

# Rights of Nature in Transatlantic Perspective

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**Sponsors:** Bayerisches Hochschulzentrum für Lateinamerika

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The Rights of Nature recognition is today one important discussion in and beyond the legal field, most notably in some Latin American countries where constitutions, national and local regulations recognize nature as a legal entity. This proposition started to circulate from Ecuador and Bolivia to other countries in Latina America and to other regions as well as to some international regulatory proposals. The possibility to change our legal concept of nature from an object to exploit or to protect to a subject of rights not only imply an epistemic turn, also opens a series of challenges and opportunities for innovative contributions. The workshop “Rights of Nature in Transatlantic Perspective” aimed to improve the current debates through an interdisciplinary and transatlantic perspective, relating the Latin American and the European and international current developments.

**CHRISTOF MAUCH** introduced how the Rights of Nature recognition started to be a topic for the Rachel Carson Center as one of the current debates where humanities has a main role. This process articulates not only the different fields of knowledge but also different spaces, territories, and concepts, which were the framework of the Workshop Program. After a short introduction to the topic, from a legal point of view, by **MARIA VALERIA BERROS** the sessions started. The morning session focused on an analysis of the recent developments in the juridical field while the afternoon session featured practices and theories involving the rights of nature, international perspectives thereof, and relevant case studies.

The first session, “Rights of Nature: So What” opened the discussion. **JENS KERSTEN** with his presentation entitled “Who needs rights of nature?” explained the concept of legal persons as well as the normative evolution of the legal status of nature, as it reflects heterogeneous constellations of social, economic, and ecological interests. He identified different stages in history: a reflexive legal status of nature, the protection of the environment by the common heritage of humanity, the protection of nature as a constitutional objective, the subjective right of natural persons to a “favourable” nature, and finally the rights of nature recognition. He also argued how tradition and economic interests usually play a main role in these types of

recognitions and legal developments improving or limiting the arguments for the rights recognitions. **ANNA LEAH TABIOS** presented the paradoxes of power in her work entitled “The privilege of Being Human in the Rights of Nature Discourse. She emphasized the three-level authority of humans in determining rights and discerning when to protect them, whether in representative capacities or as third-parties who hold adjudicating power. In doing so, she juxtaposed rights of nature with another controversial concept in environmental law: intergenerational equity and the rights of future generations. For the latter, the authority of present human generations show through as they hold the capacity to determine and set societal conditions—as against the temporal practical powerlessness of the subsequent generations. Apart from the caution that is to be taken when treating these two developments, the rights of nature and the rights of future generations are both, in their respective ways, *sui generis* and both offer traditionally overlooked stakeholders access to legal relief.

The second half of the morning session, “Recent Developments and Outlooks”, opened with a video from **RITA BRARA** entitled “Courting Nature: Advances in Indian Jurisprudence.” She explained the recent advances on Rights of Nature in Indian Jurisprudence concluding that an eco-centric movement is visible during recent years, especially in the Green Court’s decisions. She also observed that this process in particular articulated animals’ rights conflicts, where the interpretation about the constitutional right to live started to include the animal beings expressing the spirit of Indian worldviews. Then, going to the Latin America perspective, **MARIA VALERIA BERROS** presented “Rights of Nature: Recent Development of Regulations and Jurisprudence” with the objective to show, from a socio-juridical perspective, the meaning given to the legal and constitutional recognition in recent judicial cases in Ecuador as well as the first institutional structures created to “represent” nature in Bolivia. Finally, and in relation with the last session’s topic, she introduced a dialogue between these southern processes and the circulation of these ideas to other countries in Latin America and to other regional and international regulatory spaces. At the end of this session **ATUS RUSSELL** proposed to establish a dialogue among this recognition and other experiences, via his presentation “Recent Development in Rights of Nature and the Precautionary Principle.” He presented the relevant similarities among the Rights of Nature movement and the Precautionary Principle experience due to the common rejection of the monolithic, anthropocentric, and cost-benefit analysis approach to environmental issues. He also shared the experience of the Green Party of England and the Wales’ adoption of Rights of Nature into policies propositions, allowing to observe once again the circulation of these proposals in different regulatory and policy projects.

The Workshop's afternoon session began with the session "Buen Vivir – Practises an Theories". **THOMAS FATHEUER** started with a presentation entitled "The Constitutions of Bolivia and Ecuador: Buen Vivir and Rights of Nature". He offered a contextualization of this concept in Bolivia and in Ecuador in the context of a post neo-liberal consensus. He argued about the similarities and differences in both countries—always in relation with the regional context—as well as he clarified the dispute around this idea actually in construction and the current debate on the "extractivist" development model. This session ended with the presentation of **MARIA JOSE BARRAGAN**, who shared a case study to build some conclusions about the Buen Vivir scope. In "Fish-as-Food: The Ethics behind Fishing and Fisheries under the Buen Vivir Paradigm" she presented the fisheries governance as a space largely inspired by biophysical scientific arguments, leaving behind other ones as the ethical and moral. The scope of the Buen Vivir paradigm, she added, has limits in relation with the marine dimensions of food due to the not explicit recognition of the food sovereignty implications of fisheries, and specially, of the small-scale fisheries sector.

"Rights and Regulations in International Perspective" was the last session for the Workshop. **CHRISTIAN LANSTEIN** started with his presentation entitled "Legal Rights of Nature—Helpful in Environmental Liability Litigation?" He argued about possible link between Rights of Nature recognition and liability litigation. He also argued against the isolation of this debate and in favour of its contextualization in the juridical contemporary systems where important questions are being introduced. An example of this is how to represent nature or how to deal with massive environmental damages. This session continued with the presentation of **JEANNINE MADELAINE FISCHER**, "Tree Rules and Urban Ideals in Auckland". From an anthropological perspective, she introduced us to her recently concluded fieldwork experience on urban trees conservation in Auckland. She argued that the idea of saving trees in this city is interwoven in social constructs of urban identity and spatial belonging and that the conflicts around how to save native species is not related with its inherent value. Instead is more connected with the socio-cultural negotiations about appropriating "Aucklandnees". To finish with the last session, **SOPHIA KALANTZAKOS**, presented from a case study a reflexion on Rights of Nature challenges in both judicial and political areas, national and international. In "River rights and the Rights of Rivers: The Case of Acheloos" she related the discussion on Rights of Nature, which provide an alternative way to view nature more related with its intrinsic value than with the utilitarian paradigm, with a wider conversation about life in the Anthropocene. Finally, she argued about the contribution and the challenges of this kind of perspective in Europe from an analysis of different elements related with the judicial case that decide the destiny of the Acheloos, the second largest river in Greece.

In the concluding discussion **MARIA VALERIA BERROS** suggested three ideas to articulate the different contributions and sessions debates that were taking place during the Workshop. The first one was “diversity”, an idea that allows articulating the first interventions where the evolution of the legal status of nature and the problem of equality between humans and non humans were two of the main concepts from which is clear that more than one paradigm on nature is observable. The anthropocentric perspective is now in dialogue with other worldviews also translated in an increasing number of legal systems. The second concept was “movement”, or in other words, how the rights of nature recognition started to move? This is the process that is taking place now, in particular in Ecuador and Bolivia but also beyond those countries. And, in these two cases this movement is related with another important idea under construction, the “Buen Vivir”, where contradictions and challenges are also present. In relation with the challenges, a relevant question started to appear, in a moment where political changes are taking place in Latin America and where the question on the value—and sense—of these alternative proposals is also present. Finally, the concept of “dialogue” allowed introducing the many contributions where the relation between this processes and other experiences were central, as in the references to Indian jurisprudence, the articulation among the precautionary principle experience and this one, the potential of the intrinsic value of nature perspective to analyse environmental conflicts and policies, and the circulation of these contemporary debates to other countries and regions.

To this end, the organizers hope that the Workshop will generate further discussions as well as going deep into the ongoing cooperation and projects. In particular, a publication project was suggested as the first outcome of the interdisciplinary debates.