Rights of Nature in Latin America: ethics and juridical field in dialogue

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This research project aims to reconstruct the meaning given to the recognition of nature as a subject of rights in some Latin American countries. In that construction of sense, it is necessary to carry out a dialogue with the level of environmental and animal ethics and, in particular, to highlight the principles that are configured in the Andean worldviews that can enrich this subject field.

The question regarding the regulation of "living things" and the different ethic perspectives on the subject is currently under debate and there are interesting traces of it in different documents. For example, in "The Future We Want," the final document of the last UN Conference on Sustainable Development that took place in 2012 in Rio de Janeiro, Paragraph 39 states: *"We recognize that the planet Earth and its ecosystems are our home and that Mother Earth is a common expression in a number of countries and regions and we note that some countries recognize the rights of nature in the context of the promotion of sustainable development. We are convinced that in order to achieve a just balance among the economic, social and environment needs of present and future generations, it is necessary to promote harmony with nature".*

The cited fragment can be interpreted as an indication of a discussion that is undoubtedly taking place at present. In both ethics and the legal field, there are reflections regarding the legal status of nature, non-human animals, and biodiversity. In Latin America, this debate particularly coincides with worldviews that intend to retrieve and experience other conceptions or forms of life. In them, harmony with nature gains a central place and is different from the modern dichotomy that considers two poles: the human and the non-human. Likewise, the recent constitutional reforms in Ecuador and Bolivia have established as objective to reach the *sumak kawsay* (good living) or the *suma qamaña* (living well), *ñandereko* (harmonious life), *teko kavi* (good life). Thus, a set of an Andean worldviews are retrieved, which are undoubtedly heterogeneous and enter into the legal field. In these processes of transposition, the abovementioned objective appears, and nature is explicitly recognized as a legal entity: as *Pachamama* in the Constitution of Ecuador (2008), as Madre Tierra (Mother Earth) in the Mother Earth Rights Act (2010) and the Framework Act on Mother Earth and Integral Development for Living Well (2012), in Bolivia. In the international sphere, there are some relevant documents, such as the resolutions entitled "Harmony with Nature" of the UN General Assembly and the Secretary-General reports that share the title. This series of statements was initially driven by

Bolivia, which allows us also to identify how some proposals built "from the South" begin to "permeate" and circulate in the global regulatory sphere.

These documents show that non-anthropocentric ethics is beginning to gain importance, and permeates and propels some legal consecrations. It is not only human beings that have rights, Mother Earth and *Pachamama* also do: right to restoration, to life, to the integral respect of their existence, to life diversity, to balance, to be free from pollution, to water, to clean air. This idea of the recognition of rights beyond the "human limit" has been themed in animal and environmental ethics for several years. The explicit recognition of nature as a subject of rights, as well as the consecration of good living as a goal to achieve, centralizes very powerful worldviews of the relationship between nature and society. This kind of recognition involves making a series of tools and novel legal arguments available, and entails a necessary revisit and review of the interaction with environmental ethics and animal ethics, in other words, with the need to review the link between nature, law, and society. When these tools are recognized in the legal field, a second instance must be elucidated: the uses that new legal tools are given. Thus, the following points are posited: (i) socio-environmental conflicts generated by different types of cases in which the defence of nature acquires special centrality; (ii) translation of these conflicts in terms of judicial strategies in which the recognition of nature as a legal entity appears as a cardinal argument; and (iii) legal decisions in which this argument begins to be considered for solving socio-environmental conflicts.