/initiative-grundgesetzreform.html>.

7.1. German Initiative for Constitutional Regulation

In April 2022, the German Network for the Rights of Nature (NGO) developed a proposal to amend the German Constitution to recognize the rights of nature.

The German Network for the Rights of Nature, established in 2020, launched a two-year consultation process involving academics, legal experts, organizations, and committed citizens to develop a proposal to amend the German Basic Law (Germany's Federal Constitution, (Grundgesetz)). The proposal aims to strengthen the legal protection of nature by incorporating the rights of nature into the Constitution. It proposes, among other things, amendments to Articles 1 and 19 of the German Basic Law (Grundgesetz).

“(2) The dignity of nature requires that the natural foundations of life be protected, cared for, and preserved, and that the intrinsic value of the natural environment as a whole be respected.

(3) The German people therefore acknowledge inviolable and inalienable human rights and the rights of nature as the foundation of every human community, of peace, and of justice in the world.

(4) The following fundamental rights bind the legislature, executive power, and judiciary as directly applicable law.⁴ Fundamental rights shall also apply to nature, in so far as they apply to it. Nature has legal capacity and must be respected and protected by the legislature, the executive and the judiciary.”

The proposed amendment aims to oblige the German state to protect nature for its intrinsic value and to uphold its responsibility toward future generations. For the amendments to be considered, they must be submitted to Parliament by Members of Parliament.

7.2. Interpretations of Germany and the Rights of Nature Concept

A study highlights that introducing the concept of the rights of nature into the European and German legal frameworks could be ineffective and counterproductive without significant reform. Conversely, implementing this concept within Western jurisdictions may be challenging. However, a legal debate surrounding the rights of nature has emerged independently of Indigenous perspectives. The concept has gained momentum due to the increasing urgency to protect the environment from global ecological changes exacerbated by human activity. The rights of nature have thus emerged as an alternative approach in modern environmental law to better address the

environmental degradation society faces today. Whether this approach can be effectively implemented in countries without Indigenous populations remains uncertain. Certainly, scholars should further explore the prospects of rights of nature reforms and develop doctrines to facilitate such developments in Germany and other European countries to identify viable options for successful implementation. If the ultimate goal is to adapt our governance structures to address the consequences of the Anthropocene, adhering to anthropocentric frameworks within our legal systems is not a solution, as it conflicts with the scientific understanding of ecosystems and hinders effective responses to environmental challenges. Critics may argue that rights of nature laws are empty postulations that fail to effect meaningful change. However, if implemented thoroughly with appropriate institutional frameworks, these laws can reinforce existing declarations of nature's intrinsic value, as enshrined in domestic laws and the preambles of international documents. According to the logic of the Western legal tradition of rights, the risk of empty postulations is far greater if declarations of nature's intrinsic value are not accompanied by the recognition of legal personality, which enables entities to legally protect this value.²³⁵

Unlike Schimmöller's position, Jens Kersten argues that the rights of nature can be applied in German legislation. In his 2017 study entitled 'Who Needs Rights of Nature?'²³⁶, he emphasizes progress toward a non-anthropocentric approach in the evolving concepts of humanity's relationship with nature. According to Kersten, these concepts trace an arc of development: initially, nature was viewed as an object, followed by its protection in a characteristic way, and culminating in a concept that recognizes nature as a subject with specific rights.

To interpret the normative conception of nature, Kersten starts with the concept of the legal person. According to the traditional legal framework, law comprises norms regulating relations between persons or between persons and objects. In this view, nature is an object – more precisely, every element of nature (animals, plants, rocks, etc.) is an object, with the exception of humans. These objects have no rights; they can be owned, used, protected, or destroyed. Subjective rights were traditionally reserved for people, organizations, or economic actors: legal persons could exercise and enforce their rights in court. However, Kersten argues that law is not merely a set of norms but a constructive system. In his view, legal systems are free to choose

²³⁵ Laura Schimmöller, "Paving the Way for Rights of Nature in Germany: Lessons Learnt from Legal Reform in New Zealand and Ecuador," *Transnational Environmental Law* 9, no. 3 (2020): 569–92.

²³⁶ Jens Kersten, "Who Needs Rights of Nature," in *Can Nature Have Rights? Legal and Political Insights*, ed. Anna Leah Tabios Hillebrecht and María Valeria Röthel, *RCC Perspectives* 2017 (Munich: Rachel Carson Center, 2017), 9–13, <https://doi.org/10.5282/rcc/8209>.

among different legal concepts to address social, economic, and ecological problems.

“Law is, however, not just a body of norms. It is highly constructive as well. This means that legal systems are free to choose between different legal concepts in order to solve social, economic, and ecological problems. The legal system of a country can still use, for example, the traditional approach and might understand nature as an object or good, the value of which can/must be quantified. On the other hand, it can apply the concept of legal personhood to Nature and thus give Nature subjective rights in order to solve ecological conflicts.”²³⁷

Kersten posits that there is no obstacle to a country simultaneously applying the traditional approach – treating nature as an object or a good whose value can and should be quantified – while also adopting the concept of granting nature legal personality. By doing so, nature can be endowed with subjective rights to resolve ecological conflicts.

Kersten explains the complex reasoning behind the concept of the rights of nature in one key respect: he finds nothing unusual in recognizing non-human actors as legal entities with subjective rights. As an example, he cites economic entities, such as corporations, which are treated as legal persons despite being collections of assets. He argues that traditional European legal systems, which adopt an anthropocentric approach, grant legal personality when it is deemed “appropriate, expedient, or equitable” for resolving conflicts. Kersten contends that opposition to the rights of nature does not primarily stem from philosophical objections but from social welfare actors and those with vested economic interests who seek to own, use, pollute, or destroy natural resources. For instance, he references the Middle Ages, when animals or trees were occasionally granted legal personality and sued. While modern societies reject animistic thinking, Kersten notes that the possibility of legal personality for robots, autonomous machines, and computer agents is emerging, particularly in contexts like economic trade or “ambient assisted living.”

“In “premodern” societies, we can see that “things” had legal rights and obligations. In the European Middle Ages, for example, there were court cases and lawsuits against things, like animals and trees, which thus had the status of a legal person. Although “modern societies” have problems with this animistic provocation, today we discuss the possibility of legal personhood for robots, autonomous machines, and computerized agents – for example, in the context of economic trade or ambient assisted living. We can see, as indicated above, a legal evolution in recognizing Nature or

²³⁷ Ibid., 9.

at least parts of Nature as legal persons. Although these differing ways and extents to which people have sought to recognize and represent Nature's legal personhood are governed by their own motivations and interests, they are guided by five possibilities for framing Nature within our legal system."²³⁸

In his analysis, Kersten identifies three groups of legal-philosophical interpretations of nature. The first perspective views the legal status of nature as a normative reflection of human rights. In this traditional approach, nature lacks independent legal status and receives indirect protection through the enforcement of human rights.²³⁹

In its second perspective, Kersten interprets the legal status of nature as the common heritage of humanity.²⁴⁰ This concept originates from international public law, which protects the environment through international institutions and legal instruments. The concept is knowledge-driven but has limited effectiveness, as it primarily focuses on charismatic elements of nature – specific, highlighted components – and does not fully protect nature from general exploitation. This concept has also evolved into the term “common concern of humanity,” as used in the 1992 Convention on Biological Diversity.

The third interpretation views nature as a constitutional object, a value to be protected at the constitutional level. Kersten cites the German Basic Law, which stipulates that the state, in fulfilling its responsibility for future generations, shall protect animals and the natural foundations of life through the executive and judiciary in accordance with legislation, law, and justice (Article 20a).

Kersten critically argues that Article 20a of the German Basic Law is a “highly restrictive norm,” as it does not grant subjective rights to either citizens or nature. This explains why Article 20a is rarely applied in day-to-day legislation and reflects what Kersten terms the legislator's ‘non-liability’ attitude – an *Angstklausel* (fear clause) in his terminology²⁴¹ – because it avoids explicitly prioritizing the protection of the environment and animals due to political, economic, or social considerations. According to Kersten, this justifies the approach of embedding environmental protection within the constitutional order, ensuring it is safeguarded through legislation and judicial application of the law.

According to Kersten's fifth line of reasoning, nature itself is a legal person with subjective rights. He considers this intellectual current the most inspiring for describing the relationship between nature and humanity. As an example,

²³⁸ Ibid., 10.

²³⁹ Ibid., 11.

²⁴⁰ Ibid., 11.

²⁴¹ Ibid., 12.

he cites Articles 71 and 74 of the Ecuadorian Constitution (2008),²⁴² Kersten explains that the Ecuadorian Constitution recognizes nature as a legal entity with subjective rights enforced by a legal representative.. However, Kersten references legal realism, noting that granting rights to nature or its elements does not guarantee their enforcement. He argues that a balance must be struck between the rights of nature and social and economic interests.

Building on Kersten's ideas, we note that current European environmental legislation is sufficiently equipped to achieve similar goals. There is no evidence that the rights of nature concept is more effective than, for example, representation by a lawyer.

In his work *Das ökologische Grundgesetz* (2022)²⁴³, Jens Kersten continues to advocate for a higher level of institutional implementation of environmental protection and more effective tools than those previously available.

In *Das ökologische Grundgesetz*, Kersten revises nearly every article of the German Basic Law to incorporate the ecological requirements he emphasizes, elevating the protection of nature to a level comparable to human dignity. His radical proposal begins with a recital in which the German people declare their Basic Law “in the consciousness of their responsibility to nature.” Article 1 of Kersten's ecological constitution derives the commitment to human rights from the premise that human rights form “the basis of responsibility for nature.” It establishes environmental and animal protection as state goals and outlines ecological principles and objectives. At the institutional level, this ecological approach is reflected in proposals such as the Federal Chancellor's annual Ecological Government Declaration, the establishment of a Nature Conservation Committee, and the appointment of an elected nature conservation officer in the Bundestag. Kersten also proposes that the Bundestag include an ecological chamber. His work includes new ecological legislative procedures, as well as policies on ecological transport, telecommunications, and monetary systems. It further emphasizes the ecological integration of the EU and the global responsibilities of international communities. Kersten provides a detailed vision of ecological governance, encompassing ecologically oriented legislation and policies – including monetary policy, cooperation across public administration sectors, ecological excise taxes, household management, and ecological legal protections.

²⁴² ...which state: “Nature, or Pachamama (Mother Earth), where life is reproduced and occurs, has the right to exist, persist, and maintain its cycles, structure, functions, and evolutionary processes with due respect. Every person, community, people, or nation may call upon public authorities to enforce the rights of nature. For the enforcement and interpretation of these rights, the principles set forth in the Constitution shall be observed as necessary. The state encourages natural and legal persons, as well as communities, to promote the protection and respect of nature.”

²⁴³ Jens Kersten, *Das ökologische Grundgesetz* (Munich: C.H. Beck, 2022).

Above all, the most significant departure from previous approaches lies not in his institutional innovations but in the concept, aligned with the global rights of nature movement, of “ecological persons” within his proposed ecological fundamental law, analogous to the institution of legal persons.²⁴⁴

The following is his proposal for the Art.99 GG -E(Grundgesetz-E):

“Die Grundrechte gelten auch für ökologische und inländische juristische Personen, soweit sie ihrem Wesen nach auf diese anwendbar sind.”

“The fundamental rights also apply to ecological and domestic legal persons insofar as they are applicable to them by their very nature.”

As such, animals, plants, ecosystems, landscapes, climate, air, and water could invoke their fundamental rights when enforced. While discussing “legal equality of arms,” Kersten asserts: – He compares the rights given to the elements of nature to the rights of persons as a right in the associations of the economy and capital.²⁴⁵ By virtue of his dignity, man is a legal subject, but he interprets it as not only being a legal subject for people. In the case of legal concepts, for example, it is difficult to see or find a specific person behind a large company or bank. In his analysis, he points out the progressive nature of the decision of the Federal Constitutional Court of March 24, 2021:²⁴⁶ the climate decision took the first step towards recognizing the Rights of Nature, because it linked general freedom of action with the state goal of environmental protection. Yet he says that it is more advantageous to explicitly include the rights of nature in the Constitution. He refers to Niklas Luhmann,²⁴⁷ as he established the global spread of the Rights of Nature: Among numerous examples, he highlights the examples of Ecuador, Bolivia and Columbia, as well as the USA. He states that it is clear that the Rights of Nature phenomenon is ecologically based (nature has the right to exist, flourish, etc.) and not ecocentric. In the case of conflicting fundamental rights interests, he suggests applying the proportionality test. Finally, he lists all the rights that, in Kersten’s opinion, a natural element with rights is entitled to: freedom of development, the right to physical health and life, freedom of movement, equality, the inviolability of the ecological habitat, the right to association and petition, and the right to create economic freedom.²⁴⁸

Kersten sees a safeguard against a potential “eco-dictatorship” in the principle that, in cases of conflict, fundamental rights must be balanced

²⁴⁴ Ibid., 100.

²⁴⁵ Ibid., 100101.

²⁴⁶ Ibid., 102.

²⁴⁷ Ibid., 102.

²⁴⁸ Ibid., 106.

against each other. He views his proposed ecological fundamental law as one in which ecological elements are not merely juxtaposed with civic and social constitutional elements, but are interwoven with them throughout a democratic and rule-of-law constitutional process. Through his formulations, Kersten calls for professional discourse.-.

8. DOUBTS – A CRITIQUE OF THE PHENOMENON

Although the rights of nature phenomenon is prevalent in many parts of the world, the examples discussed above suggest that these legal provisions raise numerous regulatory and enforcement challenges, as well as conflicts. Below, we summarize the concerns that may hinder a potential European interpretation of the concept.

a. Who Guards the Guardians?

A common feature of the practical implementation of the rights of nature phenomenon is that an appointed guardian acts on behalf of a natural element, representing it in judicial proceedings. This raises several critical questions: How can we determine who is best suited to represent a natural formation? What is the most appropriate term to use for this representation? Is it possible to determine what is best for nature without relying on scientific expertise? Moreover, in cases where multiple parties compete to represent a natural element, who will decide which representative is chosen?

b. Rights, Entitlements, Claims, Laws of Nature?

At the outset of our investigation, we stated that we would use the term ‘entitlement’ whenever possible to distinguish it from human rights, as we have interpreted it. This raises several questions: What kind of rights are these? Can a new institution establish a right to flourish and continuously reproduce, and if so, how, or why not? Securing the legal status of nature could protect it against legal harm, but how can this be enforced? What kind of institutional and regulatory framework would support such enforcement? Even if such a framework were developed, how would it interact with the existing institutional framework?

c. Law and Liability Together – Compensation Issues

The legal personality attributed to ecosystems has so far been largely symbolic, and it remains unclear how successful these lawsuits may be in securing adequate, long-term protection for ecosystems. Outcomes may vary depending on the framing of the case and the interests of the plaintiffs. Questions about potential outcomes continually arise: What exactly is the party seeking on behalf of the affected ecosystem? Is the party aiming to compel an authority to compensate for the damage caused? How is this damage quantified? Who is responsible for these damages? Can the appointed guardian be held liable if a river floods and causes damage? In the case of a transboundary river, such as the Ganges and Yamuna rivers, which extend beyond the borders of Uttarakhand in India, who has the authority to represent it? If a lawsuit claims that climate change poses a threat, to what extent are an industry's activities responsible?

Additional liability issues emerge, for instance, if a person drowns in a river granted legal rights or if a flood-swollen river destroys a house on its banks. As the Indian court highlighted, granting rights to a river raises complex questions of liability and legal analysis, as the river itself may be held accountable for personal injury or property damage.

Nevertheless, the increasing number of lawsuits involving the rights of nature could set a precedent, encouraging national and local authorities to take action to preserve biodiversity by opposing exploitative projects that threaten specific ecosystems. These lawsuits also highlight environmental justice issues faced by marginalized communities, particularly Indigenous communities, who serve as stewards of vital natural ecosystems and whose livelihoods, cultural, and spiritual practices depend on them. In this regard, such legal actions could effectively uphold the principle of subsidiarity.

d. Sovereignty Issues

The question arises as to how a Latin American country, whose economy is heavily dependent on foreign investment, would be affected in its relations with foreign investors if it regulates the rights of nature at a constitutional level, as seen in Ecuador. Jorge Viñuales, a professor of law and environmental policy at the University of Cambridge, expressed concerns regarding the rejected Chilean constitution, which included provisions for natural rights in its draft voted on 4 September 2022. According to Viñuales, granting such rights risks further complicating Chile's environmental legal framework. He argues that nature is, scientifically, a highly complex object with both microscopic and macroscopic dimensions. In this multifaceted nature, it is

unclear to whom these rights apply, what exactly these rights entail, and who can exercise them.²⁴⁹

While acknowledging that the rights of nature can serve as a powerful concept for environmental protection – particularly as other concepts, such as sustainable development, often prioritize economic growth over environmental concerns in practice – Viñuales believes there are more effective alternatives to achieve this goal. He notes that even these rights, like any subjective right, have legitimate limitations. Viñuales suggested that the measures proposed by the Constitutional Convention that drafted Chile's constitution could lead to conflicts over issues such as trade and foreign investment. From the perspective of international law, constitutional law is considered domestic law and, consequently, subordinate to international agreements, which could complicate the renegotiation of existing treaties. These conflicts could impact key industries, such as mining and agriculture, and potentially clash with human rights, such as access to water and housing.

Viñuales also highlighted that there is no uniform definition of ecological constitutionality, though many constitutions explicitly address environmental protection using varied concepts. Each term used – whether environment, nature, natural resources, or others – carries significant implications for its legal function. He noted that, in practice, environmental protection is often applied only when it does not result in adverse economic consequences, meaning that the greenest possible development must be achieved, but development remains the priority.²⁵⁰

e. Implementation Problems

To examine the implementation challenges, we consider the example of Ecuador. According to the literature on the implementation of Ecuador's new environmental provisions, one of the primary obstacles is uncertainty regarding the executive power's ability and commitment to enforce them. The volatility of Ecuador's executive branch in recent years has been significant, with eight presidents serving in a single decade. Therefore, when assessing the likelihood of success for these constitutional amendments, the instability of the executive authority that enacted them must be carefully considered. The amendments were proposed by President Rafael Correa as part of his presidential campaign for "change." However, the extreme volatility of Ecuador's executive makes

²⁴⁹ "The Risk Chile Takes by Establishing 'Rights of Nature,'" *BNamericas*, 12 May 2022, <https://www.bnamericas.com/en/analysis/the-risk-chile-takes-by-establishing-rights-of-nature>.

²⁵⁰ "Chile's Green Constitution Could Clash with International Obligations," *BNamericas*, 21 April 2022, <https://www.bnamericas.com/en/news/chiles-green-constitution-could-clash-with-international-obligations--expert>.

the successful implementation of these provisions precarious.²⁵¹ Considering the principle of long-term planning, a critical question arises: If the executive power changes, will successors enforce these amendments or disregard them?

Regarding procedural issues, it remains unclear who is authorized to file lawsuits on behalf of nature and what they must demonstrate to establish legal standing. The absence of a clear legal doctrine creates fundamental uncertainty about the legitimacy of claims under these amendments. Normative clarity is also a challenge, as the wording of the amendments is vague and, in some cases, contradictory to other provisions. Additionally, citizens' lack of access to information hinders their ability to file lawsuits to enforce the new provisions.

Based on the above, these issues raise doubts about the Ecuador's Constitution's ability to serve as a reliable source of genuine rights and remedies.

²⁵¹ Mary Elizabeth Whittemore, "The Problem of Enforcing Nature's Rights under Ecuador's Constitution: Why the 2008 Environmental Amendments Have No Bite," *Pacific Rim Law & Policy Journal* 20, no. 3 (2011): 662.

9. EVALUATION OF THE NATURE RIGHTS CONCEPT FROM THE PERSPECTIVE OF CREATION PROTECTION

9.1. The Emergence of the Creation Protection Approach in the Catholic Church's Social Teaching on the Relationship between Humanity and Nature

In the introduction to the first green encyclical, *Laudato Si'* (2015), Pope Francis writes, that after an irrational trust in progress and human capabilities, a part of society is entering an era of greater awareness. We see growing sensitivity to the environment and nature conservation, as well as sincere and profound concern about what is happening to our planet.²⁵²

In the context of the Catholic Church's social teaching on the relationship between humanity and nature, we focus particularly on the encyclicals of recent popes. The purpose of this examination is not to present the relationship between humanity and nature as it appears in the Church's two-thousand-year tradition of teaching. Given the limited scope of this study, the primary reason for this focus is that, alongside the development of the rights of nature phenomenon over the past fifty years, the approach to the protection of creation has emerged within the Catholic Church's social teaching. In the final part of the study, we draw on these documents to explore how caring for our "common home" has become increasingly emphasized.

These documents do not explicitly address the concept of the rights of nature. However, the manifestations of this concept are not contrary to the Church's teaching on human responsibility and the moral duty to care for the environment. Indeed, the rights of nature phenomenon can be seen as harmonious with this teaching, insofar as it serves as a means of expressing the moral obligation that the protection of creation imposes on humanity.

9.2. The Creation Protection Approach – Nature as Mother Earth

In his 2015 encyclical *Laudato Si'*, Pope Francis addresses the human-nature relationship, noting that modern anthropocentrism has paradoxically placed a technical perspective above reality. He observes that contemporary humanity

²⁵² Francis: 2015. *Laudato si'*, 887–945.

considers nature neither a valid norm nor a living refuge. The technical person regards nature objectively as mere space and matter without inherent value. Pope Francis offers the example of Saint Francis of Assisi, who proposed that nature be seen as a splendid book through which God speaks to us, reflecting divine beauty and goodness.²⁵³ By the greatness and beauty of creatures, one can know their Creator by analogy and God's eternal power and divinity can be grasped from the creation of the world through an intelligent examination of its creations.²⁵⁴

The notion that nature serves in a maternal role is a recurring theme in ecclesiastical statements. The creation protection approach emphasizes humanity's responsibility for creation, which God has entrusted to serve human dignity. It is humanity's task to preserve and nurture nature, a divine gift that must be safeguarded for future generations.

Pope Francis' encyclical *Laudato Si'* specifically focuses on the protection of nature and the Earth's role as a mother. The document underscores that the Earth is not merely a resource but our common home, which we must protect for future generations. Respect for nature and the principles of sustainable development are central to this vision. Pope Francis states that the Earth was entrusted to us as a mother who provides for everyone's needs. The Earth is generous and ensures that those who guard it lack nothing. The Earth, the mother of all,²⁵⁵ asks for respect, not violence. We must return it to our children, preserved and in better condition, because the land is only a loan entrusted to us. Guarding it is not the task of Christians alone, but of everyone.

Creatures have a right not only to exist but also to thrive according to their own laws. This principle is also reflected in *Gaudium et Spes* (e.g., §36), which acknowledges the specific laws governing human communities and other creatures. The encyclical *Sollicitudo Rei Socialis* emphasizes the intrinsic value of creatures and their interconnected relationships within ecosystems, as governed by the laws of nature (e.g., §34). Nor can the moral character of development dispense with respect for the creatures that constitute visible nature, which the Greeks called the cosmos because of the order they observed in it. It is necessary to consider the laws of each being, which are closely related within a defined system – the cosmos itself. Regarding human activities that significantly impact nature, these systemic laws serve as both a constraint and a guideline. This is because humanity's dominion is not unlimited and must not disrupt the fundamental order inherent in nature.

²⁵³ Ibid., 12.

²⁵⁴ C.f. Rom 1:20.

²⁵⁵ "In the words of this beautiful canticle, Saint Francis of Assisi reminds us that our common home is like a sister with whom we share our life and a beautiful mother who opens her arms to embrace us." Francis: 2015. *Laudato si'*, 887–945, e. g. § 1.

If humanity seeks dominion over nature rather than acting as a responsible guardian, it misunderstands its role. In this context, the encyclical *Centesimus Annus*²⁵⁶ describes a tragic anthropological error as the root cause of the ecological crisis (e.g., §37). Humanity thinks it can dispose of the Earth arbitrarily, as if it had no inherent form or destiny given by God, which humanity must develop but not falsify. Instead of being God's co-worker in the work of creation, humanity seeks to take God's place, thus provoking nature's rebellion, which it has subjugated rather than governed.

“Equally worrying is *the ecological question* which accompanies the problem of consumerism and which is closely connected to it. In his desire to have and to enjoy rather than to be and to grow, man consumes the resources of the earth and his own life in an excessive and disordered way. At the root of the senseless destruction of the natural environment lies an anthropological error, which unfortunately is widespread in our day. Man, who discovers his capacity to transform and in a certain sense create the world through his own work, forgets that this is always based on God's prior and original gift of the things that are. Man thinks that he can make arbitrary use of the earth, subjecting it without restraint to his will, as though it did not have its own requisites and a prior God-given purpose, which man can indeed develop but must not betray. Instead of carrying out his role as a co-operator with God in the work of creation, man sets himself up in place of God and thus ends up provoking a rebellion on the part of nature, which is more tyrannized than governed by him.”²⁵⁷

9.3. Nature as an Ecological (Life) Community

In contrast to the consumer society's perspective, nature should not be viewed as a mere commodity but as a community of life with which humanity shares a profound relationship. The encyclicals emphasize the interconnectedness of God, humanity, and creation (the Earth). Humanity's sin has distorted our mandate to “rule” the Earth (cf. Gen 1:28) into a call to “keep” it (cf. Gen 2:15). As a result, the originally harmonious relationship between humanity and nature has become conflictual (cf. Gen 3:17–19). This breakdown, caused by sin, has led to ecological crises, necessitating the restoration of harmony. Notably, the harmony that Saint Francis of Assisi experienced with all creatures is seen as a healing of this rupture.. Our current state is far from this ideal, as sin manifests its full destructive power in wars, various forms of violence and abuse, the abandonment of the most vulnerable, and attacks on nature.

²⁵⁶ John Paul II, *Centesimus annus*, 793–867.

²⁵⁷ Ibid., e.g. § 37.

Pope Francis calls for a comprehensive ecology (integrated ecology) that considers the value of both human work and the environment, emphasizing that the development of creation must be undertaken with care.

“Since everything is closely interrelated, and today’s problems call for a vision capable of taking into account every aspect of the global crisis, I suggest that we now consider some elements of an integral ecology, one which clearly respects its human and social dimensions.”²⁵⁸

This approach –is promoting a legal framework that recognizes the value of ecosystems and natural entities, ensuring their protection and conservation. The concept of human ecology, as articulated by Pope Francis, incorporates the moral law inherent in human nature, which is essential for creating a dignified environment. Human ecology also encompasses a deeper reality: the relationship between human life and the moral law inscribed in our nature, which is necessary for fostering a more dignified environment. This moral framework suggests that recognizing the rights of nature is not only a legal issue but also a moral obligation, as it reflects respect for God’s creation.

9.4. Nature and Indigenous Peoples

The synod fathers extensively discussed Indigenous cultures and the teachings of their way of life. We highlight a single example that vividly illustrates the essence of their position.

“The biodiversity of Latin America is immense and so is its cultural diversity. The Amazon basin is a land of forest and water, of plateaus and wetlands, of savannahs and mountain ranges, but above all a land of innumerable peoples, many of them inhabiting their territories for thousands of years, people whose ancient fragrance continues to scent the continent against all despair. Our conversion must also be cultural in order to adapt to the other, to learn from the other. To be present, to respect and recognize their values, to live and practice inculturation and inter-culturality in our proclamation of the Good News. Expressing and living our faith in the Amazon is a constantly evolving challenge. Our faith is incarnated not only in pastoral work but also in concrete actions for others, in health care, in education, in solidarity with and support for the most vulnerable. All this is what we would like to share in this section.”²⁵⁹

²⁵⁸ Francis: 2015. *Laudato si'*, 887–945.

²⁵⁹ Synod of Bishops, *The Amazon: New Paths for the Church and for an Integral Ecology. Final Document of the Synod on the Pan-Amazon Region* (Vatican City: Libreria Editrice Vaticana, 2019), e.g. 41, <https://www.vaticannews.va/en/vatican-city/news/2020-02/final-document-synod-amazon.html>.

In 2017, Pope Francis spoke about the attitude of Indigenous peoples toward nature in the context of the environmental crisis. He says that Indigenous peoples of ecosystems, or those who traditionally live within them, provide a clear example²⁶⁰ of how coexistence with creation can be reverent, fulfilling, and merciful. Therefore, we must learn from these peoples and their relationships with nature. In this way, we can find a model of sustainability that serves as an alternative to unbridled profiteering, which depletes natural resources and violates the dignity of the poor.

“In this sense, it is essential to show special care for indigenous communities and their cultural traditions. They are not merely one minority among others, but should be the principal dialogue partners, especially when large projects affecting their land are proposed. For them, land is not a commodity but rather a gift from God and from their ancestors who rest there, a sacred space with which they need to interact if they are to maintain their identity and values. When they remain on their land, they themselves care for it best. Nevertheless, in various parts of the world, pressure is being put on them to abandon their homelands to make room for agricultural or mining projects which are undertaken without regard for the degradation of nature and culture.”²⁶¹

In the encyclical *Laudato Si'* he wrote that ecology also requires care for the cultural wealth of humanity in its broadest sense. More specifically, when addressing environmental issues, attention must be given to local cultures, ensuring that scientific and technical language engages in dialogue with local knowledge. Culture – not only in the sense of historical monuments, but especially in its living, dynamic, and participatory sense – must not be overlooked when rethinking humanity's relationship with the environment.

9.5. Human Responsibility – Global Solidarity

The Catholic Church recognizes the complexity of ecological issues and the need for dialogue across various fields, including science, philosophy, and religion. This openness to dialogue can foster a broader understanding of the rights of nature, integrating diverse perspectives and cultural insights into the discourse on environmental ethics.

“There can be no renewal of our relationship with nature without a renewal of humanity itself. There can be no ecology without an adequate

²⁶⁰ Francis: 2015. *Laudato si'*, 887–945.

²⁶¹ Ibid.

anthropology. When the human person is considered as simply one being among others, the product of chance or physical determinism, then “our overall sense of responsibility wanes”.[96] A misguided anthropocentrism need not necessarily yield to “biocentrism”, for that would entail adding yet another imbalance, failing to solve present problems and adding new ones. Human beings cannot be expected to feel responsibility for the world unless, at the same time, their unique capacities of knowledge, will, freedom and responsibility are recognized and valued.”²⁶²

Global solidarity is an integral part of this responsibility. The Church’s social doctrine emphasizes solidarity with the poor and future generations in caring for the environment. This approach aligns with the rights of nature by supporting the protection of life-sustaining ecosystems, particularly for vulnerable communities dependent on natural resources. According to *Laudato Si’*, the perspective of the rights of peoples and cultures must also be considered, recognizing that the development of a social group presupposes a historical process within its cultural context and requires that local actors play a leading role based on their own culture. The concept of quality of life cannot be imposed but must be interpreted within each group’s framework of symbols and customs.

Pope Francis’ encyclical *Laudato Si’* “is, in many respects, polarizing but undeniably driven by concern for the future. It seeks to awaken humanity – including states and, through them, legislation – to the urgent need to transform its current way of life, values, and decision-making mechanisms. While the encyclical focuses little on legal interpretation, its insights should be taken to heart in the interpretation of law.”²⁶³

9.6. The relationship between subsidiarity and the rights of nature concept

The principle of subsidiarity and the concept of the rights of nature are closely interconnected in Catholic social teaching and modern ecological thought. Subsidiarity emphasizes that decisions and responsibilities should be handled at the lowest possible yet effective level, prioritizing local communities over centralized authority. Similarly, the rights of nature concept advocates for recognizing natural systems – such as rivers, forests, or ecosystems – as autonomous legal entities deserving protection. The connection between these principles lies in their shared aim to foster a harmonious balance between human communities and nature, emphasizing local autonomy and responsibility.

²⁶² Ibid., e. g. § 118.

²⁶³ Bándi, 2016, 8.

Subsidiarity supports the rights of nature by placing the management and protection of natural resources primarily in the hands of local communities, which have direct connections to specific ecosystems. This aligns with the rights of nature movement's goal of recognizing nature not merely as property but as an entity with inherent dignity. Subsidiarity ensures that local people, familiar with the ecological and cultural characteristics of their area, can make decisions about nature's protection, rather than having distant, centralized bodies impose solutions.

For example, Ecuador's 2008 Constitution, the first to recognize the rights of nature (*Pachamama*), reflects a subsidiarity-based approach. It enables local communities, such as Indigenous groups in the Amazon, to sue entities that harm ecosystems. In one notable case, local residents filed a lawsuit against a road construction company that polluted the Vilcabamba River. The court ruled in favour of the community based on the rights of nature, demonstrating how subsidiarity facilitates local decision-making and environmental protection.

Similarly, in New Zealand, the Whanganui River was recognized as a legal entity in 2017, with local Māori communities designated as its 'guardians.' This represents a practical application of subsidiarity, as the Māori, who have been culturally and spiritually connected to the river for centuries, are directly involved in its protection and management. Rather than relying on centralized state intervention, local knowledge and responsibility take precedence, aligning with the recognition of the rights of nature.

The relationship between subsidiarity and the rights of nature is also reflected in Catholic social teaching, particularly in Pope Francis' encyclical *Laudato Si'*. The Pope emphasizes that addressing environmental challenges requires initiatives at the local level alongside global solidarity. For instance, in the Philippines, local church communities and environmental groups have collaborated to protect forests on the island of Palawan from mining activities, invoking the rights of nature and the livelihoods of local residents.

"There are no uniform recipes, because each country or region has its own problems and limitations. It is also true that political realism may call for transitional measures and technologies, so long as these are accompanied by the gradual framing and acceptance of binding commitments. At the same time, on the national and local levels, much still needs to be done, such as promoting ways of conserving energy. These would include favouring forms of industrial production with maximum energy efficiency and diminished use of raw materials, removing from the market products which are less energy efficient or more polluting, improving transport systems, and encouraging the construction and repair of buildings aimed at reducing their energy consumption and levels of pollution. Political activity on the local level could also be directed to modifying consumption, developing

an economy of waste disposal and recycling, protecting certain species and planning a diversified agriculture and the rotation of crops. Agriculture in poorer regions can be improved through investment in rural infrastructures, a better organization of local or national markets, systems of irrigation, and the development of techniques of sustainable agriculture. New forms of cooperation and community organization can be encouraged in order to defend the interests of small producers and preserve local ecosystems from destruction. Truly, much can be done!”²⁶⁴

The solution proposed by a 2019 position of the Council Fathers is as follows: “As a way of repaying the ecological debt that countries owe to the Amazon, we propose the creation of a world fund to cover part of the budgets of the communities present in the Amazon to promote their integral and self-sustaining development and so also to protect them from the predatory compulsion to extract their natural resources at the behest of national and multinational companies.”²⁶⁵

The principle of subsidiarity is thus implemented in the concept of the rights of nature by granting local communities both the right and the responsibility to protect nature.

²⁶⁴ Francis: 2015. *Laudato si'*, 180.

²⁶⁵ Synod of Bishops, *The Amazon: New Paths for the Church and for an Integral Ecology. Final Document of the Synod on the Pan-Amazon Region* (Vatican City: Libreria Editrice Vaticana, 2019), e.g. 83, <https://www.vaticannews.va/en/vatican-city/news/2020-02/final-document-synod-amazon.html>.

10. CLOSING ACCORD

The primary conclusion of our research is that, beyond the lack of normative clarity and the challenge of integrating the rights of nature into the dogmatic framework of existing legal systems, the greatest obstacle is the same one often encountered with traditional, anthropocentric regulations: the weakness of enforcement.

Achieving meaningful change in the protection of the natural environment requires a shift in societal thinking, where individuals, guided by personal conviction, prioritize nature's protection over economic interests based on their roles in society.

Climate change represents one of the most pressing global challenges of our time, with profound legal, social, and moral consequences for both current and future generations. Its primary impact is the exacerbation of inequalities, widening gaps between social groups and threatening the quality of life and livelihoods of future generations. While certain groups may temporarily benefit from carbon-emitting activities, others – particularly poorer communities, developing countries, and Indigenous peoples – bear the brunt of global warming's negative consequences. Habitat loss, drastic ecosystem changes, and rising sea levels disproportionately threaten the rights of Indigenous peoples, making it impossible for them to sustain their traditional ways of life, while exacerbating issues of poverty and hunger.

The human rights dimensions of climate change are further complicated by armed conflicts, which cause environmental destruction and have long-term negative impacts on the global community. On World Environment Day 2022, David R. Boyd, UN Special Rapporteur on Human Rights and the Environment, emphasized that peace is an essential prerequisite for sustainable development and the enjoyment of human rights, including the right to a clean, healthy, and sustainable environment. The Russia-Ukraine conflict illustrates that military activities not only result in direct human rights violations but also exacerbate the climate crisis through greenhouse gas emissions and environmental damage, the effects of which persist long after the conflict ends.

The modern anthropocentric perspective, which treats nature as a mere resource, undermines the intrinsic value of the natural world and ultimately contradicts humanity's own reality. The rights of nature concept, while offering an innovative approach to environmental protection, remains unstable and raises numerous unresolved questions. Modern anthropocentrism has paradoxically placed a technical vision above reality, as contemporary humanity 'considers nature neither a valid norm nor a living refuge. The technical person regards nature objectively as mere space and matter needed for their work, into which everything can be manipulated as desired. This diminishes the intrinsic value of the natural world. However, if humanity does not rediscover its true place, it misunderstands itself and ultimately contradicts its own reality.'²⁶⁶

In this way, the intrinsic value of the natural world is diminished. If humanity does not rediscover its true place, it misunderstands itself and ultimately contradicts its own reality: "God has not only given humanity the Earth, which, when managed, must respect the original purpose for which it was entrusted, but humanity itself has been given by God to itself and thus must respect the natural and moral structure with which it was endowed."²⁶⁷ Nevertheless, we can adopt a broader perspective. Human freedom can limit technology, direct it, and place it at the service of a healthier, more humane, more socially inclusive, and more comprehensive form of progress. Breaking free from the prevailing technocratic paradigm does occur at times.²⁶⁸

Ecological culture cannot be reduced to a series of urgent and partial responses to problems related to environmental degradation, resource depletion, and pollution. It requires a different approach to thinking, policy, education, lifestyle, and spirituality – one that fosters resilience against the advance of the technocratic paradigm. Otherwise, even the best ecological initiatives will remain trapped within the same globalized logic. Seeking only technical solutions to every environmental problem isolates interconnected issues and obscures the deeper, systemic problems of the global system.

The Rights of Nature concept is often criticized for being largely symbolic and reliant on anecdotal evidence. However, the discussion above raises additional questions. Ecuador's constitutional legislation, which uniquely recognizes the rights of nature, provides a promising theoretical framework, but its practical implementation faces significant obstacles, including the lack of a clear legal doctrine, judicial instability, and inadequate executive enforcement mechanisms. To address these challenges, Ecuador would need to codify a permanent legal doctrine, establish an independent environmental

²⁶⁶ Romano Guardini, *The End of the Modern Era: An Attempt at Orientation* (Basel: Hess Verlag, 1950).

²⁶⁷ Francis: 2015. *Laudato si'*, 115.

²⁶⁸ *Ibid.*, 112.

tribunal, and strengthen the role of its Constitutional Court. Similar issues arise in the European legal context, as seen in the German example.

Overall, our research indicates that while the rights of nature concept exhibits distinct global features, its effectiveness in environmental protection remains questionable. The primary challenge is the weakness of enforcement, a problem shared by both the rights of nature and traditional, anthropocentric regulations.

Protecting the natural environment requires a fundamental shift in human thinking, where all members of society prioritize nature's protection from personal conviction, relegating economic interests to a secondary role. This necessitates the development of a new ecological culture that embraces a comprehensive, humane, and sustainable approach in place of the technocratic paradigm. Jurisprudence must support this shift by developing regulatory frameworks which ensure the harmonious coexistence of human rights and the natural environment in both theory and practice. One approach to rethinking the relationship between humanity and nature is through the creation care perspective, as reflected in the United Nations' *Harmony with Nature* initiative and Pope Francis' apostolic exhortation *Laudate Deum* (2023). In this exhortation, he calls on international organizations, societies, households, and individuals to embrace ecological conversion. The result of such a conversion could be a new alliance between humanity and nature.

ABSTRACT

This book examines the evolving intersection of environmental law and the concept of creation care, focusing on the emerging phenomenon of granting legal rights to nature. Over the past fifty years, environmental law has developed into a robust regulatory framework, giving rise to the innovative concept of the Rights of Nature. This concept, while rooted in legal traditions distinct from the Roman law-based systems prevalent in Europe, prompts a critical exploration of how it can be interpreted and applied within a European context. The study bridges legal theory, environmental policy, and theological perspectives, offering a comprehensive analysis of the Rights of Nature and its relevance to creation care as understood within the Catholic Church's teachings.

The book begins by tracing the development of creation care within the Catholic Church, outlining its theological and philosophical foundations. It explores how the Church's understanding of environmental stewardship has evolved, particularly in response to global ecological crises. This historical arc provides a framework for understanding how creation care aligns with contemporary environmental law, particularly the Rights of Nature movement. The concept of creation care emphasizes humanity's moral responsibility to protect the environment as part of a divine mandate, which complements the legal frameworks seeking to recognize nature's intrinsic value.

Following this theological grounding, the book surveys global examples of the Rights of Nature, organized by regulatory levels – local, national, and international. It highlights pioneering cases where ecosystems, such as rivers, forests, and mountains, have been granted legal personhood or similar protections. Notable examples include New Zealand's recognition of the Whanganui River, Ecuador's constitutional protections for Pachamama (Mother Earth), and Bolivia's Law of the Rights of Mother Earth. These cases illustrate the diversity of approaches to enshrining nature's rights, ranging from indigenous-inspired frameworks to modern legislative innovations. By analyzing these global precedents, the book identifies key principles and challenges in implementing such rights-based approaches.

To contextualize the Rights of Nature within Europe, the study draws on the principles of international and European environmental law. It examines foundational frameworks such as the Aarhus Convention, the European Union's Environmental Action Programs, and directives on biodiversity and habitat protection. These frameworks emphasize principles like sustainable development, the precautionary principle, and public participation, which provide a potential foundation for integrating the Rights of Nature into European legal systems. However, the book acknowledges the challenges posed by Europe's Roman law tradition, which prioritizes human-centric property rights and may resist the attribution of legal personhood to natural entities.

A particular focus is placed on the German interpretation of environmental law as a case study within the European context. Germany's robust environmental regulations, including its constitutional commitment to environmental protection (Article 20a of the Basic Law), offer a lens through which to explore the feasibility of the Rights of Nature. The book engages with German legal scholarship, contrasting perspectives that support anthropocentric approaches with those advocating for ecocentric paradigms. It examines debates on whether existing German laws, such as those protecting natural monuments or species, could evolve to accommodate nature's rights, or whether such a shift would require a fundamental rethinking of legal principles.

The analysis also critiques the limitations and potential shortcomings of the Rights of Nature framework. While the concept has gained traction globally, its implementation often faces practical and philosophical hurdles. For instance, defining the scope of nature's rights, ensuring enforceability, and balancing these rights against human interests remain contentious issues. The book evaluates these challenges through a legal lens, assessing the feasibility of operationalizing the Rights of Nature without undermining established legal norms. It also considers criticisms from scholars who argue that granting rights to nature may lead to legal ambiguities or dilute the effectiveness of existing environmental protections.

From a creation care perspective, the book reflects on how the Rights of Nature aligns with the Catholic Church's call for ecological stewardship. It explores synergies between the theological imperative to protect creation and the legal recognition of nature's intrinsic value. The study argues that the Rights of Nature can serve as a practical manifestation of creation care, fostering a deeper ethical commitment to environmental protection. However, it also acknowledges tensions, such as the Church's traditional emphasis on human dignity, which may complicate the adoption of ecocentric legal frameworks.

In its conclusion, the book offers a legal and ethical evaluation of the Rights of Nature, emphasizing its potential to transform environmental governance while recognizing its limitations. The study calls for further interdisciplinary

dialogue between legal scholars, policymakers, and theologians to refine and implement the Rights of Nature in a way that respects both ecological and human needs. By situating the Rights of Nature within the broader context of environmental law and creation care, this book contributes to the ongoing discourse on how humanity can reimagine its relationship with the natural world.

This comprehensive analysis is intended for scholars, policymakers, and practitioners in environmental law, as well as those engaged in theological and ethical discussions about creation care. It offers a nuanced perspective on the Rights of Nature, bridging legal innovation with moral imperatives to address the pressing ecological challenges of our time.

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