

Justice at the Intersections

Animal Rights, Nature's Rights, and the Law

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Summary

For two centuries, campaigners and communities have undertaken organized efforts to improve the welfare of animals, preserve wilderness, clean up or prevent pollution, bring about ecosystem restoration, and halt species' exploitation and extinction through laws, policies, and societal practices. They have met with mixed success. In recent decades, some animal advocates and environmental theorists and activists have adopted a new, radical approach to addressing multiplying challenges by using the language and legal status of rights to secure new protections for the nonhuman world. *Justice at the Intersections* explores how the theories of animal rights and rights of Nature and MOTH rights complement as well as diverge from one another and, through case studies from a variety of nations and jurisdictions, examines how rights for Nature and/or nonhuman animals have been advanced (and not) by court rulings, constitutions, legislation, and tribal and municipal governance. In addition, the paper explores how the philosophies underpinning animal rights and rights of Nature are reflected in, or remain distinct from, Indigenous cosmologies, and other legal and social approaches that guide human obligations toward, and ties within, the other-than-human world.

The paper concludes by proposing four key issues where the rights of Nature and rights of animal clearly intersect and where advocates for each could—and should—collaborate to expand rights and secure significant protections. These are: industrial animal agriculture; industrial fishing and aquaculture; preventing pandemics and zoonoses, and stopping the trade in wildlife (illegal and legal); and ending captivity for keystone species. The analysis and ideas in the paper are presented in the contexts of the accelerating climate and biodiversity crises, ongoing and new violations of the rights of human communities, lessons of the COVID-19 pandemic, and scientific and ethical research that demonstrates the essential entanglement of humans with the nonhuman world.

Note: the paper generally refers to nonhuman animals as “animals” for ease of reading. Following protocol established by the United Nations’ Harmony with Nature process and resolutions, “Nature” is capitalized to illustrate it is a rights holder and not an object.¹

Introduction

“In the case of my country [Bolivia], [the two movements] are very much linked. There is a lot of collaboration, because everyone realizes you can’t defend animals if you can’t defend the environment. Their environment is Nature, forest, water. It’s clean air. So therefore, to only focus on animals without looking at the entire scope of Nature is almost not rational.”

– Pablo Solon, executive director, Fundacion Solón

“When we in the animal rights movement see rivers and mountains and streams and forests given that status of legal beings, of legal persons, the Nonhuman Rights Project puts those kinds of things into its briefs. It [becomes] part of the litigation. We walk down this road together. We may not be able to go the full distance of that road, but let’s go as far as we can.”

– Joyce Tischler, professor of practice, Lewis & Clark Law School

1: Different Vantage Point, Similar Goals

Since the early 1960s, activists, academics, lawyers, and judges have traced common threads among the rights of animals, humans, and Nature in law, policy, and practice. These stakeholders argue that natural entities—including individual animals, individual ecosystems or features in them, like a river, and the communities protecting, relying on, and representing them—should be accorded relevant and/or comparable rights to those possessed by individual humans and corporations within formal municipal, state, federal, or international legal systems. Scholars and advocates envision that by providing Nature and animals with a “voice” and standing in a court of law or in legislation or a policy provision, Nature and animals’ interests would (at the least) be acknowledged and harm to them reduced or stopped altogether.

2: The Environmental Movement and the Rights of Nature

The publication of Rachel Carson’s *Silent Spring* in 1963 is often cited as the birth of modern environmentalism in the U.S.² Subsequent to the “Earthrise” photo taken from Apollo VIII in December 1968,³ which inspired the first Earth Day, on April 22 1970,⁴ a raft of environmental measures were signed into law by President Richard Nixon and a new U.S. government department was established, the Environmental Protection Agency, to oversee and enforce them.

These legislative advances reflected growing international concern over the environment. In June 1972, the UN held the first Conference on the Human Environment in Stockholm,⁵ which issued a landmark declaration calling for the preservation of the environment for future generations . . . of humans,⁶ and the founding of the United Nations Environment Programme (UNEP), in Nairobi, Kenya.

In 1972, law professor Christopher Stone published, “Should Trees Have Standing? Toward Legal Rights for Natural Objects,”⁷ which spurred the creation of a movement in support of the rights of Nature (or environmental rights, earth rights, or wild law). Stone examined the concept of *Locus standi*, or “standing”—defined in Black’s Law Dictionary’s as “a right of people to challenge the conduct of another person in a court.” Because in Western jurisprudence, natural entities and animals aren’t considered persons, but property, they lack the standing to have a suit brought on their behalf, and lack *any* rights independent of their utility to human beings. It’s these two conditions for justice under the law—legal standing and intrinsic rights—that many environmental and animal rights theorists seek to establish.

Stone asserts that natural resources, through human representation, should have standing to sue for their protection,^{8,9} just as infants, the mentally impaired and comatose, trusts and corporations, and seafaring vessels do.¹⁰ He notes that giving standing to natural resources might seem radical, but it was considered likewise once for women and the formerly enslaved to do so. He argues that such rights should be threefold: “first, that the thing can institute legal actions *at its behest*; second, that in determining the granting of legal relief, the court must take *injury to it* into account; and, third, that relief must run to the *benefit of it*.” (Italics in the original)

As a remedy, Stone proposes a legal guardian for the “natural object,” who’d gather evidence of the harm and make arguments that elucidate the immediate wrong for those immediately affected and future generations, human or otherwise. Stone accepts it’s entirely possible the law could protect Nature without conferring rights. But, he says, doing so would lead to a significant rhetorical and conceptual shift, so that a “viable body of law” could emerge, rendering the public more likely to support legislation that protected the environment.

Conceptions of and legal scholarship and advocacy for the rights of Nature are grounded in long-held Indigenous beliefs that the natural world is neither inert matter nor property to own and exploit but is instead a network of kinships among species. This distinction is expressed in what professor and author Robin Wall Kimmerer of the Potawatomi Nation of Oklahoma calls

the “grammar of animacy”: “Of an inanimate being, like a table, we say, ‘*What* is it?’ And we answer *Dopwen yewe*. Table it is. But of an apple, we must say, ‘*Who* is that being?’ And reply *Mshimin yawe*. Apple that being is.”¹¹

As Casey Camp-Horinek of the Ponca Nation of Oklahoma has remarked:

If you drank water this morning or liquids, if you ate of the hooded nations or the four legged; if you breathe; if your body became warm from the fires of the Earth, then you must recognize and understand that there is no separation between humans and Earth and all that are [are] relatives of Earth and the cosmos.¹²

Lawyer Thomas Linzey, cofounder of the Community Environment Legal Defense Fund (CELDF) in 1995, and the Center for Democratic and Environmental Rights in 2019, places Indigenous cosmologies at the heart of the consideration of the rights of Nature, which have had an influence on, or have been paralleled by, other philosophical considerations of our relationship with Nature: such as Deep Ecology,¹³ James Lovelock’s Gaia hypothesis,¹⁴ biocentrism,¹⁵ and the argument by the late geologist and ecotheologian Thomas Berry that Earth isn’t comprised of a collection of objects but rather a community of subjects.¹⁶

In 2002, South African environmental attorney Cormac Cullinan published *Wild Law: A Manifesto for Earth Justice*, which was, in part, a response to Berry’s call. Cullinan, a founder of the Global Alliance for the Rights of Nature (GARN) argued for what he called Earth jurisprudence, a philosophy of law under which “human laws would be designed to ensure that humans act as responsible members of the Earth community.”¹⁷

3: Towards Animal Rights

According to U.S. historian Bernard Unti, animal advocates have employed the word *rights* for three centuries to mean, interchangeably, the right for an animal “not to be abused” and “not to be used.”¹⁸

In parallel to greater environmental awareness, the 1960s saw concern over the use of animals grow. As with environmental or Earth rights, the shift was partly initiated by Rachel Carson, who in 1964 contributed a foreword to Ruth Harrison’s *Animal Machines*. This was the

first book to uncover the industrialization and intensification of the farming of animals and its consequences.

Two decades later, the most substantive contemporary case for animals' possessing the "right not to be used" was elaborated by American moral philosopher Tom Regan in *The Case for Animal Rights* (1983). Regan argued that certain animals, particularly mammals over a year in age,¹⁹ were "subjects of a life," which among other characteristics included, "an individual experiential welfare that is logically independent of their utility for, and the interests of, others."²⁰ This meant that it was immoral to utilize animals for food, fur, scientific experimentation, or sport.

Both Regan,²¹ philosopher Peter Singer (author of *Animal Liberation*, 1975), and subsequent theorists embrace arguments familiar from Stone's essay: that the ability to use language, to express preferences, or even to be a human person are *not* intrinsic to having interests or being a rights-holder. They draw upon discoveries by ethologists and animal psychologists who've observed ever-increasing number of species engaging in complex social behaviors; demonstrating wide-ranging and advanced states of cognition and consciousness; and possessing the ability to plan and deceive, and shape their environments.

Also significantly, given how Stone argues for legal rights for Nature within the construct of the expansion of rights for marginalized people and women, Singer and Regan declare *speciesism* (coined by psychologist Richard Ryder in 1970) illogical and morally objectionable as a reason for discrimination as racism and sexism.²²

4: Property and the Campaign for Nonhuman Personhood: Lessons from the United States

Since the 1980s, lawyers and legal scholars have explored different theoretical foundations for how animal rights could be reflected in modern law. These include Gary Francione's efforts to end the property status of animals,²³ and Cass Sunstein, who observes that the challenge within current law is that anti-cruelty statutes in U.S. state and federal law are unevenly enforced—in that it's impermissible to do to a companion animal, for instance, what's routinely done to farmed animals.^{24,25} As legal scholars Marianne Sullivan and David Wolfson have catalogued, industrial animal farming routinely avoids criminal prosecution for animal cruelty by claiming their activities are "customary," "common," "normal," or "accepted." Or ensuring that, in the

case of their slaughter, poultry (which constitute over 95% of all animals raised for food in the U.S., about nine billion each year) are exempt from federal anti-cruelty laws.²⁶

Achieving personhood status for animals was the goal of the late Steven Wise, who in 1996 founded what became the Nonhuman Rights Project (NhRP).²⁷ NhRP has filed a number of cases in U.S. courts on individual animals' behalf. These lawsuits have two main purposes: to seek redress for harms done to the animals and to test how ready courts are to apply legal principles to animals that have applied only to humans, corporations, ships, and (in India) idols.²⁸

Rather than advocating the nonhuman animal's interest through a human with standing, the NhRP does so through habeas corpus lawsuits. These cases have included a petition on behalf of chimpanzees, Hercules and Leo, kept in a research lab; chimpanzees Tommy and Kiko, confined in, respectively, a cage on a used trailer lot and in a storefront; and Happy, a wild-born Asian elephant living alone in the Bronx Zoo in New York City.

Although Justice Barbara Jaffe of the New York Supreme Court denied the petition for Hercules and Leo, she noted in her ruling that, "Efforts to extend legal rights to chimpanzees are . . . understandable—someday they may even succeed. Courts, however, are slow to embrace change, and occasionally seem reluctant to engage in broader, more inclusive interpretations of the law."²⁹

The court denied Tommy and Kiko's petition and both chimps died in captivity.³⁰ However, Judge Eugene M. Fahey of the New York Court of Appeals (the highest court in New York State), argued that the question of an animal's non-legal personhood posed "a deep dilemma of ethics and policy that demands our attention."³¹

Happy's petition was also rejected by the NY Supreme Court, partially on the grounds that precedent restricted habeas petitions to human beings and partially because, the court stated, current state and federal legal protections *should* have been enough to provide for the elephant's welfare. In other words, the existence of welfare laws (minimal as they were) served to prove that whether Happy had rights or not was immaterial to her well-being.³²

When NhRP appealed to the Court of Appeals, the first U.S. state high court to hear an animal rights case, the Court once again denied the appeal because the procedural vehicle of habeas corpus could not apply to nonhuman animals.³³ In his dissent, Rowan D. Wilson (since 2023 chief judge of the New York Court of Appeals) wrote that the Court should have recognized "Happy's right to petition for her liberty, not because she is a wild animal who is not

meant to be caged and displayed, but because the rights we confer on others define who we are as a society.”³⁴

5: The Campaign for Legal Rights for Animals: Lessons from Latin America and Asia

Courts and legislatures in non-Western countries, particularly in the global South, have been more sympathetic to animals’ independent rights to seek redress, including through habeas corpus.³⁵

Latin America

In 2005, a writ of habeas corpus was filed on behalf of Suíca, a chimpanzee caged at the municipal zoo in Salvador, Brazil. The judge accepted the case to provoke debate about whether an animal could be illegally detained, but didn’t grant habeas corpus, since the chimpanzee died during the hearing.³⁶

There may be potential for advancing animals’ rights in the Brazilian constitution, particularly due to Article 225, para 1, item VII, which “mandates that all practices, which represent a risk to the ecological function, cause the extinction of species or subject animals to cruelty shall be prohibited by law.” According to Brazilian legal scholar Carolina Maciel, Article 225’s provisions allow for animal abuse or harm to be challenged through criminal, administrative, and/or civil proceedings.³⁷

In 2017, the Argentine Association of Professional Lawyers for Animal Rights, which models itself on NhRP, filed a petition for habeas corpus for Cecilia, a chimpanzee in the Mendoza Zoo, who became the first nonhuman animal to be considered a legal person with rights.³⁸ She now resides at the Great Ape Project Brazil’s Sanctuário de Sorocaba.³⁹

Also in Argentina, lawyers brought a constitutional action against the government of the city and zoo of Buenos Aires on behalf of Sandra, an orangutan. The court found that “it is necessary to recognize the animal as a subject of rights,” and Justice Elena Amanda Liberatori told the Associated Press that “the first right that [animals] have is our obligation to respect them.”⁴⁰ Sandra was subsequently moved to a sanctuary in the U.S. state of Florida.⁴¹ However, when in 2017 the Colombia Supreme Court of Justice ruled in favor of Chucho, a 22-year-old spectacled bear, after attorney Luis Domingo Maldonado filed a habeas corpus brief to have

Chucho removed from semi-captivity to a nature reserve, the Supreme Court's Civil Chamber (the ultimate legal authority in Colombia) reversed the decision.⁴²

South Asia

India's courts have issued a number of seminal rulings pertaining to the rights of animals. India's constitution provides the legal basis for a variety of challenges to animals' status, the circumstances of captivity, and their habitats. Among other provisions, its Article 51A places a duty on every citizen to "protect and improve the natural environment, including forests, lakes, rivers and wild life, and to have compassion for living creatures."

In 2000, the Kerala High Court in South India considered a case that challenged the validity of a notification (a formal legal notice)⁴³ banning the training and exhibiting of tigers, monkeys, bears, panthers, and dogs. In its petition, the Indian Circus Federation claimed⁴⁴ that the notification was unconstitutional since it impeded the Federation members' fundamental right to their occupation as guaranteed under Article 19(1)(g) of the Indian constitution. This argument was significant in that it pitted a protective measure relating to animals against a protected human right. The court found against the Federation. It stated that the words "trade" or "business" as used in the article did "not permit [the] carrying on of an activity whether commercial or otherwise, if it results in infliction of unnecessary pain and suffering on the specified animals."

In 2014, an application was filed to stop the practice of jallikattu, a "sport" that involves "bulltaming" and is part of a harvest festival in Tamil Nadu.⁴⁵ The court found that jallikattu violated the relevant cruelty law and extended Article 21 of the Indian Constitution (Protection of life and personal liberty) to animals. The decision was appealed, and in May 2023, jallikattu was deemed legal, albeit with stricter animal welfare safeguards, based on 2017 animal welfare legislation.⁴⁶

In 2015, the Delhi High Court (the highest court in the state) ruled that the practice of trading caged exotic birds violated their "fundamental rights, including the right to live with dignity and they cannot be subjected to cruelty by anyone."⁴⁷ Despite the sweeping judgment, indigenous and other birds continue to be trapped and sold in cages in Delhi markets and along the roadside. Advocates note the public's lack of awareness of either the court's ruling or the provisions of the Wildlife Protection Act of 1972, and the ongoing challenge of enforcement.⁴⁸

In 2018, the High Court in Uttarakhand, a state in northern India, issued a comprehensive judgment on nonhuman personhood and legal rights for animals, writing: “The entire animal kingdom including avian and aquatic are declared as legal entities having a distinct persona with corresponding rights, duties and liabilities of a living person. All the citizens throughout the State of Uttarakhand are hereby declared persons in loco parentis as the human face for the welfare/protection of animals.”⁴⁹ (In 2019, the Punjab and Haryana High Court ruled on a 2004 case relating to the transportation of cows,⁵⁰ quoting the Uttarakhand High Court’s text verbatim.”

The Uttarakhand and Haryana cases led the People’s Charioteer Organization, an Indian NGO that campaigns for civil rights, health, and environmental issues to file a public interest lawsuit in 2020 with India’s Supreme Court to make a formal declaration that the country’s entire animal population were legal persons that required all citizens to stand as their legal guardians to protect them from cruelty and promote their welfare.⁵¹

The potentially groundbreaking case, perhaps not surprisingly, was dismissed by the Court. Yet, in 2013, the federal government in India recognized dolphins as nonhuman persons with their own specific rights, and as a result, required state governments to ban dolphinariums and any capture or confinement of dolphins and orcas.⁵²

In neighboring Pakistan, in July 2020, the Islamabad High Court issued a ruling affirming the rights of animals, and ordered the release of Kavaan, an Asian elephant held in captivity at Islamabad’s Marghazar Zoo.⁵³ Chief Justice Athar Minallah held no doubts that animals had legal rights, and his wide-ranging decision is widely quoted by lawyers outside of Pakistan seeking to advance legal rights for animals. He concluded: “It is a right of each animal, a living being, to live in an environment that meets the latter’s behavioral, social, and physiological needs.”⁵⁴ Kavaan was released to a wildlife sanctuary in Cambodia.⁵⁵

6: Animal Rights, Law, and Politics

Constitutions, the most fundamental embodiment of public law,⁵⁶ hold the potential to enshrine the highest level of legal rights for animals. Many countries have protections within their legal systems against cruelty toward animals. However, only eight countries have written *constitutional* provisions that treat animals with what Jessica Eisen, a professor of political

science and human rights at the University of Alberta, terms “intrinsic constitutional concern,”⁵⁷ although that doesn’t mean better policies and structures for animal protection *per se*.⁵⁸

Some constitutional protections result in unexpected outcomes, as sociopolitical realities intrude on what might be humane intentions. In 2002, Germany changed the environmental clause (Article 20a) of its constitution⁵⁹ to include animals. Almost immediately, this provision was embroiled in controversy when it was used to prosecute a Muslim *halal* butcher of Turkish descent.⁶⁰ The prosecution’s line of argument uncomfortably evoked Germany in the 1930s, when the genocidal, anti-Semitic Nazi government banned *kosher* slaughter, arguing that it was cruel to animals.⁶¹

In India, too, legal protections for animals have been used to persecute people. Cows are considered sacred by Hindus, even though India is a significant producer and exporter of meat from buffaloes and cows, as well as dairy products. The “protection” of “Mother Cow” is a rallying call for Hindu nationalists, who’ve attacked and even killed Muslims, Adivasi (Indigenous groups), and Dalits (low-caste Hindus)⁶² they accuse of disrespecting Hindu traditions by trading or slaughtering cattle.⁶³ As a result of religio-nationalists claiming the mantle of animal protectionism, some progressive individuals and organizations, as well as Brahmin Hindus, who might otherwise have practiced vegetarianism, have begun to eat beef to protest *hindutva* political violence.⁶⁴

Although there’s no evidence that advocates as a whole exploit ethnoreligious tension to further animal welfare or enforce (some) animals’ rights not to be killed or traded, sociologist Erin Evans writes that “[t]he intentions of activists can easily be subsumed by the context.”⁶⁵

For instance, in 2022, Chileans rejected a new, progressive constitution that would have recognized the rights of both Nature and animals.⁶⁶ Rising inflation and the economic downturn following the COVID pandemic turned the vote into a referendum on the current government rather than a relatively non-partisan exercise. In 2023, another constitutional draft was put to a referendum, this time drafted by a coalition of right-wing parties. Although the second draft was also rejected, it contained provisions on the rights of Nature and animals. The inclusion of animals happened due to private lobbying and public meetings between the politicians drafting the text and Macarena Montes Francheshini, a Chilean lawyer, author of *Animal Law in Chile*, (more about her work, below). Although the term *sentience* was omitted, Montes Francheshini

notes the inclusion of animals, “was still a victory for the movement. We can now argue that animals are relevant to both the left and the right.”⁶⁷

Beyond the Rights Framework

Legal theories regarding nonhuman personhood and establishing (some) animals’ rights in a court of law have met with limited success over the last three decades, especially in the U.S. During that time, some scholars have argued that rights or sentience paradigms are inadequate to address human obligations to animals. Instead, they ask whether alternative philosophical, social, and political structures might offer a securer pathway to justice for animals.

Ecofeminist scholars,^{68,69} have critiqued the over-privileging of abstract argument in considering animals’ rights, and contended that the inherent dignity of the animal, and individual entangled relationships between, among, and within species, including our own, provide a valuable empathic structure for humans to exercise our obligations and responsibilities toward other animals appropriately.

patrice jones, cofounder of VINE, a farmed animal sanctuary she helps run in the U.S. state of Vermont, has observed animals as agents of their own communities—making choices, asserting preferences, resolving conflicts, and determining interfamilial and interspecies arrangements that revise customary language around animals as victims, aggressors, or dependents.⁷⁰ The growing scholarly literature on animal resistance—when animals escape confinement, elude capture, or stymie efforts to slaughter them—serves to suggest that animals, in some circumstances, assert their natural rights even when denied legal ones.⁷¹

Canadian political theorists Sue Donaldson and Will Kymlicka recognize that “negative” rights for animals (i.e., a right not to be harmed) are necessary, but argue that animals should possess “positive” ones, based on “relational duties of care, accommodation, or reciprocity.”⁷² They present a theory of citizenship in which animals possess certain rights commensurate with their biological and social niche, just as people can be organized as citizens, denizens, or sovereign nations.⁷³

Other theorists explore the rights certain animals might obtain if considered through Indigenous legal systems. Canadian law professor Angela Fernandez argues that under such systems, “there’s no question that non-human animals are persons.” She suggests resisting the binary of person or property under the law, and argues for terms like *quasi-property* or *quasi-*

personhood as more flexible (and currently more socially acceptable) markers of difference—ones that could encourage humans to shift their societal and legal conceptions of animals from property toward personhood.⁷⁴

Maneesha Deckha, law professor at the University of Victoria, argues that seeking personhood for animals will fail because “personhood was reserved for an elite sector of humanity: white, able-bodied, cisgender heterosexual men of property.” Concentrating on seeking legal standing for “higher status” animals like great apes, cetaceans, and elephants is limiting, Deckha writes, since it “inevitably highlights the differences and putative inferiority of the excluded animals.”⁷⁵

Like Fernandez, Deckha notes that Indigenous legal systems—particularly in Canada, with federalized judicial structures sitting alongside Indigenous self-governance—present challenges and opportunities for the rights of animals. Statutes that emerge from provincial or federal parliaments in Canada, she notes, “would need to grapple with the fact that there are other legal systems in the nation as a whole that don’t see animals just as property or just presume that they’re just mere resources all the time.”⁷⁶

In questioning the political and racial dimensions of Aristotle’s *scala naturae* or “great chain of being” that places humans at the top of a natural hierarchy, Deckha’s scholarship aligns with U.S. Black vegan theorists Syl and Aph Ko. They argue that animal liberation won’t be obtained unless the racialized, gendered, and animalized hierarchies and binaries of who’s conferred rights and by whom that have characterized Western intellectual and political discourse from Ancient Greece through the Enlightenment to today are acknowledged and dismantled. As such, the aim shouldn’t be to move (some) animals a few rungs up the ladder of rights-holders, but to dismantle the ladder entirely.⁷⁷

7: Legitimacy for Nature’s Rights—Latin America

A growing number of countries, nations, and communities have recognized Nature’s rights through legislation, court rulings, agreements, declarations, community ordinances, and/or bills of rights in Europe, the Americas, Africa, Asia, and Australasia.⁷⁸ Some actions have been symbolic; others have created enforceable means of protection. Some have fared well when adjudicated against the rights of corporations or individual complainants; others have been struck down or reversed. Some of the most far-reaching cases have occurred in countries with

significant Indigenous populations, and where Indigenous cosmologies are understood and respected (to varying degrees) by non-Indigenous people and governing bodies.

Ecuador: New Constitution, New Rights, New Challenges

In 2008, Ecuador became the first country to recognize the rights of Nature in its constitution and to offer Nature legally binding protections. According to the constitution's text, "Nature, or Pacha Mama, where life is reproduced and occurs, has the right to integral respect for its existence and for the maintenance and regeneration of its life cycles, structure, functions, and evolutionary processes."⁷⁹ Significantly, the constitution added rights of enforcement.

Ecuador's rights of Nature provision sets out a mandate of intergenerational responsibility, whereby the satisfaction of the needs of today cannot compromise "the capacity of future generations to satisfy their own,"⁸⁰ thereby implying that Nature possesses intrinsic rights that aren't conditional on whether humans benefit or don't, now or in the future.⁸¹

The new constitutional provision was tested in March 2011, when an appellate judge in a provincial court agreed with human plaintiffs acting on behalf of the Vilcabamba River to stop a road-widening project that was dumping rocks and other detritus into the river.⁸² The decision in essence placed the river's rights above the government's interest in improving a highway for the general human population and imposed the burden of proof on the government to demonstrate the road-widening would not negatively affect the environment.⁸³

The government in Ecuador also launched the Yasuní ITT Initiative in 2007 to protect Indigenous lands, conserve biodiversity, and slow greenhouse emissions by leaving untapped the oil reserves of the Ishpingo-Tambococha-Tiputini (ITT) oil field in Yasuní National Park. Some years later, however, the initiative was abandoned and drilling licenses were issued, threatening the Cofán and Waorani peoples. Both the Cofán⁸⁴ and Waorani⁸⁵ have struggled to protect their lands from oil companies, the government, and people set on plunder. Using the constitution's rights of Nature provision, they each filed successful lawsuits.^{86,87} The legal victories for rights of nature and their rights have fortified their resistance.⁸⁸

In December 2021, the Ecuadorian Constitutional Court found that activities pursued by mining companies threatened the Los Cedros Biological Reserve's right to exist and flourish.⁸⁹ Mining licenses were revoked and extractive activities within the reserve prohibited.⁹⁰

Bolivia: “The Law of Mother Earth”

With an Indigenous population of over 40%,⁹¹ Bolivia has been active in promoting Nature’s rights and in 2010 passed “Ley de Derechos de Madre Tierra” (“Law of Mother Earth”), which granted rights similar to those in Ecuador’s constitution.⁹²

An opportunity to use the Law of Mother Earth surfaced almost immediately. In 2011, protests erupted over a highway slated to run through the Isiboro Sécure National Park and Indigenous Territory (TIPNIS), potentially opening it up to development and despoliation.⁹³ In keeping with the Law of Mother Earth, then-president Evo Morales suspended the construction of the highway. However, six years later, Morales approved plans to begin construction, and disparaged industrialized countries’ “colonial environmentalism,” which, he said, sought to deny Indigenous communities health care, roads, and electrification.⁹⁴ The TIPNIS case illustrates how a constitutional provision can be held hostage to switching political allegiances and perceived conflicts between economic development and protecting the environment.⁹⁵

Colombia: Not Just Hippos

Colombian courts have also adjudicated on a handful of nature’s rights cases. In 2016, Colombia’s constitutional court ordered that the Atrato River, its basin, and tributaries be considered “an entity subject to rights of protection, conservation, maintenance, and restoration by the State and ethnic communities.”⁹⁶ Subsequent rulings have recognized legal rights for additional rivers, basins, and their tributaries. Courts have also recognized as a subject of rights the Colombian Amazon (2018); Páramo in Pisba, a high-altitude Andean ecosystem (2018); and Los Nevados National Natural Park (2020).

In 2021 a U.S. federal court ruled that the hippos drug lord Pablo Escobar imported to Colombia from the U.S. could be recognized as “interested persons” with legal rights. The Colombian government defined them as an “invasive species” that posed threats to ecosystems and should be culled. The U.S.-based Animal Legal Defense Fund sued to prevent the cull in favor of a program of sterilization. The court required depositions be taken with experts in the sterilization of wild animals.

The Colombian government committed to a strategy of sterilizing, relocating, and in some cases, euthanizing (using an “ethical” protocol), the approximately 170 hippos

concerned—all descended from the originally imported four.⁹⁷ Since U.S. courts haven't granted rights to animals, the judgment could be seen as a legal breakthrough, albeit a narrow one.⁹⁸

8: Legitimacy for Nature's Rights—From New Zealand to Asia, Africa, and Europe

Aotearoa New Zealand: Rights of the Whanganui River

Aotearoa New Zealand (ANZ) became the first country in the world to grant legal personhood to a part of nature in 2014 when Parliament passed the Te Urewera Act. This vested a former national park and its lakes, forests, trails, and existing structures as its own legal entity and it's now recognized in ANZ law as a “living person.”⁹⁹ According to the legislation, Te Urewera will own itself in perpetuity, with a board that will “act on behalf of, and in the name of, Te Urewera,” and “provide governance for Te Urewera in accordance with this Act.”¹⁰⁰

While groundbreaking, the agreement differs significantly from rights of Nature provisions in Ecuador and Bolivia. The Te Urewera Act only specifies one particular entity, a waterway, as a nonhuman person with rights. The river has two appointed guardians—one from the Whanganui River people and one from the government—along with money to develop a legal framework.¹⁰¹ The river's “personhood” is actively supported and has a NZ\$30 million government fund and investment from stakeholders, including the federal and local government, tourism representatives, and hydropower operators.¹⁰²

Perhaps most significantly, the Te Awa Tupua Act legally binds the river to the Whanganui *iwi*; in other words, harming the river is now automatically equated with harming the Whanganui *iwi*.¹⁰³ As of writing, no lawsuits have been filed on behalf of the Whanganui River. And, as with the TIPNIS case, a change in national leadership, in this case the election of a conservative coalition in New Zealand in late 2023, may pose challenges that may not affect the Whanganui River decision directly but could threaten ANZ's continued commitment to far-reaching environmental policies and protections as well as Nature's rights.¹⁰⁴

India and Bangladesh: The Rights of the Ganges, Yamuna, and Turag Rivers

The success in ANZ has paralleled movements to grant personhood to rivers elsewhere—most notably, the Ganges and Yamuna, which were granted personhood only a few days after the Whanganui received its legal rights.¹⁰⁵

In April 2017, the High Court in the northern Indian state of Uttarakhand, acting in response to a case brought by the National Ganga Rights Movement working with the CELDF,¹⁰⁶ declared that the Ganges and Yamuna rivers, the Gangotri and Yamunotri glaciers, and all “streams, rivulets, lakes, air, meadows, dales, jungles, forests, wetlands, grasslands, springs, and waterfalls” in Uttarakhand were legal entities, thus essentially bestowing personhood on entire ecosystems.¹⁰⁷

The High Court stated it hoped its ruling would prevent illegal construction on the rivers’ banks and solve complex water distribution issues between Uttarakhand and the nearby state of Uttar Pradesh. However, the Uttarakhand state government appealed the ruling to India’s Supreme Court, arguing that the rivers extended far beyond the state’s jurisdictional responsibilities. In July 2017, the Supreme Court reversed the High Court’s ruling.¹⁰⁸

A notable exception to the judicial reversal in India is a ruling from the High Court in neighboring Bangladesh, which in 2019 accorded the Turag River the status of “legal person,” and declared that this status applied to all rivers across the country, a decision subsequently upheld by the Supreme Court. The National River Conservation Commission, established in 2014 following an order of Bangladesh’s High Court in 2009, was charged with serving as the Turag’s legal guardian.¹⁰⁹

Despite its new legal status, the Turag faces many challenges, including serious pollution.¹¹⁰ Also still to be navigated are long-term strategies for balancing the river’s rights with the needs of various constituencies that use the river. These include farmers, hydropower projects, and communities affected by riverbank erosion and flooding.¹¹¹

Africa: Nigeria and Uganda

Sub-Saharan Africa, too, has enacted Nature’s rights provisions. In 2018, the River Ethiope in Delta State, Nigeria, secured recognition of its rights, as a result of efforts by a partnership between the River Ethiope Trust Foundation, a local organization, and the U.S.-based Earth Law Centre (ELC). It’s the first waterway in Africa to be accorded rights.¹¹² In 2019, Uganda updated its environmental laws to declare that “Nature has the right to exist, persist, maintain, and regenerate its vital cycles, structure, functions, and its process in evolution.”¹¹³

Europe: The Mar Menor

In 2022, the Mar Menor ecosystem in Spain was granted legal personhood and the right “to exist as an ecosystem”—the first rights of Nature legislation in Spain and first law of its kind in Europe.¹¹⁴ Mar Menor contains the largest saltwater lagoon in Europe, which is threatened by pollution from agricultural runoff and accelerating tourist infrastructure. Law professor and Goldman Environmental Prize winner Teresa Vicente, with her students, developed a plan to protect the lagoon through Spain’s popular legislative initiative (ILP), which allows new legislation to be proposed directly to parliament. To support the effort, more than 500,000 signatures were gathered from Spanish citizens, and the Senate voted the bill into law.¹¹⁵ The law establishes three new legislative bodies to ensure enforcement of the ecosystem’s rights, comprised of government representatives, scientists, and citizens.¹¹⁶

9: Nature’s Rights among First Nations

Many First Nations in the U.S. have added rights of nature provisions to tribal constitutions and advanced (or sought to) rights of natural entities through legal cases in both tribal and U.S. courts.

In 2016, the Ho-Chunk Nation (Wisconsin) became the first in the U.S. to recognize and protect the rights of Nature through an amendment to its tribal constitution.¹¹⁷ In 2017, the Ponca Nation (Oklahoma) passed a customary law doing the same.¹¹⁸ This law established a right to clean air and water, and a habitable climate without pollutants, contaminants, and radioactive or toxic waste.

In 2020, the Menominee Indian Tribe (Wisconsin) issued resolutions recognizing the rights of the Menominee River, and the Nez Perce Tribal General Council (Idaho) did the same with the Snake River.^{119,120} In 2022, the Sauk Seattle Tribe (Washington) brought a suit that asserted the rights of the salmon (Tsuladxw) in the Skagit River.¹²¹ The suit was settled in 2023 with the city of Seattle committing to creating passageways for the salmon to avoid the Skagit River dams.¹²² (In 2023, the city of Port Townsend in Washington State declared inherent rights for endangered orcas that swim in the Salish Sea.¹²³)

In 2018, the White Earth Ojibwe band of the Chippewa Nation (Minnesota) brought an innovative lawsuit to stop extractive industries from damaging a traditional crop (wild rice, or manoomin), sacred to the band’s culture, along with and the larger ecosystems on which it—and the Nation—depend. The Nation’s 1837 treaty with the U.S. government guaranteed rights to

hunt, fish, and gather on ceded territory.¹²⁴ Because manoomin was explicitly mentioned in the treaty, the White Earth argued that securing its protection and legal personhood was a right afforded by the treaty.¹²⁵

In 2022, the White Earth Court of Appeals ruled against the Tribal court on grounds of lack of jurisdiction and past precedent.¹²⁶ Despite this outcome, legal scholars Elizabeth Kronk Warner and Jensen Lillquist argue that “rights of Nature provisions adopted by Tribes stand a greater chance of withstanding legal challenge than provisions adopted by municipalities”, providing new possibilities for collaboration and experimentation between tribal and non-tribal parties.¹²⁷ Chippewa Nation lawyers are preparing future filings on rights of manoomin, rights of nature, and have proposed fixes to the jurisdiction, code, and appellate court rules.

In 2019, the Yurok Tribal Council (California) established through a resolution the legal personhood of the Klamath River to “exist, flourish, and naturally evolve to have a clean and healthy environment free from pollutants.”¹²⁸ The Klamath was the first river in North America to be acknowledged as rights-bearing.¹²⁹

10. Municipal Ordinances for Nature’s Rights and Natural Entities

A number of cities and municipalities in the U.S. have recognized Nature’s rights through local ordinances voted into law by citizens and city councils (e.g., Pittsburgh, Toledo, and Orange County in Florida, among others), starting in 2006. Many of these were initiated or assisted by lawyers at the Community Environmental Legal Defense Fund (CELDF). Some have withstood legal challenges; others haven’t. In general, though, these ordinances have met with limited success, as lawsuits (and judges) have disputed jurisdictional boundaries, claimed unconstitutional overreach, and criticized some ordinances’ vague language.

Outside of the U.S., other municipal-level efforts have granted forms of personhood to nonhuman life. In 2017, Mexico City passed a new constitution that included a rights of Nature provision;¹³⁰ in 2018, Brazil’s Municipality of Paudalho enacted a rights of Nature law;¹³¹ in 2020 the Blue Mountain Council of New South Wales, Australia, resolved to integrate the rights of Nature into its municipal planning and operation;¹³² and also in 2020, Curridabat, a suburb of San José, Costa Rica’s capital, recognized bats, bees, and butterflies as “citizens,” along with trees and native plants..¹³³

11: Animals Protected within Rights of Nature Frameworks

Species Protections and the Rights of Nature

Wild animals have also been protected by rights of Nature provisions, and efforts have been undertaken or are underway to link species protection to conservation of ecosystems, in ways that intersect with rights claims.

Apes have been the subject of initial campaigns to secure individual rights as persons for animals,^{134,135} and within the rights of Nature: making their rights and well-being a natural point of convergence for the two movements. The use of great apes in animal testing and research was banned in the U.K. in 1986, Aotearoa New Zealand in 1999,¹³⁶ and in 2013, the E.U.¹³⁷

Pollinators, and insects in general, are becoming increasingly recognized for their complex social lives,¹³⁸ the essential role they play in food systems,¹³⁹ and the dramatic decline in many species' populations due to climate change, pollution, insecticides, and habitat loss.¹⁴⁰ The Manitou Pollinators of Manitou Springs, Colorado are joining with the Center for Democratic and Environmental Rights to establish the first rights of pollinators ordinance for their county.¹⁴¹

Several recent examples of protections for cetaceans, as individuals and as species, using rights of nature frameworks have been successful.¹⁴² In March 2024, Indigenous leaders in Tahiti, the Cook Islands, and Aotearoa New Zealand signed a treaty that recognizes whales as legal persons. The treaty is expected to result in new protections to safeguard whales from vessel strikes and entanglements with fishing gear, plus legally enforceable penalties for harms committed.¹⁴³

When Panama passed a rights of Nature law in 2023 to protect leatherback turtles from drowning in fishing nets or their eggs being poached, the law's implementation involved the leadership of the Guna people. Ignacio Crespo, founder of Fundación Yaug Gulu, and a Guna himself, told the *Washington Post*: "The Gunas always say that the turtles were once human beings. They are our brothers and sisters that live in an immense mysterious ocean."¹⁴⁴

Estrellita

A seminal decision from Ecuador's Constitutional Court provides an excellent example of how the rights of Nature and animals can converge through collaboration between movements in bringing joint cases or filing amicus briefs. In 2022, the Court heard the case of Ana Beatriz

Burbano Proaño, who'd filed an action for habeas corpus on behalf of Estrellita, a *chorongo* monkey who'd lived with her for eighteen years, after being purchased at a wildlife market.¹⁴⁵

Authorities seized Estrellita from Ana on the grounds that possessing a wild animal is illegal in Ecuador, a prohibition stemming from its rights of Nature provision. The court selected the case, first, to examine the scope of the rights of Nature and assess whether it would cover the protection of a specific wild animal—one under human control; and second, to review whether, in her initial abduction from the wild, Estrellita's rights of Nature had been violated, and determine if the case could lead to the development of guidelines for how constitutional guarantees might be applied in favor of wild animals.

Recognizing the case's potential precedents, lawyers and legal scholars from the NhRP and Harvard Law School in the U.S. filed amicus briefs with the court, arguing that animals could be subjects of rights; writs of habeas corpus could be appropriate for animals; and animals could be designated subjects of rights protected by the rights of Nature.

In its February 2022 decision, the Constitutional Court found for Estrellita. The court's ruling noted the preamble to the Ecuadorian constitution acknowledging Nature, or Pacha Mama, established a "new form of citizen coexistence, in diversity and harmony with nature, to achieve a good way of living, the *sumac kawsay*" (a Quechua expression that roughly means "good living").¹⁴⁶ Further, the court stated, the constitution established a duty upon all Ecuadorians to "respect the rights of Nature, preserve a healthy environment, and use natural resources in a rational, sustainable, and ecological manner."

The court enumerated a robust range of rights for animals and recognized multiple violations of Estrellita's bodily and mental integrity.¹⁴⁷ Although the habeas corpus statute was unavailable to Estrellita, since she'd died before the trial, the court indicated that habeas corpus *could* be an appropriate action for animals and that they may possess rights that derive from sources other than the constitution. To that end, the court explored the "Interspecies Principle," which it said allows for rights that can only be guaranteed in relation to unique or exclusive properties of a species—for example, the right to respect and the right to have areas of distribution and migratory routes conserved.

The court ordered the Ministry of Environment to develop a protocol to assess the circumstances and needs of captive wild animals to guarantee their protection, and ordered the

Congress to prepare and approve a bill on the rights of animals, based on the rights and principles developed in the ruling.

Peruvian legal scholar Marcia Condoy Truyenque noted that the sweeping rights enumerated by the court don't extend to *all* animals—such as those used by humans (including those bred for food), captured for conservation, or invasive species.¹⁴⁸ Nonetheless, she observes, the application of the language of rights for *individual* wild animals within the context of natural systems, “is an achievement for animals given the strong symbolic value that the language of rights has in Western political culture.” Furthermore, she argues, “a future recognition of rights for animals based on sentience, intrinsic value, dignity, or another legal foundation different from the Rights of Nature framework could overcome the aforementioned defects” of the judgment.

Harvard Law's Macarena Montes Francheshini and Kristen Stilt, who wrote the amicus brief, state: “We believe it is just a matter of time before the rights of Nature are used to argue against the exploitation of an even broader range of animals.”¹⁴⁹

12: Rights of Nature and Animal Rights: Critiques and Challenges

The language and effect of rights of Nature statutes, provisions, and declarations have been criticized by some legal and environmental ethics scholars. One critique is that rights language cannot apply in legal situations, as neither Nature nor animals can be violators of others' rights and no other living entity apart from a human understands rights or comprehends what it means to be a rights-holder.¹⁵⁰ Other critiques take different forms—from those who think they aren't radical enough, to those who consider them impracticable, lacking in merit, or even nonsensical.^{151,152,153,154,155}

Granting fundamental rights to certain animal and plant species could have enormous repercussions for how humans eat, clothe, and entertain themselves. They could impinge on the rights of nonhuman predators and the religious or cultural rights of Indigenous communities.^{156,157} Rights of Nature mandates could curtail the rights of “invasive” species to “flourish”: such as feral pigs in the U.S.,¹⁵⁸ lionfish in the Caribbean,¹⁵⁹ or spotted lanternflies in

the U.S.¹⁶⁰ After all, these animals, precisely *because* they're flourishing, may compromise the integrity of ecosystems *and* negatively impact native animal species in those ecosystems.

One active example of these rights in conflict is in Aotearoa New Zealand (ANZ). Alongside establishing rights of Nature for the Whanganui River, its government has set out to eradicate all invasive species—including rats, opossums, and stoats—from the nation by 2050.¹⁶¹ (Feral cats are also targeted through culling “contests.”)¹⁶² The government argues removing non-native predators will protect native species of birds, reptiles, and invertebrates.¹⁶³ Maori communities are involved in this endeavor.¹⁶⁴

Such contradictions beg a larger question (“What is natural?”) behind rights of Nature and animal provisions, particularly as Nature becomes more stressed, diseases spread, and more people migrate within nations, into cities, and across borders and oceans due to the climate crisis. Ever since the Holocene, humans have domesticated, transported, and dramatically altered animals, plants, and ecosystems?^{165,166} As some animal rights advocates and some environmentalists would add, cows, horses, rats, and human settlers were, and remain, “invasive species.” Indeed, neither the ANZ government nor rights of Nature advocates (at least yet) are calling for the eradication of the country's non-native sheep, which number 25 million and are responsible for destroying or degrading habitats for many species of plants and animals.^{167,168}

A challenge to cooperation between the movements also exists in the assigning of rights to animals without traits humans find admirable or even measurable, or those commonly considered suitable as food or clothing.¹⁶⁹ Clearly, there's a strategic advantage, given the anthropocentric nature of courts of law and systems of jurisprudence, to bring cases on behalf of animals typically considered members of human families, who look or act like humans, or possess qualities we consider admirable, in a manner we can appreciate.

Yet stark sociopolitical realities for advocates of animals remains. NhRP's legal filings stressed no larger legal or policy ramifications beyond the wish to free *individual* animals from their *particular* situations. However, the implications of NhRP's petitions weren't lost on the industries who profit from animals' confinement. (Nor on supporters of animal rights.) To admit that one mammal or cetacean possesses nonhuman personhood based on “complex cognitive abilities” is to open the possibility of bringing cases for the species as a whole, and/or other species who might have similar “abilities,” such as cows, pigs, chickens, octopuses, or salmon.

One philosophical divide between advocates for the rights of animals and those for Nature, therefore, is between animals who are “wild” by nature and livestock and their feral cousins, who aren’t. This isn’t only because the latter are categorized as domesticated (and therefore “unnatural”) but because *all* societies (whether Indigenous or industrialized) remain committed to farming or eating them.

13: Towards an Inclusive, Rights-Based Approach for Animals and Nature

A set of priority issues where scholars, lawyers, theorists, and advocates could—and should—collaborate to address the most urgent challenges posed *right now* to animals and Nature, which also offer the potential for legal success and significant positive outcomes for ecosystems, natural entities, species, individuals, and human communities, are these:

a. Industrial Animal Agriculture

The considerable impacts of industrialized animal agriculture on global greenhouse emissions,¹⁷⁰ potable water use,¹⁷¹ Earth’s arable land,¹⁷² and deforestation and biodiversity loss,¹⁷³ are widely known. Industrial animal agriculture degrades carbon sinks,¹⁷⁴ causes forest fires,¹⁷⁵ and leads to the “grabbing” of territory belonging to local communities and Indigenous nations.^{176,177}

Animals in Concentrated Animal Feeding Operations (CAFOs), aka factory farms, produce vast amounts of excrement, laden with antibiotic residues and other chemicals, which are stored in large “lagoons” that can leak or overtop in storms, and pollute waterways, wells, and rivers.¹⁷⁸

The livestock industry also drives government and private (usually illegal) efforts to “control” wild predators through killing or relocation. In Brazil’s Cerrado, jaguars are resituated to make way for soybean fields or cattle grazing; some are shot by ranchers and farm operators. In 2021, the U.S. Wildlife Services office killed more than 1.75 million animals by gassing, trapping, and shooting—mostly to protect ranching and farming interests.¹⁷⁹

Given its multivalent harms, industrial animal agriculture violates the rights of ecosystems; natural entities like rivers; billions of animals, both domesticated and wild; and the rights of humans to a healthy and safe environment in which to work and live.¹⁸⁰

b. Industrial Fishing and Aquaculture

Increased awareness of the sentience of cephalopods,^{181,182} sharks,¹⁸³ and many species of fish,¹⁸⁴ as well as the essential role of phytoplankton as the base of the marine food chain and in storing carbon,¹⁸⁵ or the importance of tuna as top-chain predators in the oceanic trophic cascade,¹⁸⁶ is forcing scientists, policy makers, and others to recognize that Earth's oceans aren't bottomless repositories of renewable animal protein, but essential carbon sinks,¹⁸⁷ critical climate regulators, and complex and interconnected homes for invaluable biodiversity.¹⁸⁸

Nonetheless, oceans and their fauna are polluted with toxic chemicals: runoff from agricultural pesticides and fertilizer, and microplastics.¹⁸⁹ Thirty-five percent of all fish stocks are overfished,¹⁹⁰ and the UN Food and Agriculture Organization (FAO) estimates that at least 500,000 marine mammals are caught and killed as fishing industry "bycatch" each year.¹⁹¹ This may be a significant undercount since, as the World Bank notes, commercial ocean fishing can be "illegal, unreported, unregulated, and destructive."¹⁹²

It's also polluting. In addition to emissions from fossil fuel-powered vessels, Greenpeace estimates "more than 640,000 tonnes of nets, lines, pots and traps used in commercial fishing are dumped and discarded in the sea every year."¹⁹³ The North Atlantic Right whale is on the verge of extinction through entanglements in fishing gear and collisions with ships.¹⁹⁴

Aquaculture is now responsible for over half of all the "seafood" that humans eat.^{195,196} At least 550 species, from bivalves to blue fin tuna, are now farmed.¹⁹⁷ Like its terrestrial equivalent, aquaculture is dependent on antibiotics to keep densely packed fish at least moderately healthy. Routine overcrowding can result in pollution, diseases that affect farmed *and* wild fish, and mass die-offs.¹⁹⁸ About 70% of salmon consumed around the world are raised on farms, where mass mortality events are not uncommon.¹⁹⁹

Aquaculture-raised fish consume almost 60% of all fish meal and four-fifths of fish oil produced,²⁰⁰ with 70% of fish meal and oil coming from pelagic (open ocean) fish.²⁰¹ At least 30% of pelagic fish are used to feed pigs, chickens, and other fish.²⁰² Those not being fed with animal byproducts are, like land animals, eating soybean meal.²⁰³

Industrial fishing and aquaculture violate the rights of Nature by polluting the environment and interrupting species' lifecycles, while also suppressing the rights of wild marine animals, wild-caught fish, and farmed fish themselves.

c. Preventing Pandemics and Zoonoses

As of writing, the COVID-19 pandemic has infected more than 775 million people and killed more than seven million.²⁰⁴ Although how the virus emerged remains unknown, a 2023 study concluded, as early reports had indicated, that a market in Wuhan, China was an early locus of transmission, and raccoon dogs, who were on sale there, were the likely vector species.²⁰⁵

Overwhelming evidence shows that when humans put wild and domesticated animals in close proximity (in often stressful conditions,²⁰⁶ as was the case in the Wuhan market), diseases spread among animals and subsequently to humans.²⁰⁷

Approximately two-thirds of infectious diseases in humans come from animals, and 70% of those originate in wildlife.²⁰⁸ Zoonoses (bacteria, parasites, or viruses that jump from an animal to a human)²⁰⁹ are also transmitted among other animals. African swine fever²¹⁰ and avian flu²¹¹ have infected farmed animals of the same species. By May 2024, avian flu was affecting the U.S. food supply, and had spread to cows in the dairy industry, domestic cats, and marine mammals.^{212,213}

If only for a concern over public health among humans and to prevent the next pandemic spreading even more easily and more lethally, the incursion into and exploitation of ecosystems, the mixing of wild and domesticated animals in food markets, and intensive animal agricultural practices must be curtailed or, preferably, ended. Unless humans acknowledge and respect the rights of Nature and animals, and the natural boundaries between us, disease outbreaks among both humans and animals will become more frequent and more catastrophic.

Zoonoses are also a concern in the wildlife trade. Mortality rates during capture, transport, and sale are high. When hunters, poachers, or traffickers encroach on wildlife habitats and capture and ship animals to urban centers for trading, they spread disease. Scientists believe the wildlife trade is the cause of the HIV virus²¹⁴ and Ebola.²¹⁵ These, as well as other zoonoses,²¹⁶ such as COVID-19 have killed millions of people over the last four decades.

The wildlife trade, legal or illegal, isn't adequately policed. It continues either because economic, logistical, medicinal, nutritional, and cultural reasons keep it from being banned, or existing laws aren't enforced or unenforceable. The animals' rights are violated, their species community is disrupted by the removal of each individual, and ecosystems are depleted and biological processes interrupted.²¹⁷

Stopping the trade in wildlife and protecting forests, grasslands, and other terrestrial and marine ecosystems supports the rights of Nature, animal rights, and the human right to health—both locally, among affected communities, and internationally when diseases spread.

d. Ending Captivity for Keystone Species

Keystone species (such as elephants, cetaceans, great apes and other primates, big cats, and bears) have a disproportionate impact on an ecosystem, such that if they were absent or removed, the ecosystem would change significantly. Not only are these species and their habitats threatened by agricultural expansion, extractive industries, poaching, trafficking, hunting and wildlife “control” programs, and the climate crisis, but tens of thousands of them populate zoos, aquariums, wildlife and marine “parks,” private menageries, and circuses. Tens of millions of parrots, also a keystone species, are confined, most in situations that cannot meet their needs or interests.²¹⁸

Most animal advocates would term these animals and birds *captives*; as such, they should be freed, ideally to their original homes or as close to them as possible. If not, they should inhabit well-run sanctuaries that provide them with as many features of their “natural” lives as possible.

One area of intersection could be extending rights of Nature for ecosystems and the species within them, thus breaking down artificial distinctions between a wild animal and a wild animal under human control. Thus, for example, keystone species and their habitats would be protected *wherever* their habitat is. Captive individuals of each species would be released, and no new animals caught in the wild or born in captivity would be subject to a life in captivity.

Conclusion

As Justice at the Intersections demonstrates, efforts to further the rights of Nature and the rights of animals are subject to political pressures, economic anxieties, fear of loss of access to resources, and concerns that extending legal protections for animals and Nature would limit their human or property rights.

In such challenging circumstances, it could be tempting to retreat from advocacy, policy, or coalition-building, or place hope for change in technological breakthroughs, shifting consumer choices, or in saving a few species in a few “pristine” landscapes. Such a wish to retreat might be

enhanced by the genuine differences in ideology and focus between some environmentalists and some animal advocates.

However, it's clear that the ongoing climate catastrophe, waves of zoonoses, and instability and inequality are straining existing legal, economic, and political structures to breaking point. These systems will collapse unless we cease our heedless exploitation of animals and Nature and release our belief that we are apart from and superior to the nonhuman world. Ironically, over the long term, the only beneficiaries of the mass suffering that would occur may be Nature and animals themselves. Surely that isn't a pathway most of us would choose.

"We're talking about the rights of an ecosystem to sustain our lives, to exist, persist, evolve, and carry on natural cycles. And yet, as long as the law sees Nature as property and not as rights-bearing, there's no real recourse for ecosystems. Our whole system is set up backwards. We've created a story of separation where humans are above Nature, we are owners of Nature. And rights of Nature is about shifting that idea not only as a legal notion, but as a cultural notion and as a rule."

— Shannon Biggs, cofounder, Movement Rights

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