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ARTICLE

Creating Synergies between International Law and Rights of Nature

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Abstract

Against the backdrop of failing environmental governance, rights of nature (RoN) are lauded as the paradigm shift needed to transform law's approach to nature. RoN have been increasingly proclaimed at the domestic level but remain mostly absent from international law. As examined in this article, this is notably as a result of some profound incompatibilities between international law and RoN, including the fact that most international treaties approach nature as a resource to be owned, exploited or protected for the sake of humans. However, despite this dominant approach to nature, some areas of international law, notably under the leadership of Indigenous peoples, are starting to acknowledge a more relational approach to nature, putting forward concepts of care, kinship, and representation of nature in international law. Building on these developments, this article offers a reflection on potential synergies between RoN and international law, specifically by changing the latter's approach to nature. It argues that some of the RoN concepts concerning duty of care, institutional representation of nature's voice, and ecocentrism could serve as a platform to reinterpret some of the anthropocentric principles of international law, creating some potential synergies between RoN and international law.

Keywords: International law, Rights of Nature, Human rights, Indigenous peoples, Biodiversity, Stewardship

1. INTRODUCTION

Despite the ever-increasing number of international treaties, policies, and frameworks adopted to protect the environment, planetary health continues to worsen.[1] In this

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1 More than 3,000 international environmental instruments have been identified by the International Environmental Agreements Database Project; despite these, a number of the 'planetary boundaries'

context of failing environmental governance, rights of nature (RoN) are increasingly lauded as the paradigm shift needed to transform our legal approach to nature.[2] The idea has gained momentum with the increased integration of RoN into constitutions, national statutes, and local decrees.[3] Although diverse, the unifying thread of these initiatives is the recognition that nature, or specific natural ecosystems such as rivers or forests, have rights that are inherent and independent from human interests.[4] This usually includes the right to exist; persist; maintain and regenerate vital cycles, structure and functions; and a right to restoration and protection.[5]

Despite these developments at the national level and the emergence of a significant body of transnational advocacy, networks, and scholarship,[6] there has been little progress regarding the incorporation of RoN into international law.[7] There have been references to the idea that nature might have rights, including in the 1982 United Nations (UN) World Charter for Nature,[8] the 1992 'Forest Declaration',[9] and more recently in the Kunming-Montreal Global Biodiversity Framework (GBF) calling for the enhancement of 'Mother Earth centric actions'.[10] There are also a number of international civil society declarations pushing for more international legal engagement;

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have already been transgressed; see A. Bleby, C. Holley & B. Milligan, 'Exploring the Planetary Boundaries and Environmental Law: Historical Development, Interactions and Synergies', in D. French & L. Kotzé (eds), *Research Handbook on Law, Governance and Planetary Boundaries* (Edward Elgar, 2021), pp. 21–44; and C. Bruch et al., *Environmental Rule of Law: First Global Report* (United Nations Environment Programme, 2019).

2 See C. Stone, *Should Trees Have Standing? Law, Morality, and the Environment* (Oxford University Press, 3rd edn, 2010); C. Cullinan, *Wild Law: A Manifesto for Earth Justice* (Chelsea Green, 2011); D. Boyd, *The Rights of Nature: A Legal Revolution that Could Save the World* (ECW Press, 2017). Contra, see also critics, e.g., J. Bétaille, 'Rights of Nature: Why It Might Not Save the Entire World' (2019) 16(1) *Journal for European Environmental & Planning Law*, pp. 35–64; G. Mauricio & M. Livermore, 'Where Nature's Rights Go Wrong' (2021) 107(7) *Virginia Law Review*, pp. 1347–419.

3 In a 2022 quantitative study, Putzer and co-authors mapped over 400 legal initiatives across 39 countries: A. Putzer et al., 'Putting the Rights of Nature on the Map: A Quantitative Analysis of Rights of Nature Initiatives Across the World' (2022) 18(1) *Journal of Maps*, pp. 89–96.

4 For analysis see C.M. Kauffman & P.L. Martin, 'Constructing Rights of Nature Norms in the US, Ecuador, and New Zealand' (2018) 18(4) *Global Environmental Politics*, pp. 43–62 (analyzing how RoN are contributing to meta-norms circulating globally). See also M. Tănăsescu, *Understanding the Rights of Nature* (Transcript, 2022).

5 See Constitution of Ecuador, 2008, Arts 71–74 (recognizing that nature has the right to exist, to its maintenance, to the regeneration of its vital cycles, structure, functions, evolutionary processes, and to its restoration); and Uganda's National Environmental Act, 2019, Art. 4 ('Nature has the right to exist, persist, maintain and regenerate its vital cycles, structure, functions and its processes in evolution').

6 For analysis see C.M Kauffman & P. Martin, *The Politics of Rights of Nature: Strategies for Building a More Sustainable Future* (The MIT Press, 2021).

7 J. Gilbert et al., 'The Rights of Nature as a Legal Response to the Global Environmental Crisis? A Critical Review of International Law's "Greening" Agenda' (2023) 52 *Netherlands Yearbook of International Law*, pp. 47–74.

8 UN General Assembly (UNGA) Resolution 37/7, 'World Charter for Nature', 28 Oct. 1982, UN Doc. A/RES/37/7, available at: https://undocs.org/en/A/RES/37/7.

9 UN Conference on Environment and Development, 'Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests', 21 Apr. 1992, UN Doc. A/CONF.151/6/Rev.1, available at: https://digitallibrary.un.org/record/144461?ln=en.

10 Kunming-Montreal Global Biodiversity Framework, 18 Dec. 2022, UN Doc. CBD/COP/15/L.25, available at: https://www.cbd.int/article/cop15-final-text-kunming-montreal-gbf-221222; see, in particular, Section c para. 7, Targets 16 and 19 (calling for the enhancement of 'Mother Earth centric actions').

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these include the Earth Charter in 2000[11] and the Universal Declaration for the Rights of Mother Earth.[12] Since 2009, the UN initiative entitled 'Harmony with Nature' has documented the rapid growth of RoN initiatives at the national and local levels, and has pushed for recognition of these types of right at the international level.[13]

Nonetheless, RoN are still far from being integrated into international law, with no legally binding treaties or legal precedents specifically proclaiming nature's rights.[14] Under international law, nature is approached primarily as a legal object rather than a subject of rights,[15] with most treaties focusing on the rights of states, international organizations, humans, and sometimes corporations and other 'stakeholders' – but rarely on nature as rights bearer.[16] Although there is also a large body of international law that is geared towards the protection of the environment, not only as a resource but also in recognition of its intrinsic value, the value of the environment is usually traced back to benefits for humans.[17]

As analyzed in this article, there are fundamental dichotomies between international law and RoN, many of which can be traced back to the fact that international law tends to approach nature as a 'resource' to be owned, exploited or protected for our own benefit.[18] By questioning whether RoN and international law are compatible, this

[11] The final text of the Earth Charter was approved at a meeting of the Earth Charter Commission at the UN Educational, Scientific and Cultural Organization headquarters in 2000, available at: https://earthcharter.org/wp-content/uploads/2020/06/Booklet-Earth-Charter-52-FINAL.pdf. For critical analysis see P. Burdon, K. Bosselmann & K. Engel (eds), *The Crisis in Global Ethics and the Future of Global Governance: Fulfilling the Promise of the Earth Charter* (Edward Elgar, 2019).

[12] Adopted by the Peoples' Conference on Climate Change and Rights of Mother Earth, Cochabamba (Bolivia), 19–22 Apr. 2012. For analysis see P. Calzadilla & L. Kotzé, 'Living in Harmony with Nature? A Critical Appraisal of the Rights of Mother Earth in Bolivia' (2018) 7(3) *Transnational Environmental Law*, pp. 397–424; N.S. Thomas & P. Bhardwaj, 'An Ecofeminist and Marxist Analysis on the Bolivian Declaration for the Rights of Mother Earth' (2013) 1(2) *Journal of Economics and Development Studies*, pp. 45–51.

[13] Launched in 2009 by the UNGA, this initiative, which is led mainly by civil society actors and individuals, has adopted annual reports documenting the rapid growth of RoN initiatives; see the latest resolution: UNGA Resolution 77/169, 'Harmony with Nature', 14 Dec. 2022, UN Doc. A/RES/77/169, available at: http://www.harmonywithnatureun.org.

[14] J. Gilbert et al., n. 7 above. S. Franks, 'The Trees Speak for Themselves: Nature's Rights under International Law' (2021) 42(3) *Michigan Journal of International Law*, pp. 633–57.

[15] On the meaning of objects and subjects of rights see S. Salako, 'The Individual in International Law: "Object" versus "Subject"' (2019) 8(1) *International Law Research*, pp. 132–43; B.R. Lawrence, 'Indigenous Peoples in the 1990s: From Object to Subject of International Law' (1994) 33 *Harvard Human Rights Journal*, pp. p. 33–86.

[16] As noted by Natarajan and Dehm, it is even hard to 'locate' nature in international law: U. Natarajan & J. Dehm, 'Introduction: Where Is the Environment? Locating Nature in International Law', in U. Natarajan & J. Dehm (eds), *Locating Nature: Making and Unmaking International Law* (Cambridge University Press, 2022), pp. 1–18. See also L.J. Kotzé & D. French, 'The Anthropocentric Ontology of International Environmental Law and the Sustainable Development Goals: Towards an Ecocentric Rule of Law in the Anthropocene' (2018) 7(1) *Global Journal of Comparative Law*, pp. 5–36.

[17] For an insightful analysis see K. Anker et al. (eds), *From Environmental to Ecological Law* (Routledge, 2022); V. de Lucia, *The 'Ecosystem Approach' in International Environmental Law: Genealogy and Biopolitics* (Routledge, 2019).

[18] As noted by Natarajan and Khoday, 'for the most part, international law explicitly or implicitly treats nature as a resource for wealth generation in order for societies to continually develop, and environmental degradation is dealt with as an economic externality to be managed by special regimes of technology and finance': U. Natarajan & K. Khoday, 'Locating Nature: Making and Unmaking International Law' (2014) 27(3) *Leiden Journal of International Law*, pp. 573–93, at 575.

article reflects on the potential impact that RoN could have on international law and its approach to nature. It argues that despite some serious dichotomies, there are areas of international law that could benefit from further engagement with RoN to support new approaches to nature. The thread of the analysis is that by engaging with RoN, international law could go from a discourse of dominance over nature (Section 2) to a relational approach to nature (Section 3), which could support the development of new legal approaches to our responsibilities of care towards nature (Section 4). This analysis shows that in bridging the gap between these dichotomies between international law and RoN, peoples – especially Indigenous peoples – do play a crucial role in translating the current narrative of dominance into a more collaborative relationship between humans and nature under international law. Based on this more relational approach to nature, the article argues that some key principles of international environmental law – such as the precautionary approach, the principle of no harm, and stewardship – could serve as frameworks to create more synergies with the development of RoN and, as such, contribute to a new international law relationship with nature.

2. DOMINANCE OVER NATURE: SOVEREIGNTY, EXPLOITATION AND CONSERVATION

Under international law, nature is usually approached either as a resource to be owned, exploited, or conserved/protected for human benefit. It is telling that most treaties and international norms do not refer to 'nature' but usually adopt the term 'natural resources'[19] or 'the environment'.[20] The following two subsections examine how the principle of state sovereignty and the dominant focus on development constitute two legal frameworks which are potentially antagonistic to the idea of nature having rights.

2.1. *Nature as Sovereignty: States' Property over Natural Resources*

State sovereignty and ownership of nature is the first stumbling block. Control of natural resources located on the territory of a state is one of the key attributes of sovereignty, the conventional premise being that states 'own' the natural resources within their jurisdictions.[21] The principle of state sovereignty over nature has been crystallized

[19] To describe nature as a 'natural resource' presupposes an epistemological frame in which nature is subject to a normative approach where human appropriation and extraction is dominant; see J. Dehm, 'Natural Resources', in K. Feyter, G. Türkelli & S. Moerloose (eds), *Encyclopedia of Law and Development* (Edward Elgar, 2021), pp. 211–5.

[20] This refusal to name and recognize nature as a right-bearing entity is part of the wider anthropocentric tone of international law; see M.-C. Petersmann, 'Narcissus' Reflection in the Lake: Untold Narratives in Environmental Law beyond the Anthropocentric Frame' (2018) 30(2) *Journal of Environmental Law*, pp. 235–59: Kotzé & French, n. 16 above; V. De Lucia, 'Beyond Anthropocentrism and Ecocentrism: A Biopolitical Reading of Environmental Law' (2017) 8(2) *Journal of Human Rights and the Environment*, pp. 181–202; A. Gillespie, *International Environmental Law, Policy, and Ethics* (Oxford University Press, 2014); A. Grear, 'Deconstructing Anthropos: A Critical Legal Reflection on "Anthropocentric" Law and Anthropocene "Humanity" (2015) 26(3) *Law and Critique*, pp. 225–49.

[21] According to the UNGA, permanent sovereignty over natural resources means 'the recognition of the inalienable right of all States freely to dispose of their natural wealth and resources in accordance with their national interests, and on respect for the economic independence of States': UNGA Resolution

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under the principle of permanent sovereignty over natural resources, which has been affirmed and proclaimed in countless international decisions and resolutions.[22] This focus on state sovereignty leaves little space for the idea that nature might have interests that are not aligned with the ultimate ownership of the state in which they are located. Instead, the focus is on states' rights of ownership and exploitation.[23] By way of illustration, Article 193 of the UN Convention on the Law of the Sea (UNCLOS)[24] provides that '[s]tates have the sovereign right to exploit their natural resources pursuant to their environmental policies and in accordance with their duty to protect and preserve the marine environment'. Although there are some caveats to the absolute sovereignty of states, they are limited to their duty to protect and preserve the marine environment. The marine environment itself has no rights; it is entirely dependent on the ultimate sovereignty of the state. This is just an example, as under the principle of state permanent sovereignty over natural resources governments are in charge of ensuring the 'best' utilization of natural resources.[25] As analyzed by Bothe, 'international law assigns the exclusive right to use a resource to the State where the resource is situated', and decisions about governance of the resource as well as 'the intertemporal distribution of use is left to the unfettered discretion of that State'.[26]

Under the principle of state sovereignty, the main concern is about defining the nationality of nature. The main legal issue that arises under this framework is to define which states own which part of what ecosystem, a vivid illustration being the rich jurisprudence on disputes between states regarding transboundary rivers.[27] The focus in such disputes is on which states exercise sovereignty over which part of the river, and what rights and obligations they might have regarding their impact on neighbouring countries. These disputes are never about whether the rivers concerned have any inherent rights outside state interests. On this front, the emerging literature on river rights and transboundary issues offers an interesting first insight into the clash between state sovereignty and the RoN approach, highlighting that indeed the rights of the ecosystems concerned are not yet being addressed.[28] Instead, the principle of sovereignty

1803 (XVII), 'Permanent Sovereignty over Natural Resources', 14 Dec. 1962, available at: https://legal.un.org/avl/ha/ga_1803/ga_1803.html.

[22] For analysis see N. Schrijver, *Sovereignty over Natural Resources: Balancing Rights and Duties* (Cambridge University Press, 2008).

[23] As analyzed by Schrijver, under permanent sovereignty 'natural resources' are defined as 'materials or substance of a place which can be used to sustain life for economic exploitation' or as 'material from nature having potential economic value for providing for the sustenance of life': N. Schrijver, *Development Without Destruction: The UN and Global Resource Management* (Indiana University Press, 2010), p. 2.

[24] Montego Bay (Jamaica), 10 Dec. 1982, in force 16 Nov. 1994, available at: http://www.un.org/depts/los/convention_agreements/convention_overview_convention.htm.

[25] For an enlightening discussion see E. Duruigbo, 'Permanent Sovereignty and Peoples' Ownership of Natural Resources in International Law' (2006) 38 *George Washington International Law Review*, pp. 33–100.

[26] M. Bothe, *Environment, Development, Resources: Collected Courses of the Hague Academy of International Law* (Brill, 2005), p. 378.

[27] S. Dinar, *International Water Treaties: Negotiation and Cooperation along Transboundary Rivers* (Routledge, 2007); A. Ranjan, *Contested Waters: India's Transboundary River Water Disputes in South Asia* (Routledge India, 2020).

[28] K.D. Alley & T. Mehta, 'The Experiment with Rights of Nature in India', in C. La Follette & C. Maser (eds), *Sustainability and the Rights of Nature in Practice* (CRC Press, 2019), pp. 365–83; K. O'Bryan,

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creates a framework focusing on the nationality of the rivers, feeding arguments about resource nationalism. Although more research and analysis needs to be undertaken to understand the extent to which RoN might be a legal tool to constrain resource nationalism if nature has inherent and fundamental rights, for cross-border entities it most probably means having rights above and beyond national claims.[29] The language of sovereignty and national rights over nature are so deeply ingrained in the way in which international law approaches nature, it seems inevitable that if RoN were to be developed more strongly under international law, the dichotomy between the principle of state sovereignty over natural resources and nature's rights might be a first line of battle, at least for ecosystems that transcend national borders.

2.2. *Nature as a Resource: Trade, Development and Conservation*

The second area of international law to present a serious dichotomy with the idea of nature having inherent rights falls under the broader umbrella of international economic law,[30] under which nature is approached as a resource to be exploited or developed. The language used in some of the key international instruments on trade law is telling – such as references to 'using' natural resources in an 'optimal' manner.[31] For example, the World Trade Organization is founded on the aim of 'allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so'.[32] Notwithstanding the caveat of protecting and preserving the environment, the goal is the 'optimal' use of the world's 'resources', with nature being seen as a resource to be exploited. This approach is echoed in international investment law, which tends to serve the interests of industries and investors, many of which are involved in the exploitation of natural resources.[33] When it comes to investment concerning natural resources, international investment law favours the rights of foreign

'Legal Rights for Rivers' (2022) 50(3) *Georgia Journal of International and Comparative Law*, pp. 769–75.

29 R. Youatt, 'Personhood and the Rights of Nature: The New Subjects of Contemporary Earth Politics' (2017) 11(1) *International Political Sociology*, pp. 39–54.

30 International economic law is a broad term encompassing a vast array of topics ranging from trade law to private international law of trade and investments; see S.P. Subedi, *International Investment Law: Reconciling Policy and Principle* (Hart, 3rd edn, 2016).

31 E.g., the 1947 General Agreement on Tariffs and Trade (GATT 1947), which established some of the foundations of international trade rules, stated in its Preamble: '[R]elations in the field of trade and economic endeavour should be conducted with a view … developing the full use of the resources of the world and expanding the production and exchange of goods': GATT 1947, Havana (Cuba), 30 Oct. 1947, in force 1 Jan. 1948, available at: https://www.wto.org/english/docs_e/legal_e/gatt47.pdf.

32 Marrakesh Agreement Establishing the World Trade Organization, Marrakesh (Morocco), 15 Apr. 1994, in force 1 Jan. 1995, Preamble, para. 1, available at: https://www.wto.org/english/docs_e/legal_e/04-wto_e.htm.

33 Broadly speaking, the international rules on foreign investment are concerned with both ensuring adequate security and non-discrimination of investors and allowing the state some rights to control the actions of the foreign investors at national, bilateral, regional, and multilateral levels; see A. Beviglia Zampetti & P. Sauvé, 'International Investment', in A. Guzman & A. Sykes (eds), *Research Handbook in International Economic Law* (Edward Elgar, 2007), pp. 211–70.

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investors to control, own, and exploit natural resources.[34] One could easily imagine future decisions in investment arbitration cases invalidating laws that recognize RoN or ecosystems, if recognizing such rights would undermine rights of investors under investment law. In the current international law architecture, international investment law can very often trump other interests,[35] so that investors' property rights would have priority over RoN.

The principle of sustainable development represents another potential barrier to the idea that nature has inherent rights.[36] Since the 1992 UN Conference on Environment and Development, the principle of sustainable development has been affirmed in countless international instruments.[37] As affirmed in the Rio Declaration on Environment and Development: 'In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it'.[38]

However, under the surface of what appears to be a supportive approach, there is a fundamental issue when it comes to nature. Sustainable development is about a linear path to ensure economic development and ecological well-being, with nature still seen mainly as a resource to be exploited for the benefit of human development – albeit 'sustainably'.[39] In prioritizing human development, the principle perpetuates the idea that

[34] K. Miles, *The Origins of International Investment Law: Empire, Environment and the Safeguarding of Capital* (Cambridge University Press, 2013); F. Romanin Jacur, A. Bonfanti & F. Seatzu (eds), *Natural Resources Grabbing: An International Law Perspective* (Brill, 2015); J.E. Viñuales, *International Investment Law and Natural Resource Governance* (International Centre for Trade and Sustainable Development, 2015).

[35] C. Lorenzo, '(Dis)Integration in Global Resource Governance: Extractivism, Human Rights, and Investment Treaties' (2020) 23(2) *Journal of International Economic Law*, pp. 431–54; L. Cotula, 'The New Enclosures? Polanyi, International Investment Law and the Global Land Rush' (2013) 34(9) *Third World Quarterly*, pp. 1605–29; V.S. Vadi, 'When Cultures Collide: Foreign Direct Investment, Natural Resources, and Indigenous Heritage in International Investment Law' (2010) 42(7) *Columbia Human Rights Law Review*, pp. 797–886.

[36] P.L. Thiel & H. Hallgren, 'Rights of Nature as a Prerequisite for Sustainability', in K.J. Bonnedahl & P. Heikkurinen (eds), *Strongly Sustainable Societies: Organising Human Activities on a Hot and Full Earth* (Routledge, 2018), pp. 61–76; C. Kauffman & P. Martin, 'Can Rights of Nature Make Development More Sustainable? Why Some Ecuadorian Lawsuits Succeed and Others Fail' (2017) 92(C) *World Development*, pp. 130–42.

[37] For references see UNGA Resolution 70/1, 'Transforming Our World: The 2030 Agenda for Sustainable Development', 25 Sept. 2015, UN Doc. A/RES/70/1. See also V. Barral, 'Sustainable Development in International Law: Nature and Operation of an Evolutive Legal Norm' (2012) 23(2) *European Journal of International Law*, pp. 377–400.

[38] Principle 4 of the Rio Declaration on Environment and Development (Rio Declaration), adopted by the UN Conference on Environment and Development, Rio de Janeiro (Brazil), 3–14 June 1992, UN Doc. A/CONF.151/26/Rev.1 (Vol. I), 14 June 1992, available at: https://www.un.org/esa/dsd/agenda21/Agenda%2021.pdf. See also the Johannesburg Declaration on Sustainable Development, adopted at the World Summit on Sustainable Development, Johannesburg (South Africa), 4 Sept. 2002, available at: https://www.un.org/esa/sustdev/documents/Johannesburg%20Declaration.doc (affirming that the 'pillars of sustainable development are economic development, social development and environmental protection': ibid., Principle 5).

[39] S. Adelman, 'The Sustainable Development Goals, Anthropocentrism and Neoliberalism', in D. French & L.J. Kotzé (eds), *Sustainable Development Goals* (Edward Elgar, 2018), pp. 15–40; L. Kotzé & S. Adelman, 'Environmental Law and the Unsustainability of Sustainable Development: A Tale of Disenchantment and of Hope' (2022) 34 *Law and Critique*, pp. 227–48.

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nature is there for us – to be used for 'our development'.[40] As was made clear in the 1992 Rio Declaration: 'Human beings are at the centre of concerns for sustainable development'.[41] Most of the international legal regimes concerning the conservation of nature have adopted a similar approach: nature and its various ecosystems need to be protected to ensure a sustainable future for humans.[42]

To take the argument one step further, what we are seeing in the name of sustainable development is the further commodification of nature as 'natural capital' and 'ecosystem services' – the logic of sustainable development arguably intensifying (rather than unsettling) the underlying conception of nature as a resource.[43] Indeed, some critics have characterized sustainable development as an 'oxymoron', highlighting instead the emergence of alternative approaches that are more harmonious with nature, such as *buen vivir* from Latin America, ecological *swaraj* (or radical ecological democracy) from India, as well as de-growth.[44]

Overall, there are some serious barriers to the idea of nature having rights, notably under the two deeply embedded precepts that nature is either an issue of sovereignty/property or a means to support development. However, as explored below, some areas of international law are starting to challenge both state sovereignty over nature and the idea that nature is primarily a resource to be exploited for human development.

3. RELATIONSHIPS: PEOPLES' RIGHTS AND NATURE

Although RoN is about affirming that nature has fundamental rights outside human interests, it is also about acknowledging relationships between humans and nature as a source of rights.[45] Many peoples have spiritual and/or cultural relationships with nature that are not predominantly about human interests but rather could be regarded

[40] Bonnedahl & Heikkurinen, n. 36 above.

[41] Rio Declaration, n. 38 above, Principle 1. For analysis see J.E. Viñuales (ed.), *The Rio Declaration on Environment and Development: A Commentary* (Oxford University Press, 2015).

[42] On this point, see V. De Lucia, *The 'Ecosystem Approach' in International Environmental Law: Genealogy and Biopolitics* (Routledge, 2019). See also K. Birrell & J. Dehm, 'International Law and the Humanities in the 'Anthropocene', in S. Chalmers & S. Pahuja (eds), *Routledge Handbook of International Law and the Humanities* (Routledge, 2021), pp. 407–21.

[43] For a review of the literature highlighting this point see M. Islam et al., 'Valuing Natural Capital and Ecosystem Services: A Literature Review' (2019) 14(1) *Sustainability Science*, pp. 159–74.

[44] A. Kothari, F. Demaria & A. Acosta, 'Buen Vivir, Degrowth and Ecological Swaraj: Alternatives to Sustainable Development and the Green Economy' (2014) 57(3) *Development*, pp. 362–75; J. Vanhulst & A.E. Beling, 'Buen Vivir: Emergent Discourse within or beyond Sustainable Development?' (2014) 101 *Ecological Economics*, pp. 54–63; N. Chassagne, *Buen Vivir as an Alternative to Sustainable Development: Lessons from Ecuador* (Routledge, 2020); La Follette & Maser, n. 28 above; S. Alexander, 'Earth Jurisprudence and the Ecological Case for Degrowth' (2010) 6 *The Journal of Jurisprudence*, pp. 131–48.

[45] E. O'Donnell et al., 'Stop Burying the Lede: The Essential Role of Indigenous Law(s) in Creating Rights of Nature' (2020) 9(3) *Transnational Environmental Law*, pp. 403–27; A. Schillmoller & A. Pelizzon, 'Mapping the Terrain of Earth Jurisprudence: Landscape, Thresholds and Horizons' (2013) 3(1) *Environmental & Earth Law Journal*, pp. 1–32.

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as relationships of kinship.[46] The acknowledgement of these cultural relationships with nature is a significant element of the RoN movement.[47] RoN is part of wider theories of earth jurisprudence, wild law, and ecological jurisprudence, supporting a systemic shift towards a more relational approach to nature.[48] There is growing scholarship exploring how RoN is supporting a 'relational turn' in environmental governance, which, in the words of Macpherson, 'tends to understand humans as related to and within holistic, living, ecosystems, in the context of complex systems of reciprocal and intertwined rights and responsibilities of use and care'.[49] As explored in the following discussion, some areas of international law are starting to embrace this 'relational turn' by moving away from paradigms of sovereignty, exploitation, and development by instead acknowledging that peoples' cultural relationships with nature can also be a source of rights. As explored below, this has taken place (i) as part of the development of Indigenous peoples' international human rights, and (ii) within international biodiversity law, as part of the promotion of the traditional ecological knowledge of local communities.

3.1. *International Human Rights Law, Indigenous Peoples and Nature*

International human rights law (IHRL) is increasingly engaging with protection of the environment, witnessing what is often labelled as the 'greening' of human rights.[50] This 'greening' of IHRL was confirmed with the adoption in 2022 of a UN General Assembly resolution affirming the right to a clean, healthy, and sustainable environment as a human right.[51] Although the human right to a healthy environment is arguably anthropocentric in that it is about human health,[52] this has nonetheless opened a connection between international law and the idea of nature having rights. One of the

[46] For analysis see F. Berkes, *Sacred Ecology* (Routledge, 2012); L. Te Aho, 'Te Mana o te Wai: An Indigenous Perspective on Rivers and River Management' (2019) 35(10) *River Research and Applications*, pp. 1615–21.

[47] A. Pelizzon, 'Earth Laws, Rights of Nature and Legal Pluralism', in M. Maloney & P. Burdon (eds), *Wild Law in Practice* (Routledge, 2014), pp. 176–90; M. Graham & M. Maloney, 'Caring for Country and Rights of Nature in Australia: A Conversation between Earth Jurisprudence and Aboriginal Law and Ethics', in La Follette & Maser, n. 28 above, pp. 385–99; L. Temper, 'Blocking Pipelines, Unsettling Environmental Justice: From Rights of Nature to Responsibility to Territory' (2019) 24(2) *Local Environment*, pp. 94–112; K. Fisher et al., 'Broadening Environmental Governance Ontologies to Enhance Ecosystem-based Management in Aotearoa New Zealand' (2022) 21(4) *Maritime Studies*, pp. 609–29.

[48] P.D. Burdon, 'The Earth Community and Ecological Jurisprudence' (2013) 3(5) *Oñati Socio-Legal Series*, pp, 815–37; D. Ghijselinck, 'Relational Values of Nature: Outgrowing Anthropocentrism by Enriching Human-Nature Relationships?' (2023) 73 *Journal for Nature Conservation*, article 126386.

[49] E. Macpherson, 'Can Western Water Law Become More "Relational"? A Survey of Comparative Laws Affecting Water across Australasia and the Americas' (2023) 53(3) *Journal of the Royal Society of New Zealand*, pp. 395–424.

[50] C. Van der Bank & M. Van der Bank, 'Greening of Human Rights: A Reassessment' (2014) 7(10) *OIDA International Journal of Sustainable Development*, pp. 53–60; L. Lizarazo-Rodriguez, 'The UNGPs on Business and Human Rights and the Greening of Human Rights Litigation: Fishing in Fragmented Waters?' (2021) 13(9) *Sustainability*, article 10516.

[51] UNGA Resolution 76/300, 'The Human Right to a Clean, Healthy and Sustainable Environment', 28 July 2022, UN Doc. A/76/300, available at: https://digitallibrary.un.org/record/3983329?ln=en.

[52] J. Gilbert, 'Human Rights and the Rights of Nature: Friends or Foes?' (2024 forthcoming) 48(1) *Fordham Journal of International Law*.

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most advanced applications of the right to a healthy environment emerges from the jurisprudence of the Inter-American system of human rights, notably the 2017 advisory opinion of the Inter-American Court of Human Rights (IACtHR), which specifically mentioned RoN:

> The Court considers it important to stress that, as an autonomous right, the right to a healthy environment, unlike other rights, protects the components of the environment, such as forests, rivers and seas, as legal interests in themselves, even in the absence of the certainty or evidence of a risk to individuals. This means that it protects nature and the environment, *not only because of the benefits they provide to humanity or the effects that their degradation may have on other human rights, such as health, life or personal integrity, but because of their importance to the other living organisms with which we share the planet that also merit protection in their own right*.[53]

This statement establishes a clear connection between human rights law and RoN. This approach was later confirmed in the 2020 case concerning the *Indigenous Communities Members of the Lhaka Honhat*, where the Inter-American Court confirmed this approach linking the right to a healthy environment and RoN.[54] Relying on its previous advisory opinion on the relationship between human rights and the environment, the Court acknowledged the importance of the protection of nature in itself rather than for its 'usefulness' to or 'effects' on human beings.[55] This judgment is part of a wider approach pushed by many Indigenous peoples who have highlighted that their human rights are fundamentally interconnected with nature.[56] Indigenous worldviews and relationships with nature are now recognized as a significant element of IHRL, notably the rights to self-determination, culture, and spirituality.[57] UN human rights monitoring bodies have highlighted that the right to 'take part in cultural life' includes Indigenous peoples' cultural values 'associated with their ancestral lands'.[58] On many occasions, the IACtHR has highlighted that the close relationship of Indigenous peoples with their ancestral territories 'must be acknowledged and understood as the fundamental basis for their culture, spiritual life, wholeness,

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[53] Advisory Opinion, OC-23/17, 15 Nov. 2017, IACtHR (Ser. A) No 23, para. 62 (emphasis added).

[54] *Case of the Indigenous Communities of the Lhaka Honhat (Our Land) Association* v. *Argentina*, Judgment (Merits, Reparations and Costs), 6 Feb. 2020, IACtHR (Ser. C) No. 400.

[55] Ibid., para. 203.

[56] K. Arabena, *Becoming Indigenous to the Universe* (Australian Scholarly Publishing, 2015); V. Watts, 'Indigenous Place-Thought and Agency Amongst Humans and Non-Humans (First Woman and Sky Woman Go on a European World Tour!)' (2013) 2(1) *Decolonization: Indigeneity, Education & Society*, pp. 20–34; I. Watson, 'Inter-Nation Relationships and the Natural World as Relation', in Natarajan & Dehm, n. 16 above, pp. 354–74; J. Borrows, 'Living between Water and Rocks: First Nations, Environmental Planning and Democracy' (1997) 47(4) *University of Toronto Law Journal*, pp. 417–68.

[57] M. Åhrén, *Indigenous Peoples' Status in the International Legal System* (Oxford University Press, 2016).

[58] See UN Committee on Economic, Social and Cultural Rights, 'General Comment No. 21: Right of Everyone To Take Part in Cultural Life (Art. 15, para. 1(a) of the Covenant on Economic, Social and Cultural Rights)', 21 Dec. 2009, UN Doc. E/C.12/GC/21, para. 36, available at: https://digitallibrary.un.org/record/679354?ln=en; for review and analysis see J. Gilbert, *Indigenous Peoples' Land Rights under International Law* (Brill Nijhoff, 2016).

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economic survival, and preservation and transmission to future generations'.[59] As noted by the Court:

> The culture of the members of the Indigenous communities directly relates to a specific way of being, seeing, and acting in the world, developed on the basis of their close relationship with their traditional territories and the resources therein, not only because they are their main means of subsistence, but also because they are part of their worldview, their religiosity, and therefore, of their cultural identity.[60]

In a case concerning the Sarayaku communities in Ecuador, the judges noted that '[a]ccording to the worldview of the Sarayaku People, their land is associated with a set of meanings: the jungle is alive and nature's elements have spirits (*Supay*), which are interconnected and whose presence makes places sacred'.[61] Based on this holistic approach to nature, the Court highlighted the obligations for states to respect the 'cultural integrity' of Indigenous peoples, recognizing the inextricability of cultural rights and nature.[62] As noted in a case concerning the Moiwana community in Suriname, 'in order for the culture to preserve its very identity and integrity, [Indigenous peoples] … must maintain a fluid and multidimensional relationship with their ancestral lands'.[63] The Court highlighted that the close relationship between Indigenous peoples and nature must be recognized and understood as the fundamental base of their culture, spiritual life, integrity, economic survival, and cultural preservation.[64] In the 2015 case of *Kaliña and Lokono Peoples*, the Court specifically acknowledged the cultural and spiritual relationship of Indigenous peoples with their natural environment, highlighting the communities' interconnection with the animals, plants, fish, stones, streams and rivers.[65] The Court recognized that this relationship is based 'on a profound respect for the environment, which includes both living beings and inanimate objects'.[66]

Human rights courts have also acknowledged that spiritual relationships with nature constitute an expression of the right to freedom of religion. This was affirmed in the 2017 ruling of the African Court on Human and Peoples' Rights concerning the Ogiek community of Kenya, with the Court highlighting that 'Indigenous societies

[59] *Yakye Axa Indigenous Community* v. *Paraguay*, Judgment (Merits, Reparations and Costs), 17 June 2005, IACtHR (Ser. C) No. 125, para. 131; see also *Case of the Mayagna (Sumo) Awas Tingni Community* v. *Nicarugua*, Judgment, 31 Aug. 2001, IACtHR, (Ser. C) No. 79, para. 149.

[60] *Yakye Axa Indigenous Community*, n. 59 above, para. 135.

[61] *Kichwa Indigenous People of Sarayaku* v. *Ecuador*, Judgment (Merits, Reparations and Costs), 27 June 2012, IACtHR, (Ser. C) No. 245, para. 57.

[62] *Yakye Axa Indigenous Community*, n. 59 above, paras 147, 203; *Kuna Indigenous People of Madungandí and the Emberá Indigenous People of Bayano* v. *Panama*, Judgment, 14 Oct. 2014, IACtHR, (Ser. C) No. 284, para. 143.

[63] *Moiwana Community* v. *Suriname*, Judgment, 15 June 2005, IACtHR, (Ser. C) No. 124, paras 101–3.

[64] *Yakye Axa Indigenous Community*, n. 59 above, para. 51.

[65] *Kaliña and Lokono Peoples* v. *Suriname*, Judgment (Merits, Reparations and Costs), 25 Nov. 2015, IACtHR, (Ser. C) No. 309, paras 33, 35.

[66] Ibid., para. 36.

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in particular, the freedom to worship and to engage in religious ceremonies depends on access to land and the natural environment'.[67]

With these developments, the rights of Indigenous peoples as defined under IHRL acknowledge the cultural, spiritual, and kinship relationships with nature as a source of rights, supporting the emergence of a connection between RoN and international law. Arguably, the approach is still anthropocentric as it is located within human rights law, which by definition is human-centric, but it opens up a legal avenue to recognize relationships with nature that are very different from those explored in Section 2 of this article. The recognition of Indigenous cultural relationships with nature as a source of rights challenges the absolute sovereignty of states over nature, as well as the dominant proprietary discourse surrounding nature. A strong element of the rights of Indigenous peoples under international law has been to challenge the dominant discourse of ownership and property rights over nature in favour of integrating concepts of custodianship and kinship relationships with nature.[68] It does not mean that the rights of Indigenous peoples always align with RoN,[69] but it creates a space where Indigenous worldviews and relationships with natural entities can be acknowledged as a source of rights, supporting a 'relational turn' in international law.[70]

3.2. *Biodiversity, Traditional Ecological Knowledge and 'Mother Earth'*

The recognition of traditional ecological knowledge under international law represents another acknowledgement of peoples' relationship with nature as a source of rights.[71] Traditional knowledge is included in several international treaties relating to biodiversity,[72] desertification,[73] food and agriculture,[74] and climate change.[75] The Convention on Biological Diversity (CBD)[76] puts some emphasis on the traditional ecological

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[67] *African Commission on Human and Peoples' Rights* v. *Republic of Kenya*, 26 May 2017, ACtHPR, para. 165.

[68] J. Gilbert, 'The Rights of Nature, Indigenous Peoples & International Human Rights Law: From Dichotomies to Synergies' (2022) 13(2) *Journal of Human Rights and the Environment*, pp. 399–415.

[69] V. Marshall, 'Removing the Veil from the "Rights of Nature": The Dichotomy between First Nations Customary Rights and Environmental Legal Personhood' (2020) 45(2) *Australian Feminist Law Journal*, pp. 233–48.

[70] This is not to deny that Indigenous customs and practices are extremely diverse and are very specific to places, ecosystems and natural environment; see M. Tănăsescu, 'Rights of Nature, Legal Personality, and Indigenous Philosophies' (2020) 9(3) *Transnational Environmental Law*, pp. 429–53.

[71] Traditional knowledge is a cumulative body of knowledge, practice, and belief, evolving by adaptive processes and handed down through generations by cultural transmission, about the relationship of people with one another and with their environment.

[72] Rio de Janeiro (Brazil), 5 June 1992, in force 29 Dec. 1993, Arts 8(j) and 10(c), available at: http://www.cbd.int/convention/text.

[73] Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, Paris (France), 14 Oct. 1994, in force 26 Dec. 1996, Art. 18.2(b), available at: https://www.unccd.int.

[74] International Treaty on Plant Genetic Resources for Food and Agriculture, Rome (Italy), 3 Nov. 2001, in force 29 June 2004, Art. 9.2(a), available at: https://www.fao.org/plant-treaty.

[75] Paris Agreement, Paris (France), 12 Dec. 2015, in force 4 Nov. 2016, Art. 7(5), available at: http://unfccc.int/paris_agreement/items/9485.php.

[76] N. 72 above.

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knowledge of Indigenous peoples and other local communities, calling on states to enact national legislation to protect and preserve communities' traditional knowledge.[77] The knowledge systems of Indigenous and local communities are understood to be bodies of integrated, holistic, social, and ecological knowledge, practices and beliefs pertaining to the relationship of living beings, with one another and with their environments.[78] Although the CBD does not specifically mention RoN, it proclaims the 'intrinsic value of biodiversity' and, by promoting the traditional knowledge of Indigenous peoples and other local communities, it acknowledges the relationships between humans and nature.[79] The GBF has gone a step further by affirming that biodiversity is connected to 'living well in balance and in harmony with Mother Earth', recognizing the importance of 'diverse value systems' when it comes to relationships with nature.[80] These diverse value systems include 'for those countries that recognize them, rights of nature and rights of Mother Earth, as being an integral part of [the GBF's] successful implementation'.[81] More specifically, Target 19 of the GBF calls for '[e]nhancing the role of collective actions, including by indigenous peoples and local communities, Mother Earth centric actions and non-market-based approaches including community based natural resource management and civil society cooperation and solidarity aimed at the conservation of biodiversity'.[82]

Although the GBF does not directly affirm that nature has rights, it is probably the closest that international law has come so far in recognizing that different value systems that integrate 'Mother Earth-centric' approaches should be part of the fight against the loss of biodiversity.[83] This development is also linked to the push to recognize

[77] Art. 8(j) CBD invites states to enact national legislation to preserve, protect, maintain, and promote the wider application of Indigenous peoples' traditional knowledge relevant to the conservation and sustainable use of biodiversity, provided that such use takes place with the approval and involvement of the holders of such knowledge.

[78] Traditional knowledge includes empirical knowledge of animals, plants, soils and landscape; knowledge of resource management systems; institutions of knowledge that frame the process of social memory, creativity and learning; and lastly overarching cosmologies, which shape the perception of the environment of traditional knowledge holders; see F. Berkes, *Sacred Ecology* (Routledge, 3rd edn, 2012), p. 18.

[79] Moreover, the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization affirms communities' right to free, prior and informed consent or 'approval and involvement' for any access to and utilization of their traditional knowledge and genetic resources found in their land or over which they exercise formal or customary rights: Nagoya (Japan), 29 Oct. 2010, in force 12 Oct. 2014, see Arts 7 and 5.2, respectively, available at: https://www.cbd.int/abs/doc/protocol/nagoya-protocol-en.pdf.

[80] Kunming-Montreal Global Biodiversity Framework, n. 10 above, Section A, para. 1.

[81] Ibid., Section C, para. B, stating: 'Nature embodies different concepts for different people, including biodiversity, ecosystems, Mother Earth, and systems of life. Nature's contributions to people also embody different concepts, such as ecosystem goods and services and nature's gifts. Both nature and nature's contributions to people are vital for human existence and good quality of life, including human well-being, living in harmony with nature, and living well in balance and harmony with Mother Earth'.

[82] Ibid., Target 19(f), which defines 'Mother Earth Centric Actions: Ecocentric and rights-based approach enabling the implementation of actions towards harmonic and complementary relationships between peoples and nature, promoting the continuity of all living beings and their communities and ensuring the non-commodification of environmental functions of Mother Earth'.

[83] For analysis see J.M. Robinson et al., 'Traditional Ecological Knowledge in Restoration Ecology: A Call to Listen Deeply, to Engage with, and Respect Indigenous Voices' (2021) 29(4) *Restoration Ecology*, article e133811of9.

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biocultural rights,[84] which have already been at the heart of legal decisions that recognize the rights of natural entities, notably in Colombia.[85] The fact that traditional ecological knowledge is now well-established under international law opens up a space to recognize that nature has the right to benefit from the traditional ecological stewardship of local communities.

Overall, looking both at the rights of Indigenous peoples and the international legal developments taking place under the banner of biodiversity, there is a body of international law that acknowledges the importance of relationships between peoples and nature, putting forward cultural, spiritual, and traditional ecological practices as a source of rights. In this, international law is aligning with some of the concepts behind RoN, highlighting the importance of acknowledging kinship relationships with nature, and the fact that as humans we are part of a broader earth community.[86] It does mean that RoN have been affirmed in international law, but recognizing the cultural, ecological, and spiritual relationships with nature creates a space to challenge the prevailing approaches focusing on sovereignty, exploitation, and conservation of nature – hence, starting to unravel some of the dichotomies explored in Section 2 of this article.

4. NATURE'S RIGHT TO A FUTURE: REVISING RESPONSIBILITIES AND STEWARDSHIP

Although RoN is about proclaiming that nature has inherent rights, it is also about affirming that humans have duties of care and responsibilities to respect and enforce these rights.[87] At the national level, the affirmation of these responsibilities has been key in the development of RoN.[88] As examined below, duties of care and the representation of nature are concepts that are still marginal in international law, whereas principles of custodianship and representation are key developments in RoN. By focusing on these concepts of responsibilities, duties of care, and representation of nature, this section explores how international law could learn from RoN on these issues.

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[84] K. Bavikatte, *Stewarding the Earth: Rethinking Property and the Emergence of Biocultural Rights* (Oxford University Press, 2014); G. Sajeva, *When Rights Embrace Responsibilities: Biocultural Rights and the Conservation of Environment* (Oxford University Press, 2018).

[85] E. Macpherson, J. Torres Ventura & F. Clavijo Ospina, 'Constitutional Law, Ecosystems, and Indigenous Peoples in Colombia: Biocultural Rights and Legal Subjects' (2020) 9(3) *Transnational Environmental Law*, pp. 521–40; P. Wesche, 'Rights of Nature in Practice: A Case Study on the Impacts of the Colombian Atrato River Decision' (2021) 33(3) *Journal of Environmental Law*, pp. 531–55.

[86] J. Schmidt, 'Of Kin and System: Rights of Nature and the UN Search for Earth Jurisprudence' (2022) 47(3) *Transactions of the Institute of British Geographers*, pp. 820–34; A. Pelizzon, 'Earth Laws, Rights of Nature and Legal Pluralism', in M. Maloney & P. Burdon (eds), *Wild Law in Practice* (Routledge, 2014), pp. 176–90; C. Cullinan, 'Governing People as Members of the Earth Community', in Worldwatch Institute (ed.), *State of the World 2014* (Island Press, 2014), pp. 72–81.

[87] B. Martin, L. Te Aho & M. Humphries-Kil (eds), *Responsibility Law and Governance for Living Well with the Earth* (Routledge, 2019); M. Tănăsescu, 'The Rights of Nature as Politics', in D.P. Corrigan & M. Oksanen (eds), *Rights of Nature: A Re-Examination* (Routledge, 2021), pp. 69–84.

[88] C. Clark et al., 'Can You Hear the Rivers Sing? Legal Personhood, Ontology, and the Nitty-Gritty of Governance' (2019) 45(4) *Ecology Law Quarterly*, pp. 787–844; A. Bleby, 'Rights of Nature as a Response to the Anthropocene' (2020) 48(1) *University of Western Australia Law Review*, pp. 33–67; S. Epstein, 'Rights of Nature, Human Species Identity, and Political Thought in the Anthropocene' (2022) 10(2) *The Anthropocene Review*, article e-20530196221078929.

4.1. *Caring and Speaking for Nature: Decolonizing Stewardship?*

As noted in a 2013 report of the UN Secretary-General: 'Nearly all human traditions recognize that the living are sojourners on Earth and temporary stewards of its resources'.[89] This statement resonates strongly with some of the concepts behind RoN, emphasizing the role of humans as stewards of nature.[90] The idea of caring for nature – or to act as custodian of and for nature – is at the heart of recognizing nature's rights.[91] Ultimately, the establishment of specific institutional mechanisms to speak on behalf of nature and act as representatives or the 'voice' of nature is essential for embedding RoN into the legal system.[92] This has led to a rich reflection on how human institutions can best speak on behalf of and represent nature in human governance.[93]

International law is rather underdeveloped when it comes to speaking on behalf of nature. Nature is not represented in international fora and there are no international mechanisms to allow such voice or representation. International law is also underdeveloped when it comes to 'caring obligations' towards nature, although environmental stewardship is often put forward as a concept that could support such obligations or duties.[94] Various forms of stewardship status have been suggested for the Antarctic and polar regions,[95] for the marine environment,[96] and the global atmosphere[97] but,

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[89] UNGA, 'Intergenerational Solidarity and the Needs of Future Generations: Report of the Secretary-General', 15 Aug. 2013, UN Doc. A/68/322, para. 4, available at: https://digitallibrary.un.org/record/756820?ln=en.

[90] S. Knauß, 'Conceptualizing Human Stewardship in the Anthropocene: The Rights of Nature in Ecuador, New Zealand and India' (2018) 31(6) *Journal of Agricultural and Environmental Ethics*, pp. 703–22.

[91] M. Tănăsescu, *Environment, Political Representation and the Challenge of Rights: Speaking for Nature* (Springer, 2016); J. Morris & J. Ruru, 'Giving Voice to Rivers: Legal Personality as a Vehicle for Recognising Indigenous Peoples' Relationships to Water' (2010) 14(2) *Australian Indigenous Law Review*, pp. 49–62.

[92] C. Kauffman & P. Martin, 'Constructing Rights of Nature Norms in the US, Ecuador, and New Zealand' (2018) 18(4) *Global Environmental Politics*, pp. 43–62.

[93] E. O'Donnell & E. Macpherson, 'Voice, Power and Legitimacy: the Role of the Legal Person in River Management in New Zealand, Chile and Australia' (2019) 23(1) *Australasian Journal of Water Resources*, pp. 35–44; K. O'Bryan, 'Giving a Voice to the River and the Role of Indigenous People: The Whanganui River Settlement and River Management in Victoria' (2017) 20 *Australian Indigenous Law Review*, pp. 48–77; L. Schromen-Wawrin, 'Representing Ecosystems in Court: An Introduction for Practitioners' (2017) 31(2) *Tulane Environmental Law Journal*, pp. 279–92; A. Pelizzon & M. Gagliano. 'The Sentience of Plants: Animal Rights and Rights of Nature Intersecting' (2015) 11 *Australian Animal Protection Law Journal*, pp. 5–14.

[94] E. Barritt, 'Conceptualising Stewardship in Environmental Law' (2014) 26(1) *Journal of Environmental Law*, pp. 1–23; W. Steffen et al., 'The Anthropocene: From Global Change to Planetary Stewardship' (2011) 40(7) *Ambio*, pp. 739–61; B. Peachey, 'Environmental Stewardship: What Does It Mean?' (2008) 86(4) *Process Safety and Environmental Protection*, pp. 227–36; K. Bavikatte, *Stewarding the Earth: Rethinking Property and the Emergence of Biocultural Rights* (Oxford University Press, 2014).

[95] K. Dodds, 'Fish and Continental Shelves: Maritime Security, Sovereignty, and Stewardship in the Polar Regions' (2015) 22(1) *The Brown Journal of World Affairs*, pp. 239–60; T. Daya-Winterbottom, 'Legal Personality in Antarctica' (2023) 14(1) *The Yearbook of Polar Law*, pp. 123–44.

[96] H. Harden-Davies et al., 'Rights of Nature: Perspectives for Global Ocean Stewardship' (2020) 122 *Marine Policy*, article 104059; J. Jouffray et al., 'The Blue Acceleration: The Trajectory of Human Expansion into the Ocean' (2020) 2(1) *One Earth*, pp. 43–54.

[97] J. Rockström et al., 'We Need Biosphere Stewardship that Protects Carbon Sinks and Builds Resilience' (2021) 118(38) *Proceedings of the National Academy of Sciences*, article e2115218118; C. Folke et al., 'Transnational Corporations and the Challenge of Biosphere Stewardship' (2019) 3(10) *Nature Ecology & Evolution*, pp. 1396–403.

in general, these initiatives remain marginal in international law. Stewardship is also integrated into global governance with, for example, the Forest Stewardship Council and the Marine Stewardship Council setting standards to act with a duty of care for the world's forests and fisheries, but these multi-stakeholder initiatives have demonstrated some serious limitations and very weak implementation.[98]

There has also been international advocacy to integrate the principle of 'Earth trusteeship', focusing on a global trusteeship approach to nature, notably to challenge sovereignty.[99] Earth trusteeship is a principle that is evoked to capture the duty of humankind to act with care towards nature. It is based on the idea that natural resources – such as air, trees, and water – are common and therefore nation-states should perpetually steward them.[100] Yet, this idea of common trusteeship is rarely fully integrated into international treaties.[101] In terms of treaty law, the Aarhus Convention is one of the few binding treaties that encourages all actors to accept their custodial stewardship duties in order to benefit present and future generations.[102] The GBF acknowledges the important roles and contributions of Indigenous peoples and local communities as 'custodians' of biodiversity and as partners in its conservation, restoration, and sustainable use.[103] The 2023 Treaty of the High Seas (known as the BBNJ) concerning the biological diversity in areas beyond national jurisdiction, also expresses the 'desire … to act as stewards of the ocean in areas beyond national

[98] D.H. Schepers, 'Challenges to Legitimacy at the Forest Stewardship Council' (2010) 92 *Journal of Business Ethics*, pp. 279–90; S. Moog, A. Spicer & S. Böhm, 'The Politics of Multi-Stakeholder Initiatives: The Crisis of the Forest Stewardship Council' (2015) 128(3) *Journal of Business Ethics*, pp. 469–93; S. Ponte, 'The Marine Stewardship Council (MSC) and the Making of a Market for "Sustainable Fish"' (2012) 12(2) *Journal of Agrarian Change*, pp. 300–15.

[99] See Earth Trusteeship, 'The Hague Principles for a Universal Declaration on Responsibilities for Human Rights and Earth Trusteeship', 2020, available at: https://www.earthtrusteeship.world/the-hague-principles-for-a-universal-declaration-on-human-responsibilities-and-earth-trusteeship; P. Sand, 'The Concept of Public Trusteeship in the Transboundary Governance of Biodiversity', in L. Kotzé & T. Marauhn (eds), *Transboundary Governance of Biodiversity* (Brill Nijhoff, 2014) pp. 34–64.

[100] K. Bosselmann, *Earth Governance: Trusteeship of the Global Commons* (Edward Elgar, 2015); M.C. Wood, *Nature's Trust: Environmental Law for a New Ecological Age* (Carolina University Press, 2013); J. Orangias, 'Towards Global Public Trust Doctrines: An Analysis of the Transnationalisation of State Stewardship Duties' (2021) 12(4) *Transnational Legal Theory*, pp. 550–86.

[101] One exception being the UNCLOS (n. 24 above), which involves state parties recognizing the international seabed and its resources as the common heritage of humankind; see M. Turnipseed et al., 'Using the Public Trust Doctrine to Achieve Ocean Stewardship', in C. Voigt (ed), *Rule of Law for Nature: New Dimensions and Ideas in Environmental Law* (Cambridge University Press, 2013), pp. 365–79; S. Cinquemani, 'Can the Public Trust Doctrine Save the High Seas?' (2019) 31(3) *Environmental Claims Journal*, pp. 218–38.

[102] See Preamble: 'Recognizing further the importance of the respective roles that individual citizens, non-governmental organizations and the private sector can play in environmental protection', Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, Aarhus, (Denmark) 25 June 1998, in force 30 Oct. 2001, available at: https://unece.org/environment-policy/public-participation/aarhus-convention/text; for analysis see E. Barritt, *The Foundations of the Aarhus Convention: Environmental Democracy, Rights and Stewardship* (Bloomsbury, 2020).

[103] Kunming-Montreal GBF, n. 10 above, Section c, para. 7. See also Target 3 supporting 'ecologically representative, well-connected and equitably governed systems of protected areas and other effective area-based conservation measures, recognizing indigenous and traditional territories'.

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jurisdiction'.[104] However, these are isolated statements and, in general, concepts of stewardship of nature have not yet been fully embraced or implemented under international law, with no concrete mechanism put in place.

More generally, the concept of stewardship has been criticized for being anthropocentric,[105] and based on Western and Christian ideals of dominium over nature.[106] From this perspective, international law can learn from the developments in RoN concerning the establishment of representative institutions and their duties towards nature, notably integrating non-Western approaches to the concepts of custodianship and stewardship based on the leadership of Indigenous peoples.[107] It could also open the door for reflection on the place of multispecies justice under international law, an idea that is germinating in RoN circles.[108] In general, nature is not represented in international fora and concepts of stewardship and duties of care are still very marginal. As Payne puts it, '[s]tates are unreliable custodians of nature'.[109] The developments taking place at the national level to implement RoN, via the creation of institutions with a mandate to speak on behalf of nature and with clear obligations of stewardship and duty of care, offer a framework to reinterpret and reinvigorate the principle of stewardship and the idea of nature having a voice in environmental governance.[110]

4.2. *Nature's Future: Towards a Non-Human-Centric Approach to Harm?*

One of the consequences of proclaiming the RoN is also to recognize that nature has a right to a future not only driven by human sustainable development perspectives, but for the sake of nature itself. For example, the Constitution of Ecuador highlights the duty to 'apply preventative or restrictive measures on activities that may lead to extinction of species, destruction of ecosystems, or the permanent alteration of natural

[104] Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction, UN Doc. A/CONF.232/2023/L.3, Preamble, available at: https://www.un.org/bbnj. For analysis of this area of the law and RoN, see H. Harden-Davies et al., 'Rights of Nature: Perspectives for Global Ocean Stewardship' (2020) 122 *Marine Policy*, article e104059.

[105] J. McIntyre-Mills, 'Stewardship: An Anthropocentric Misnomer? Rights, Responsibilities and Multispecies Relationships', in J. McIntyre-Mills & Y. Corcoran-Nantes (eds), *From Polarisation to Multispecies Relationships: Re-Generation of the Commons in the Era of Mass Extinctions* (Springer, 2021), pp. 119–39.

[106] J. Dehm, 'Reconfiguring Environmental Governance in the Green Economy: Extraction, Stewardship and Natural Capital', in Natarajan & Dehm, n. 16 above, pp. 70–108.

[107] J. McIntyre-Mills et al., 'Ecocentric Living: A Way Forward Towards Zero Carbon: A Conversation about Indigenous Law and Leadership based on Custodianship and Praxis' (2022) 36 *Systemic Practice and Action Research*, pp. 275–319.

[108] E. Fitz-Henry, 'Multi-Species Justice: A View from the Rights of Nature Movement' (2022) 31(2) *Environmental Politics*, pp. 338–59; I. Offor & A. Cardesa-Salzmann, 'Multispecies Lawscapes in the Anthropocene: Priorities for a Critical, Constitutional Turn in Climate Change and Biodiversity Law', in R. Caddell & P. McCormack (eds), *Research Handbook on Climate Change and Biodiversity Law* (Edward Elgar, 2024 forthcoming).

[109] C. Payne, 'Responsibility to the International Community for Marine Biodiversity beyond National Jurisdiction' (2022) 11(1) *Cambridge International Law Journal*, pp. 24–50.

[110] P. Villavicencio-Calzadilla & L. Kotzé, 'Re-imagining Participation in the Anthropocene: The Potential of the Rights of Nature Paradigm', in B. Peters & E. Julia Lohse (eds), *Sustainability Through Participation? Perspectives from National, European and International Law* (Brill, 2023), pp. 51–72

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cycles'.[111] Although the idea of nature's right to a future is also present in international law, with several key principles of international environmental law being about preventing future harm to nature, these tend to be largely anthropocentric.

One of these is the principle of 'no harm', which is at the heart of many international environmental norms.[112] Originally limited to doing no harm in another state's jurisdiction (transboundary harm), the no-harm principle has evolved towards a more comprehensive precautionary approach.[113] The precautionary approach requires activities and substances that may be harmful to the environment to be regulated and possibly prohibited even if no conclusive or overwhelming evidence is (yet) available.[114] However, the approach is largely anthropocentric, typically focusing on the impact that harmful activities might have on human activities.[115] In general, international law remains very anthropocentric in its approach to harm and reparations, and nature's right to a future.[116] Integrating nature as a right holder would support the integration of nature as a direct victim.[117] In examining several decisions adopted by the Court of Justice of the European Union (CJEU) concerning biodiversity offsetting practices, Schoukens has examined what an ecocentric focus on harm could mean in practice.

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[111] Ecuadorian Constitution, Art. 73. This was applied by the Constitutional Court in the case of *Los Cedros*, Sentencia No. 1149-19-JP/21 (2021), where the Court held that because of the lack of valid scientific information on the environmental impacts of the mining projects in the protected forest, the precautionary principle must be applied; see paras 116, 130, 219, 246, 348.

[112] E.g., under Principle 21 of the 1972 Stockholm Declaration, governments have a right to exploit their natural resources, but this is limited by the responsibility not to cause environmental damage: Declaration of the United Nations Conference on the Human Environment, adopted by the UN Conference on Environment and Development, Stockholm (Sweden), 5–16 June 1972, UN Doc. A/CONF.48/14/Rev. 1, available at: http://www.un-documents.net/aconf48-14r1.pdf.

[113] The precautionary approach is integrated in multiple legal instruments including the CBD (n. 72 above); the United Nations Framework Convention on Climate Change (UNFCCC) (New York, NY (US), 9 May 1992, in force 21 Mar. 1994, available at: https://unfccc.int); and the Stockholm Convention on Persistent Organic Pollutants (Stockholm (Sweden), 22 May 2001, in force 17 May 2004, available at: http://www.pops.int/TheConvention/Overview/TextoftheConvention/tabid/2232/Default.aspx). For analyses of this evolution, see P.-M. Dupuy & J.E. Viñuales, *International Environmental Law* (Cambridge University Press, 2nd edn, 2020), pp. 64–71, J. Zander, *The Application of the Precautionary Principle in Practice: Comparative Dimensions* (Cambridge University Press, 2010). See also debates on the distinction between the precautionary principle and the precautionary approach; see analysis by L. Hartzell-Nichols, 'From "the" Precautionary Principle to Precautionary Principles' (2013) 16(3) *Ethics, Policy & Environment*, pp. 308–20.

[114] A. Trouwborst, 'The Precautionary Principle in General International Law: Combating the Babylonian Confusion' (2007) 16(2) *Review of European Community & International Environmental Law*, pp. 185–95. See also literature analyzing the distinctions between the precautionary approach and precautionary principles: e.g., N. Dinneen, 'Precautionary Discourse: Thinking Through the Distinction between the Precautionary Principle and the Precautionary Approach in Theory and Practice' (2013) 32(1) *Politics and the Life Sciences*, pp. 2–21.

[115] J. Gupta & S. Schmeier, 'Future Proofing the Principle of No Significant Harm' (2020) 20(4) *International Environmental Agreements: Politics, Law and Economics*, pp. 731–47; K.P. Rippe & A. Willemsen, 'The Idea of Precaution: Ethical Requirements for the Regulation of New Biotechnologies in the Environmental Field' (2018) 21(9) *Frontiers in Plant Science*, article 1868.

[116] R. Killean & L. Dempster, 'Mass Violence, Environmental Harm, and the Limits of Transitional Justice' (2022) 16(1) *Genocide Studies and Prevention*, pp. 11–39; R. Killean, 'From Ecocide to Eco-Sensitivity: "Greening" Reparations at the International Criminal Court' (2021) 25(2) *International Journal of Human Rights*, pp. 323–47.

[117] For a reflection on the potential for a more ecocentric interpretation of the precautionary approach, see Hartzell-Nichols, n. 113 above, and X. Wang, 'Ecological Wisdom as a Guide for Implementing the Precautionary Principle' (2019) 1(1) *Socio-Ecological Practice Research*, pp. 25–32.

In his analysis he highlighted how some CJEU judges had implicitly relied on the recognition of the intrinsic potential future needs of nature, suggesting the possibility of adopting an ecocentric approach to the precautionary principle.[118] That line has not yet been crossed in contemporary international jurisprudence, but a RoN interpretation of the precautionary approach would support a more ecocentric understanding of harm. This is where international law can learn from some of the developments regarding ecocentric understanding of harm and reparation emerging under RoN.[119]

Another perspective on nature's rights to a future concerns the rights of future generations, which have been affirmed in various environmental instruments,[120] declarations and statements on climate change,[121] and in several court rulings and decisions.[122] Taken together, these various treaties, declarations, and cases underline an international normative focus on the duty to protect nature for future generations. This is based on an intergenerational duty: integrating a duty for present generations to take care of the planet for the future of 'the living world'.[123] Hence, in theory this aligns with the idea that, as humans, we have a duty to act as custodians of the planet. This is a core element of RoN, and is also strongly embedded in some of the RoN cases emerging at the national level with an important focus on intergenerational relationships with nature.[124] More generally, one of the philosophies behind RoN is also to revisit human perceptions of damage to nature based on a timescale more attuned to natural

[118] H. Schoukens, 'Rights of Nature in the European Union: Contemplating the Operationalization of an Eco-Centric Concept in an Anthropocentric Environment?', in J. Pereira & A Saramago (eds), *Non-Human Nature in World Politics* (Springer, 2020), pp. 205–34.

[119] A. Haluska, 'Restorative Justice and the Rights of Nature: Using Indigenous Legal Traditions to Influence Cultural Change and Promote Environmental Protection' (2023) 49(1) *Mitchell Hamline Law Review*, pp. 93–125.

[120] See Rio Declaration, n. 38 above, Principle 3 (mentioning the importance of 'the development and environmental needs of present and future generations'); and CBD, n. 72 above (stipulating in its Preamble a duty 'to conserve and sustainably use biological diversity for the benefit of present and future generations'); as well as Art. 1 Aarhus Convention, n. 102 above (referring to both present and future generations).

[121] See UNFCCC, n. 113 above, Art. 3 ('The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities'). For analysis see G. Davies, 'Climate Change and Reversed Intergenerational Equity: The Problem of Costs Now, for Benefits Later' (2020) 10(3) *Climate Law*, pp. 266–81; and D. Bertram, '"For You Will (Still) Be Here Tomorrow": The Many Lives of Intergenerational Equity' (2022) 12(1) *Transnational Environmental Law*, pp. 121–49.

[122] For analysis see K. Sulyok, 'A Rule of Law Revolution in Future Generations' Litigation: Intergenerational Equity and the Rule of Law in the Anthropocene', Working Paper, Forum Transregionale Studien 14/2023, available at: https://www.forum-transregionale-studien.de/fileadmin/bilder/re_constitution/14-2023_WorkingPaper_Sulyok_final.pdf.

[123] See, e.g., the 2020 Earth Charter, n. 11 above, Preamble, pp. 5–7, at 7 ('Everyone shares responsibility for the present and future well-being of the human family and *the larger living world*' (emphasis added)). For analysis see E.B. Weiss, 'Intergenerational Equity in a Kaleidoscopic World' (2019) 49(1) *Environmental Policy and Law*, pp. 3–11.

[124] See Supreme Court of Colombia, Sala. Civil, 5 Apr. 2018, M.P.: Luis Armando Tolosa Villabona, STC4360-2018, Expediente 11001-22-03-000-2018-0031901 [Decision STC4360-2018]; M. Willems, T. Lambooy & S. Begum, 'New Governance Ways Aimed at Protecting Nature for Future Generations: The Cases of Bangladesh, India and New Zealand: Granting Legal Personhood to Rivers', *IOP Conference Series: Earth and Environmental Science*, Vol. 690. No. 1 (IOP Publishing, 2021); L. Temper, 'Blocking Pipelines, Unsettling Environmental Justice: From Rights of Nature to Responsibility to Territory' (2019) 24(2) *Local Environment*, pp. 94–112.

environment cycles.[125] In the context of rapidly evolving interpretations and understandings of intergenerational justice, the inclusion of RoN would support a less anthropocentric understanding of what the rights of future generations might mean by including nature in the frame.[126] It would support an approach to nature's right to a future that is outside the purely protective approach of international law (seen mainly through the lens of a human future and our capacity to have a sustainable future), therefore challenging the meaning of what is 'sustainable' not only from a human perspective, but from the perspective of nature.

5. CONCLUSION

International law largely approaches nature as a resource to be owned, traded, exploited, or protected. There are underlying historical, political, and structural reasons – from colonization, economic interests, political and territorial disputes where nature has been used as proxy. As explored in this article, notwithstanding the principle of permanent sovereignty of states over nature, the focus on ownership rights and exploitative development precepts are starting to be challenged; however, international law remains very fragmented, often polarized and anthropocentric, when it comes to our relationship with nature. From this perspective, RoN represents a real 'revolution' to support a total revamp and rethinking of the international legal relationship with nature. The UN Harmony with Nature initiative, the evolution of international human rights law on the rights of Indigenous peoples, the acknowledgement of local communities' traditional ecological knowledge, and the recently adopted GBF goal of 'living in harmony with nature by 2050' are opening up a space for international law to engage more seriously in a profound reform – or at least for creating synergies with some of the ideas advocated under the banner of RoN.

Although these developments have not led to a fully fledged proclamation of nature's rights at the global level, they are creating a framework to develop a less state-centric international law that is opening space to recognize other worldviews and ways of relating with nature. Indigenous peoples are starting to challenge the state-centred, market, and exploitative approach to nature, infusing concepts of relational and kinship relationships with nature using, inter alia, international human rights law.

On this front, the experience of Indigenous peoples with international law is important to bear in mind. Not long ago, Indigenous peoples were the victims of international

[125] See reflections on temporality and relationship with nature: C. Rodríguez-Garavito & C. Baquero, 'Reframing Indigenous Rights: The Right to Consultation and the Rights of Nature and Future Generations in the Sarayaku Legal Mobilization', in G. de Búrca (ed.), *Legal Mobilization for Human Rights* (Oxford University Press, 2021), pp. 73–88; E. Randazzo & H. Richter, 'The Politics of the Anthropocene: Temporality, Ecology, and Indigeneity' (2021) 15(3) *International Political Sociology*, pp. 293–312; J. Natalya Clark, 'Harm, Relationality and More-than-Human Worlds: Developing the Field of Transitional Justice in New Posthumanist Directions' (2022) 17(1) *International Journal of Transitional Justice*, pp. 15–31.

[126] For analysis of non-human rights and intergenerational justice see M.-C. Petersmann, 'Response-abilities of Care for More-than-Human Worlds' (2021) 12(1) *Journal of Human Rights and the Environment*, pp. 102–24. See also R. Gianluca, 'The Rights of the Ecosystem and Future Generations as Tools for Implementing Environmental Law', in F. Corvino & T. Andina (eds), *Global Climate Justice: Theory and Practice* (E-International, 2023), p. 305.

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law, which was used by colonizers to put forward racist theories such as *terra nullius*, the doctrine of discovery, and other similar legal principles to justify legally the colonization of Indigenous territories.[127] Despite this history of injustice associated with international law, 'Indigenous Peoples have challenged the colonial association of international legality with positivism and state-centrism, especially Euro-centrism'.[128] This was not a seamless process; nor is it the case that international law is now perfectly aligned with Indigenous rights. However, it does show the capacity and potential to challenge and push for deep changes to the international legal architecture.

Similarly, until two decades ago, the idea that local communities might have rights to practise, maintain and perpetuate their traditional ecological knowledge seemed far-fetched, as did the idea that such knowledge could support the international goals of protecting biodiversity. After all, it is only recently that international law has started to care about 'the environment', and the idea of recognizing that nature has rights is even more recent.

Despite these advances recognizing the importance of 'diverse value systems', when it comes to relationships with nature (as affirmed in the GBF), nature still does not have rights under international law, and crucially nature does not have a voice in international governance. The concepts of duty of care, stewardship, and representation of nature that are central to the RoN movement are still very weak in international law. Some of the RoN initiatives at the national levels are developing innovative systems of nature representation, custodianship duties, and stewardship that could support new interpretations of some of the principles of international law. As explored in Section 4, although the principle of stewardship so far has been lacking in terms of proper integration in international governance, it could nonetheless serve as a platform to infuse concepts of duty of care beyond state sovereignty, as well as supporting the emergence of a new system of nature's voice and representation in international environmental governance. There is still a long way to go, and the political and diplomatic support for developing international law along these lines is still missing.

From this perspective, there is an argument to be made about using RoN principles that are emerging from national examples to infuse the evolution of international law. In terms of future advocacy, what is needed is not necessarily a new international treaty, but rather a more systematic integration of some of the principles behind RoN into existing international law and jurisprudence. This argument is based on different advocacy perspectives. Firstly, there is an element of 'normative inflation', creating a very disparate and often fragmented international legal space.[129] Secondly, in terms of

[127] J. Gilbert, *Indigenous Peoples' Land Rights under International Law: From Victims to Actors* (Brill, 2016); R.A. Williams Jr., *The American Indian in Western Legal Thought: The Discourses of Conquest* (Oxford University Press, 1992).

[128] C. Charters, 'The Sweet Spot between Formalism and Fairness: Indigenous Peoples' Contribution to International Law' (2021) 115 *AJIL Unbound*, pp. 123–8.

[129] P.H. Sand & J. McGee, 'Lessons Learnt from Two Decades of International Environmental Agreements' (2022) 22 *International Environmental Agreements: Politics, Law and Economics*, pp. 263–78; M. Koskenniemi, 'Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law', 13 Apr. 2006, UN Doc. A/CN.4/L.682, available at: https://legal.un.org/ilc/documentation/english/a_cn4_l682.pdf; L. Susskind, H. Saleem & H. Zakri

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international diplomacy, it is worth bearing in mind the adage that 'international law is made by the states for the states', meaning that any new treaty would need a strong coalition of states to engage in the arduous task of international diplomacy required to develop such a treaty.[130] The argument is political, as it is hard to envisage the diplomatic willingness of states to engage in such an initiative, as well as practical, as it takes years of lobbying and intensive diplomatic engagement to draft new instruments.

One way to create further synergies between RoN and international law might be to support the reinterpretation of existing international legal principles by infusing some of the RoN concepts to challenge the 'orthodox' state-centric and exploitative approach to nature. As explored in Section 4 of this article, there is potential for some of the underdeveloped or misinterpreted principles of international law – such the precautionary approach, intergenerational equity, and stewardship – to be reinterpreted and better aligned with the RoN movement. Their apparent anthropocentric orientation may be based more on how they are currently interpreted rather than anything inherent in the norms themselves; international legal scholarship and advocacy therefore should focus on the reinterpretation of international legal concepts in line with RoN principles. Such reinterpretation can (and should) also reflect more diverse perspectives and approaches.

The broad umbrella term of RoN encapsulates very diverse approaches, cultural values, and local worldviews and the relationship with nature. A new treaty might not allow such a diversity of voices and approaches to be expressed; rather, cases on specific areas of international law are likely to be more conducive to that end. There is an argument that RoN is not a monolithic concept and, on the contrary, is developing into a multitude of diverse and localized realities.[131] These local movements are also facing serious barriers and pushbacks and, although there is momentum behind RoN, it still remains an embryonic and fragile movement. More systematic international legal engagement could certainly support a more global reflection on the relationship between law and nature. International law has much to learn from RoN – but, equally, localized RoN initiatives stand to benefit from a more attuned and supportive international legal framework.[132]

Abdul, *Environmental Diplomacy: Negotiating More Effective Global Agreements* (Oxford University Press, 2014); V. Zeno-Zencovich, 'A Normative Metastasis?' (2020) 7(1) *European Journal of Comparative Law and Governance*, pp. 43–63.

[130] As a stark reminder, see the lack of political or diplomatic will to make the Global Pact for the Environment a reality: L. Kotzé & D. French, 'A Critique of the Global Pact for the Environment: A Stillborn Initiative or the Foundation for *Lex Anthropocenae*?' (2018) 18(6) *International Environmental Agreements: Politics, Law and Economics*, pp. 811–38; and, more specifically about connections to RoN, S. Franks, 'The Trees Speak for Themselves: Nature's Rights under International Law' (2021) 42(3) *Michigan Journal of International Law*, pp. 633–57.

[131] E. Kinkaid, '"Rights of Nature" in Translation: Assemblage Geographies, Boundary Objects, and Translocal Social Movements' (2019) 44(3) *Transactions of the Institute of British Geographers*, pp. 555–70.

[132] As noted by Kauffam and Martin, 'RoN framings are also being shaped by the weakness of RoN as an international norm': C. Kauffman & P. Martin, *The Politics of the Rights of Nature* (The MIT Press, 2021), p. 215.

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