

Earth Jurisprudence: Making Nature a Subject Through Law

Thesis

Presented in partial fulfillment of the requirements for the degree Master of Arts in the
Graduate School of The Ohio State University

By

Ariel Rawson, B.A.

Graduate Program in Geography

The Ohio State University

2015

Thesis Committee:

Becky Mansfield, Advisor

Kendra McSweeney

Mathew Coleman

Copyright by

Ariel Rawson

2015

ABSTRACT

‘Rights for Nature’ is emerging as the hegemonic alternative to the ‘Green Economy,’ which since the 1990s has been the globally dominant approach to articulating the nexus between the crisis of development and the crisis of environment. ‘Rights for Nature’ juxtaposes the market-oriented logic of the Green Economy with the logic of legal personhood. The particular juridically oriented approach of extending legal personhood to non-human nature in the name of reconciling the society-nature dualism beyond the logic of profit presents an interesting contradiction. At the same time the logic of personhood purportedly offers a way to move beyond the modern relation to nature it is only through paradoxically depending on the fundamentally modern idea of rights that the logic becomes not only coherent but also inevitable and a morally good thing. By analyzing the problem, cause, and solution posed in ‘Rights for Nature’, I show that in this logic, life is simultaneously what is at stake in modernity’s dualisms and is the source of a non-dualistic resolution. ‘Rights for Nature’ paradoxically seeks to make humans more fully human (or realize their true humanity) in becoming more like nature (with the pre-social indigenous figure), and make nature something identifiably ‘natural’ in becoming more like humans (with legal personhood). Yet, by next analyzing the production of such a narrative, in terms of the relations between the speaking subject, the discursive site, and the statements, I show how the obfuscation of such a contradictory logic strategically depends upon particular epistemological tools. It is through the

articulation of these tools that rights pose as themselves natural (in emerging from indigenous cosmologies and ecological holism) and therefore hide their relation to Western liberalism. At the same time this particular articulation also allows for Western liberalism to be posited as itself natural, and while it has produced a rift between the social and the natural, it is the natural realization of the rift itself that leads to its own suturing through rights. It is through this self-healing that the rift, as the ill/err of modernity's human-nature dualism, can be just a part of the natural evolution of nature.

VITA

June 2008.....Lowell High School

May 2013.....B.A. Interdisciplinary Studies, San Diego
State University

August 2014 to May 2015Graduate Teaching Associate, Department
of Geography, The Ohio State University

Fields of Study

Major Field: Geography

TABLE OF CONTENTS

ABSTRACT	ii
VITA.....	iv
TABLE OF CONTENTS	v
CHAPTER 1: INTRODUCTION	1
CHAPTER 2: METHODOLOGY AND METHODS.....	13
CHAPTER 3: PROBLEM, CAUSE, & AND SOLUTION THE NARRATIVE ARC OF RIGHTS FOR NATURE.....	28
<i>The Problem:</i>	29
<i>The Cause:</i>	34
<i>The Solution:</i>	41
CHAPTER 4: WHO SPEAKS FOR THE TREES? NETWORK ANALYSIS OF ACTORS, SITES, AND INTERESTS	52
<i>Alternative Development:</i>	53
<i>Western Holistic Environmentalism:</i>	73
<i>Juridical-Legal:</i>	85
CHAPTER 5: THEMATIC PREMISES HOLISM, INDIGENEITY, SOVEREIGN ACTS	104
<i>Holistic Models of Life</i>	<i>105</i>
<i>Indigeneity:</i>	<i>127</i>
<i>Role of Sovereign Acts</i>	<i>136</i>

CONCLUSION	153
REFERENCES:	155

Chapter 1: Introduction

In 2013, the United Nations (UN) adopted its fifth resolution on “Harmony with Nature”, which calls for “holistic and integrated approaches to sustainable development that will guide humanity to live in harmony with nature and...restore the health and integrity of the earth’s ecosystems” by inviting states “to further build up a knowledge network“ that relies not only on “current scientific information” but also learns from “indigenous cultures” (General Assembly resolution 68/216 2013). The ‘Rights for Nature’ approach represented in this resolution is emerging as the hegemonic alternative to neoliberal market-environmentalism and the “green economy”. But as an alternative, this approach presents a series of paradoxes. In a series of documents and conferences over the past decade, ‘rights for nature’ is represented as not just a populist alternative, but as coming from nature herself and thus the only way in which the current aberration within the socionatural order can be corrected. Yet, it is the same self-referential voices, from the same places, and from the same organizations producing both the sensibility and visibility of this truth. Moreover, the *content* of the grassroots, the people, and indigeneity figure quite centrally in the narrative while it is the *form* of northern-turned-international organizations, juridical and academic institutional actors, and western environmentalist texts that provides both the means and the ends. For example, the 2013 UN resolution seamlessly cites as precedents both the Universal Declaration for the

Rights of Mother Earth (“UDRME” 2010) and the UN texts that underpin the emergence of the Green Economy, such as Agenda 21 (1992) and the Johannesburg Plan of Implementation (2002). That is, the UN resolution cites on the one hand the protest platform for the 35,000 people mobilizing *against* the neoliberal reconciliation between the environmental crisis and the crisis of development and, on the other hand, the exact documents that offer such reconciliation to which the protestors were reacting. This paradox shows, I argue, that this totalizing notion of ‘Rights for Nature’ does not reflect the natural realization of nature saving itself, but instead is the making universal of a particular—western juridical—norm. Western liberalism is supposed to solve the crisis of western liberalism, while drawing on ecological science and western ethics to position itself as arising from both the earth itself and indigenous cosmologies, which are seen, ultimately, to be the same thing.

In setting up this context, I explain how the problematic of how to think about the interdependent relationship between environment (nature) and development (society) is the same problematic that animates both the rise of the green economy and the proliferation of other non-dualistic articulations of society-nature relations that are positioned (by themselves or others) as alternatives to the market-oriented reconciliation. However, non dualistic alternatives that conceptualize the logic of the neoliberal resolution between the environment and development as solely market-oriented, obscures how neoliberalism disrupts the public/private binary in ways that not only depend on the state (public) as much as they depend on the market (private), but, furthermore, in ways that mimic the non-dualistic logic of those ‘ways of knowing’ that are positioned as alternatives. This produces quite the dilemma for thinking through the

resulting power relations of such alternatives (if we take seriously that the market always needed the state as much as the state needed the market). Without exhausting the parameters of the various approaches, the rest of the introduction will set up this contextual framing through engaging Bakker's (2008) examination of the society-nature relations mobilized and produced in the various efforts to think alternatives to the commodification of life itself. I lay out this engagement through a quick overview of the green economy, debates about rights, and the role of neoliberalism. Next, I briefly provide some theoretical tools that shape my contextualization and analyses. Lastly, I sketch out what the rest of my chapters in this thesis will cover.

Whether looking at UN conferences and treaties, World Bank reforms, or State strategies and policies, the green economy has been on the rise and is becoming increasingly hegemonic. While the labels used, from those embracing the phenomenon to those critical of it, span anything from the green economy, to green capitalism, to ecological modernization, to liberal environmentalism (Bernstein 2001), to green neoliberalism (Goldman 2005) to market environmentalism (Bakker 2005), to the neoliberalization of nature (Mansfield 2004; McAfee 2003; J McCarthy and Prudham 2004), to the economy of repair (Fairhead et al. 2012); its purported promise is the means to realize the sustainable development dream (pillars) of social equality, environmental protection, AND economic growth. The irony of this miraculous reconciliation is how the exact project (Development) and mechanisms (development) that were being challenged in the name of environmental protection and social equality became the solution to its own criticism (Adams 2001; Goldman 2005). Yet, despite the impressive logical acrobatics, many note the mechanisms of extending private property

rights, using markets for allocation, and incorporating environmental externalities with pricing (Bakker 2008), are not so new. Far from approaching its promise of (environmental) protection and (social) equality, they have merely initiated a new round of remaking the South through “transforming vast areas of community-managed uncaptialized lands into transnationally regulated zones for commercial logging, pharmaceutical bioprospecting, export-oriented cash cropping, megafauna preservation, and elite eco-tourism” (Goldman 2005, 9). Nonetheless, critics haven’t dismissed the need to provide a rational articulation of the entangled relation between the environment and development in its entirety, but have rather sought to re-engage the challenge through non-market oriented forms of conciliation.

As this new set of challenges emerged in both popular and academic settings, it has found particular resonance in human rights campaigns and anti-privatization movements as well as in political ecology, feminist, and postcolonial subfields. In contrast to technological and market based mechanisms, the emphasis on taking seriously environment-development relations within the broader context of human–environment relations concerns first and foremost the imperative for “a transformation in social relations” that extends to “community, culture, and economy” (Magdoff and Foster 2011, 122). However, this ambitious effort has run into some of its own pitfalls as well. As part of the collection of work in Privatization: The Remaking of Society-Nature Relations, Bakker discusses how such alternatives reduce neoliberalization to core processes of commodification and privatization, and in so doing position rights to access as a juxtaposition to rights to ownership (2008). She elucidates this claim with the notable international traction anti-privatization movements have gained through the

particular campaign of the human right to water. However, Bakker notes that opponents of rights to water have pointed out the failure of such an approach to halt private sector management of water supply systems. This is not only due to the challenges of potential government abuses, lack of responsibility in implementation, and the possibility of transboundary conflicts, but more significantly, the necessary compatibility between human rights and capitalist political economic systems (see for example Ignatieff 2001; Mutua 2002; Brown and Halley 2002): rights are always entrenched through their Eurocentric, individualistic, libertarian, & notably anthropocentric origins (Bakker 2008, 46). Hence, even as the Fourth Water Forum consolidated civil society, private sector, and government consensus on the right to water, views of Third World governments, such as Bolivia, continued to express dissent (Bakker 2008, 47).

The correction to ‘rights to water’ given by Bakker is what she calls the commons view. In contrast to the reproduction of the private/public binary that ‘rights talk’ reinvigorates, the juxtaposition of commons to commodities creates a space for communities to renegotiate effective resistance to neoliberalization. In citing Vandana Shiva, Bakker suggests the view compensates for the fallacies in a ‘rights to water’ approach through asserting its unique qualities as a resource that flows (irrespective of geopolitical boundaries), as an essential for life, and as tightly bound to communities and ecosystems (Bakker 2008, 49 citing Shiva 2005). In so doing, these assertions prioritize communities and their place-based practices over state and capital, as well as directly take on the charge of anthropocentrism by “recognizing ecological as well as human needs” that constrain the latter with “a variety of norms, whether scientifically determined "limits," eco-spiritual reverence, [or] eco-puritan governance” (Bakker 2008,

54). Moreover, in response to the dominant perspective represented in the Dublin Principles, these principles for a decentralized community-based water democracy that is “politically, socio-ecologically, *and* culturally inspired rather than economically motivated” have been consolidated into an ‘alternative’ declaration (49, emphasis added). Yet, Bakker also mentions that, while she finds such an approach to offer the most progressive tactics, such “radical strategies of ecological democracy” happen to make “strange bedfellows with some aspects of neoliberal agendas” (54), particularly through their shared interests in disrupting the public/private binary.

Bakker is not alone in her potentially emancipatory reading of particular neoliberal developments. In Robbins’s Introduction to Political Ecology (2004), he outlines one of the core dimensions of political ecology as the ‘environmental identity and social movement thesis’, which explains the ways that “changes in environmental management regimes and environmental conditions have created opportunities or imperatives for local groups to secure and represent themselves politically” (Robbins 2004, 189). This new form of political connection that transcends various national, class, gender, and racial differences through the creation of a new axis of solidarity, which he references as an emergent ecological ethnicity (190), have “delimited, modified, and blunted otherwise apparently powerful global political and economic forces” (189). Such an emancipatory thesis, he suggests, depends on the postcolonial ‘subaltern’ subject, whom, through their marginalization and disenfranchisement comes to “understand themselves” (Robbins 2004, 190). Interestingly, in Shiva’s in book Staying Alive: Women, Development, and Ecology (2010), she provides a similar claim through her investigation of the “feminist principle,” which not only includes a restructuring at the

level of “worldviews and lifestyles” but also the need for more-than-local alliances (37). In turn, the move away from human rights based challenges to the green economy in favor of commons based approaches may expand the notions of democracy and community, but ultimately returns to the idea of an order premised on the ethical knowing (sovereignty of the living subject/self-disciplining subject/enlightenment subject/self-actualizing subject) subject, though supposedly not the Eurocentric liberal one, but the more-than-human and more-than-individual one. However, Bakker and others, caution against the risk to romanticize communities as coherent when speaking of a collective subjectivity (Bakker 2008, 52 in reference to James McCarthy 2005; Mehta 2001; Mehta, Leach, and Scoones 2001). Yet, for the locally dispersed subaltern environmentalists, the legitimacy of their identity can then only be asserted through collective self-regulation, or what Magdoff & Foster openly call for as the “law of laws” (Magdoff and Foster 2011, 139).

Thinking about the emergence of rights for nature as a part of the dynamic responses between hegemonic approaches and their alternatives can make visible the entangled complexities and even complete contradictions of escaping the reproduction of existing structures of power. As environmental states are emerging across the world, neoliberalism becomes anything but clearly identifiable as it has “fragmented, stratified, and unevenly transnationalized Southern states, state actors, and state power in ways that defy simple definitions of modernization,” yet at the same time have shaped Southern countries through the distinct “form of legality and eco-rationality” (Goldman 2005, 183). However, Bakker maintains that despite certain shared agendas, “politically progressive strategies with which to enact more equitable political ecologies...*need not*

be subsumed by neoliberalization... particularly if our definitions of prospective commoners are porous enough to include non-humans” (2008, 56, emphasis added). Political ecologists, such as Peets and Watts, also caution against universalizing approaches that create new rationalities and values by idealizing “authentic forms of agency,” such as those advocated by Shiva. However, at the same time, they still hold out the possibility of “consciously integrat[ing] into the very relations that make up society” a “knowledge of natural processes and the effects of human activity on them” in “joining a critique of the West...with a critical appreciation for alternative rationalities, productive relations, and environmental practices in non-capitalist societies” (Peet and Watts 1996, 261). Yet, despite these ambitious theoretical possibilities, the practical contradictions remain, not only in the way ‘non-capitalist societies’ are just as constituted through relations of capital as so called capitalist ones are, but through the way that subsumption may necessarily occur the moment acts or instances of dissent become translated through North-South alliances; unless one accepts the presuppositions of “all-inclusive common languages and norms of conflict resolution” that characterize the same model of ‘democracy’ and ‘free exchange’ they aim to challenge (Lohmann 1993, 166; but also some Li 2007). The lesson from this is that the neoliberal resolution to the environmental crisis and the crisis of development is not just about market processes of privatization and commodification, but just as much about the production of knowledge that rationalize any form of interdependence between society & nature, even those that respond as an alternative to the green economy.

The emphasis on neoliberalization as the production of new forms of truths foregrounds my motivating theoretical concerns in larger conversations on biopolitics

that intertwine the economization of life with its increasing politicization, as the modes through which (the totality of) life becomes both the subject of politics and the targeted object of management and intervention (Lemke 2011). In adopting an analytics of biopolitics, I can direct my investigation towards how subjects (both individual and collective) are produced through knowledge practices only made possible by a network of relations among power processes (Lemke 2011, 119), instead of asserting truths on the reality of society-nature relations that normalize particular conceptualizations of life over others. This allows for an engagement with power relations from many perspectives, firstly as a historical shift in which “individual and collective life, their improvement and prolongation, their protection against varieties of danger and risk, have come to occupy more and more space in political debate,” therefore making the “the question of who is a member of the legal community or, to put it another way, the question of who is or is no longer a member of the legal community” glaringly pertinent (Lemke 2011, 121). I find this lens useful not only because of the recognition that collective subjectivities are just as much a product of power relations as are individual subjectivities, but moreover for the way legal beings (in contrast to becoming less relevant) have increased in applicability as they become constantly remade through legitimizing the shifting borders of living beings. In this way, the power to put to death (on the basis of the will of authority) is not replaced/erased by the power of incorporation or abandonment (on the basis of organic evolution), but the former is “permeated” and “penetrated” through the logic of the latter (Foucault 2003, 241). Secondly, thinking about neoliberalism through an analytics of biopower also makes notable the empirical coming together of “administrative, disciplinary, and cognitive”

domains, or the overcoming of boundaries through which new units of knowledge are produced (Lemke 2011, 121). Lastly, such analytical tools allow for a conceptualization of neoliberalization as a series of contingent processes undetermined by any necessary logic, but rather the strategic incorporation of shifting normative preferences (Lemke 2011, 122).

Therefore, in light of the lessons I derive from the background context provided above, I am picking up these analytical tools in looking at this new environmentalism that extends legal personhood to non-human nature in the name of reconciling the environment (nature)-development (society) dualism outside the logic of profit, often called 'Rights for Nature'. Although rife with paradoxes, what is most striking is how Western rights becomes the solution to Western dualism while positioning its origins as indigenous (i.e. non-Western). To better understand this paradoxical dominant alternative, I read and analyzed a range of documents, such as organizations histories and mission statements, popular books, academic articles, court cases, policies, reports, declarations, and resolutions. I discuss my methods further in Chapter II. I examined these texts in two ways: a discursive analysis of the logic of the argument (Chapter III) and a network analysis of the historical lineages of its emergence (Chapter IV). My central argument is that the juridical conceptualization, the making nature a subject of rights through law, emerges not only through the rationality of the argument itself but also through the historically and geographically specific connections that contingently create and maintain the mobility of quite a contradictory argument with epistemological techniques that depend on the authority deploying them.

The discursive analysis in Chapter III shows how 'Rights for Nature,' while

presented as seemingly universal and coherent, can also be understood as a very particular solution (rights) to the particular diagnosis (society-nature dualism) of a particular problem (life at risk). Given this analysis, I argue that the narrative forms a contradictory logic where humans become more fully human (or realize their true humanity) by becoming more like nature (with the pre-social indigenous figure), while nature becomes something identifiably ‘natural’ by becoming more like humans (with legal personhood), all in the name of over coming the human-nature dualism (or anthropocentrism). I will refer to this as the becoming human/becoming nature paradox.

Yet, these paradoxes within the logic of the argument itself prompted me to wonder just *who* exactly are putting these ideas together. Therefore, in Chapter IV, I do a network analysis on the historical lineages of its emergence through disentangling the citational politics between key actors, institutions, and texts. In showing the (historically specific) entanglement of relations that made possible the emergence of Earth Jurisprudence (being the practice of this new body of (wild) law produced through the extension of legal standing to new entities) as the means and ends for taking humanity beyond modernity’s erroneous trappings of anthropocentric dualisms; I argue that rights for nature emerges at the intersection of at least three particularly situated and embodied sets of actors and interests, which I will call 1) alternative development, 2) Western holistic environmentalism, and most significantly 3) juridical-legal, which is also paradoxically the least visible. Lastly, in bringing these two analyses together in Chapter V, I show how the formation of such a contradictory narrative logic can only be made sensible through the necessary conceptual (epistemological) tools of holistic models of life, indigeneity, and acts of sovereignty that are strategically deployed (marshaled) by

these overlapping, yet distinct modalities of the speaking subject and their respective institutional affiliations.

In summary, out of the various lineages that the ‘Rights for Nature’ discourse emerged from, it is the embodied and situated set of juridical interests and actors that position rights in relation to indigeneity and life itself for overcoming contemporary crises at their source, which is posed as modern dualism. However, it is exactly the seeming invisibility of the juridical influences that mask the core paradox of the argument that not only allows Western liberalism—as sovereign rights—to ride in and solve the problems of Western liberalism, but makes it in fact necessary to solve its own problems. Moreover, failing to recognize the juridical influences does not merely mask Western liberalism behind indigeneity and ecological holism, but produces the illusion that Western liberalism ultimately derives from this holism—long recognized by noble indigenous peoples. In so doing, this discourse constitutes all of existence (or life itself) as inescapably articulated through the foundational pillars of liberalism.

Chapter 2: Methodology and Methods

In attempting to understand this emerging environmentalism as my research object, I was first confronted with the challenge of how to even identify and determine what did and didn't count as 'Rights for Nature', given that the same set of concepts flew under quite a range of different terms that stretched from Wild Law, to Earth Jurisprudence, to the host of variants on Nature's Rights, Rights for Mother Earth, etc. This meant that honing the definition of my research object only emerged through the process of studying "it" and needing to decide what to include and what not to. Although the discourse itself makes these dispersed discursive events seemingly coherent through pointing to an impending socionatural order that harmoniously moves beyond the human-nature dualism faulted for the objectification of nature, the aim of my methodological approach is to query it (the coherence) as only contingently fixed, instead of accepting the rationality as self-evident. In so doing, I aim to make visible the mechanisms through which these discursive events normalize, as not only an intelligible rationality but also a teleological inevitability and ethical imperative, the idea of overcoming modern relations to nature (as a false universal) by recognizing all life as rights-bearing (extending the same universal). I will show that archiving statements on rights for nature and the acts of their enunciation situates the conditions for the emergence and circulation of this phenomenon within a contingently stabilized historical

junction. However, in situating the epistemology of 'Rights for Nature', I also aim to (acknowledge the failures of yet still perform) situate(ing) my own ways of 'knowing' as partial, through as thorough a retrospective interpretative reconstruction of my methods and methodology allows, while noting the ever presence of gaps, contradictions, and uncertainties. In order to describe and explain this process, I will address themes of situated knowledges, archives, & Foucault's enunciative modalities.

In the process of both researching and writing up a project concerned with the universalizing claims of 'Rights for Nature', I find it impossible to pretend my own claims are outside productions of knowledge and the power relations that saturate them. Yet, far from original, feminist scholars have long articulated such veins of concern through interrogations that challenge objectivist ways of knowing and the forms of governable subjects such epistemologies produce. Although, the approaches that have arisen from such concerns have not necessarily escaped the same fraught set of power relations. Rose explains how the dominant approach in feminist efforts to situate the production of knowledge depends on a particular rhetoric of space and vision that reproduces what it aims to challenge. This approach, "looks both 'inwards' to the identity of the researcher, and 'outward' to her relation to her research and what is described as 'the wider world'" (Rose 1997, 309) in order to counter universalizing claims through "making... one's position... visible and making the specificity of its perspective clear" (Rose 1997, 308). However, she argues this approach, that she labels 'transparent reflexivity,' requires "certain notions of agency (as conscious) and power (as context), and assumes that both are knowable" (Rose 1997, 311). Moreover, in depending on these certain notions, such acts (forms) of reflexivity, Rose suggests, may

perform “nothing more than a goddess-trick uncomfortably similar to the god-trick” (Ibid). Thus, it seems, through the limitations identified by Rose, that it is by rethinking agency and power that efforts to situate the production of knowledge can be engaged more critically. In contrast to the transparently knowable agent of both oneself and the self’s relation to a grid of power, she rather proposes an understanding of agency as an effect of power, that is made and remade in the “destabilizing emergence” of “the research process itself.” In so doing, there only exists the possibility of “a much more fragmented space, webbed across gaps in understandings, saturated with power, but also, paradoxically with uncertainty” that more honestly results in only “a fragile and fluid net of connections and gulfs” (Rose 1997, 317). In turn, thinking about the production of knowledge in respect to the development of feminist theories and scholars, while heeding to the concerns of Rose, I assume the task of “inscribe[ing] into [my] research practices some absences and fallibilities while [also] recognizing that the significance of this does rest entirely in [my] own hands” (Rose 1997, 319).

Through the process of studying my research object and writing up my analysis, this task shaped what I did or how I thought about what I did, in numerous ways. Firstly, identifying the research object itself became increasingly fleeting the more I gave it form, as the more I nuanced my description of this ‘thing’ out there, the more the thing itself transformed and became reconstituted. Despite trying to synthesize some coherent meaning or identify an actually existing pattern or regularity, it can also be noted that such ‘findings’ were nothing other than me deciding to magnify particular statements, events, and sites (for the purpose of me making a point) to the exclusion of others; and to the exclusion of the significance of variation, contestation, and resistance. Yet, I

provide plenty of fodder for critiquing the unity of my argument through the loose ends I left, not unintentionally, but because I couldn't create an interpretation that tied them all back neatly. I also embed the fallibility of knowledge through emphasizing the contradictions at the same time as I provide the rationality for their coherence, and thus let the reader themselves get lost in the complexity and fragility of my findings. Even the process of reading muddies the illusion of coherence, as the language throughout the text is stitched pieces developed at different stages in my analytical encounter and thus written at instances in aesthetically, conceptually and lexically inconsistent modes. Although most significantly, thinking through ways to situate knowledges has had the greatest effect on writing up my methods chapter. While on one hand this chapter intends to offer a thought through effort to articulate all of my steps, why I did them, and how they fit together, on the other hand the seemingly transparent explication more sincerely falls somewhere in between interpretations of my techniques that were recorded in the act (or soon after) and a complete post facto reconstruction.

From the beginning, my approach stems from a grand excitement, curiosity, and intrigue about ideas (as phenomenon that are already doing work in the world!) and their connections and paradoxes, but an inverse desire for humble methods. I'm motivated by the way many people, such as myself (but clearly limited to those with at least digital access), engage and encounter the world on a mundane and quotidian basis, and how one's activity in doing so can still be considered an intellectual practice. Given such interests, my methodological approach is quite simple and accessible, in terms of tools, skills, money, and other institutional barriers. In depending almost single handedly on the Internet, open-access websites (I ordered one book), and Microsoft Word, I did not

go to any formal archives or use any qualitative analysis software. However, since I did partake in a process of collecting with intentionality and eventually gave it an organizational form that became the basis of the analyses I carried out, I do consider the first stages of my methods as a process of archiving, and my analysis as researcher intractable from my role as archivist. Yet at the same time as my research object is nothing other than the archive I constructed it through, in using readily available sources that are already in conversation with each other (not hidden behind paywalls or on musty shelves), I am studying an existing and accessible phenomenon as it is doing work in the world. Since these objects or documents are neither primary in the sense of authentic or original, nor representing knowledge about a place or about a past, but rather about the proliferation (or global campaign) of an emerging idea, my aim was not to produce new data, but to make particular (situated) sense from curating an encountering with already existing productions of knowledge. In short, I make secondary data my primary data. Nonetheless, this poses particular challenges when dealing with academic literature, where developing my analytical toolbox cannot be disentangled from my objects of analysis.

My process of archiving began by locating statements on my research object with Internet search engines, through which I could follow the citations and references to other statements. At this point, the dispersion of connections led to the ongoing amassing of as many documents that I could find online, for free, and considered to be within the production of knowledge on rights for nature. This process of collecting, while at first slightly chaotic and haphazard, began taking an organizational shape as I started geographically charting, in the form of an outline, the local to global distribution

of 'rights for nature' sites and citings, including: NGO's and other institutions, reports, declarations and campaigns, adopted policies and pending drafts, conferences, courses, workshops, court cases and rulings, networks, and mock tribunals - and their related spokespeople, drafters, implementers, authors, teachers, lawyers, coordinators, participants, and advocates -- as well as some of the relations of entanglement between them. At that point, I began to reorganize the material into a timeline, which included only the events, both more-than-discursive (e.g. when NGO's were established or conferences took place) and discursive (all accessible texts or documents from my spatial outline explained above, but also included books, journals, and newspaper articles, as well as productions of knowledge referenced as antecedents and precursors).

Many dominant accounts delimit the role of archives within a particular temporal period between the pre-historical, accessed through archaeological methods, and the present or recent past, accessed through ethnographic methods (Harris 2001). In so doing, the archive becomes the official record of what counts as *history* as well as renders the present and pasts inaccessible to written recordings, as *de-historicized*. However, many scholars have illustrated the archive need not be conceptualized as such. By the time the cultural turn had peaked “the very idea of the archive – its origins, scope, layout, composition, content and treatment – ha[d] been stirred up and shaken, and in the process, the status of the information it holds, [has] been rendered more provisional, indeterminate and contestable” (Lorimer 2010, 253). It is only within this space which rethinks the entire process of constructing what counts as an archive that I find room to conceptualize my methods as first and foremost, archival, despite my emphasis on *ideas/thought* in the *present* and the use of *virtual places* such as the

Internet. On one hand, Lorimer recognizes how the development of information communication technologies has led to a shift in the idea of the archive away from a physical in situ place and toward the amassment of a personally-compiled mobile archive, in ways that positively allow for the “decreased ware of the material documents themselves, the ability to access and aggregate knowledge at trans-continental scales, the ability to avoid the inconsistencies and idiosyncracies experienced in-the-thick of institutional cultures, and the reduced time and financial costs” (Lorimer 2010, 256). Yet, on the other hand, this still suggests that an *actual* archive is in some formal place elsewhere where the archivist and the researcher are two different people. Moreover, the validity of this traditional archive versus the “more provisional, indeterminable, and contestable” archive can also be seen through Lorimer’s sentiments on the loss of not being in the site of the archive itself, the suggested diminished intellectual and social rewards that result from “presenteeism”, the limited on-line availability of documents, and the reduced exposure to the chance for serendipitous discovery (Ibid). The problem for me with Lorimer’s conceptualization is which types of data are still being privileged as intellectual enough to count as knowledge. However, if there is no archive, only the process of constructing an archive, then the Internet becomes an ideal (virtual) site for thinking about the researcher and the archivist in conjunction, through which it is the process of curating that creates primary data whether from other archives (NGO websites that had their own lists of significant documents) or just from part of the larger world of less (semi) organized information (the internet at large).

The emphasis both on *process* and *curating* (as selective valuations) are also highlighted in Cresswell’s (2012) conceptualization of archives/ing. Instead of chasing

some authentic truth of the archive, even an indeterminable one, such as the hybrid places between the field and the library (Lorimer 2010), Cresswell explains his conceptualization and research methods as a “process of active archiving” (2012, 165) that only becomes ephemerally fixed – in place and time – as an effect of intersecting valuations. I find this exciting and useful for at least two reasons. Firstly, because the relation that is created to the idea of value and secondly, the relation to the activities of particular subjects. The archive is not only the effect of processes of valuing, and a particular configuration of valuations, but the transient solidification of value emerges as a product of the process of archiving. He states, archives come into being “through a contested set of valuations concerning which objects count as worthy and significant” while once in existence, serve as “particular kind of place where objects are valued, with its own regime of values” (Cresswell 2012, 168). This is significant because, although, archive as process constitutively depends on “*those* doing the collecting” when/if notions of value are assumed to have an intrinsic (or a priori) existence (instead of emerging through process), it not only denies *any* “active role of interpretation in the process of selecting,” but moreover, ends up privileging elite ideas of “aura, authenticity, and origins” (Ibid). Not only does pulling on Cresswell allow me to connect to literature on archival methods that don’t assume ‘real’ archives as “rarefied and imperial spaces” (Cresswell 2012, 175), even when suggesting other approaches could technically count, but also foregrounds that becoming objects of value, requires a vested subject making such decisions. Yet, in the case of my project, the objects of my archive are not just the things (documents, websites, images) in themselves, but simultaneously objects of discourse. Therefore, I archived objects that were of value for

me in respect to this dual function, which I then made the analytical framework of my thesis.

After an abundant accumulation of objects, yet still nevertheless in the ceaseless midst of the process of archiving, I read and examined a range of documents that eventually resulted in the decision to carry out two forms of analyses. The first one I will call a narrative analysis on the problem, cause, and solution along with the underpinning thematic premises, followed by what I will call a network analysis of the discursive (and more-than-discursive) events as relations of power that make particular statements possible and not others. By the time I developed a preliminary familiarity with the discursive landscape of my topic, I started thinking about the idea itself of rights for nature (outside any mode of enunciation) through a narrative logic broken down into five series, which included: the problem, the cause, the premise for diagnosis, solution, and premise for prescription. At that point, I went back to the documents placed in my chronologically organized outline in order to internally disaggregate them individually and then sort and categorize in respect to which stage of the logic I determined various statements could serve as evidence for. At the same time I kept tally of all the overt references to documents or events cited as precedents in order to map the internal self-references. I did this for about 25% of the data I had collected (though it included many key texts and was fairly evenly distributed temporally), at which point, I decided I had reached a certain level of saturation, and began writing out my telling of the narrative logic on rights for nature through those five sections. After the process of pulling my pieces of evidence into this framework, I derived three reoccurring themes from the various premises necessary for holding the narrative arc together, which I then decided

to elucidate the roles of in a separate chapter, that would follow the narrative that lays out just the problem, cause, and solution. However, through the process of writing up my research, I ended up developing the thematic premises as a synthesis of both my other two analysis, and thus eventually relocated the sections to the last chapter, after presenting both the other two chapters on the analysis of the narrative logic and the network analysis.

In connecting my techniques to literature, this first form of analysis where I examine what are the truths being produced, falls somewhere in between coding and deconstruction. While I openly looked for how each document had statements that defined the problem, cause, solution, and premises, that method still imposed a particular analytical framework, and therefore did not adhere to any rigid process of open coding as laid out by those such as Cope, who provides a step by step guide beginning with “marking important sections, phrases or individual words and assigning those a code” (Cope 2010, 445). Yet, my process could resonate with what she calls two-level coding. After searching for the problem, cause, solution, and premises, I identified key themes that were in conversation with theoretical literature that I could then take back to the documents itself in search for further evidence of those conceptual themes I developed. But why did I preselect the series of problem, cause, solution, & premise as a framework to approach the documents? Thinking about Dixon’s comments on deconstruction and the aims of Derrida potentially provides one explanation of my approach, through a presupposition of the texts as statements that are already within Western thought. As Western thought is concerned “time and again [with] “essential” terms, such as God, cause, origin, and structure, which are thought to be the fulcrum

around which truthful explanations of reality can be built” (Dixon 2010, 401), the analytical framework (of problem, cause, solution – which captures the structural arrival of a normative truth) that I presuppose, situates both the production of, and my encounter with these documents/texts as statements of Western thought. More than searching for a relational system of meaning enclosed within the realm of language alone, Dixon suggests deconstruction searches for how meaning spills over to produce the social realm. In “delineating the nature of people and things as well as the relations between them” (Ibid), ideas inscribe into the social the inherently ‘good’ and thus what can be dismissed as the inherently ‘bad’ or ‘irrelevant’. In thinking about my analysis as in between coding and deconstruction, I can examine not only what is said as truth, but that it is a particular production of truth.

Moreover, my next analysis examines how did *that* production of truth come to be produced and not others. Investigating this question requires looking not just at textual objects as discursive statements, but the statements as events, which require a subject speaking from somewhere. While I decided post-facto to call this next stage of my methods a network analysis, on a technical level, this analysis informally emerged through going back into the spatially and temporally organized outlines of documents, and my linear tally-type mapping of the citational references and synthesizing the distinctively existing, yet chaotic nexus of relations. However, an intelligible organization of this nexus only came into focus through iteratively simplifying the complexity of connections into three key angles/viewpoints/subject-positions that I have come to classify as alternative development, Western environmentalism, and the juridical-legal. I settled on these three modes through analyzing the relation between the

various actors articulating and producing the statements, the respective authorities on nature the various actors (actor-statements) appeal to, and their most notable institutional affiliations.

The role of text beyond a closed system of meaning (as just signs and signifiers), not only concerns how language spills over into the production of the social (through naturalizing truth claims), but also how conditions within the social created the possibility for such texts to even exist. Unpacking textual objects as not only a discursive statement, but the statements as (more than discursive) events, directs attention towards the power relations language is always bound within. There is much resonance with my analysis that I ended up calling a network analysis, and what Foucault would label as the formation of enunciative modalities, defined as the social relations that come together in a moment and place in time to allow for particular utterances, and not others. In Archaeology of Knowledge, Foucault analyzes the formation of enunciative modalities as the establishment of a distinct relation between who is speaking, the institutional site from which the subject makes his discourse, and the position of the subject in relation to the object. This conjuncture only forms anything more than a set of historical contingencies, “because it makes constant use of this group of relation” (Foucault 1972a, 54).

Unpacking the formation of enunciative modalities first requires examining *who is speaking* as the “the system of differentiation and relations with other individuals or other groups that also possess their own status” and “the characteristics that define its functioning to society as a whole” (Foucault 1972a, 50–51). This element is one I examine in each section of my network analysis, but most elaborated on in the juridical-

legal section, since such actors are most notably, “hardly ever undifferentiated or interchangeable persons” (Foucault 1972a, 51), and in voicing such a juridical discourse, receive both the presumption of truth and the benefits of prestige. Moreover, using specific names that can be used to trace a particularly juridical-legal mode of enunciation, is not to suggest an inflated agency for individual people, but rather illustrate what is more “extensive and often serve to regroup a large number of individual works... even if these ‘regularities’ are manifested through individual works or announce their presence for the first time through one of them” (Foucault 1977, 200). Analyzing the formation of enunciative modalities (as how did that production of truth come to be produced and not others) through examining statements as events, also then makes relevant the institutional site from which the subject “makes his discourse and from which this discourse derives its legitimate source and point of application” (Foucault 1972a, 51). The dispersion, patterns, and roles of discursive sites served as a key analytical tool for not only organizing the totality of statements into three different modalities, but are also abundantly woven in with specific names (of the NGO’s, the law center, the universities, the professional organizations, etc.) in order to allow the reader to follow the chains of connections. These sites consist of what is not only valid but all that is published and transmitted. For Foucault, the last element that constitutes the formation of enunciative modalities, in conjunction with who is speaking and the institutional site, is the position of the subject in relation to the object of discourse as “emitter and receiver” (Foucault 1972a, 52). More specifically, this relation, he suggests must be understood as a “node within a network” even while using the “autonomous

form” of the “frontiers of a book” to trace the dispersed manifestation of a “unified subject” in what he analogizes to “information networks” (Foucault 1972b, 23).

In reflecting on why these methods of archiving and two forms of analysis (whether by a theoretically informed pre-designed choice, an emergent property of the research process itself, or retrospective decision to interpret them as such), I find Foucault’s likening of a statement to a strange event, to be one of the most productive ways for theorizing my engagement with my objects of research and conceptualizing my methods of analysis. He states,

A statement is always an event that neither language (langue) nor the meaning can quite exhaust. It is certainly a *strange event*: first, because on the one hand it is linked to the gesture of writing or to the articulation of speech, and also on the other hand it opens up to itself a residual existence in the field of memory, or in the materiality of manuscripts, books, or any other form of recording; secondly, because, like every event, it is unique, yet subject to repetition, transformation, and reactivation; thirdly, because it is linked not only to the situations that provoke it, and to the consequences that it gives rise to, but at the same time, and in accordance with a quite different modality, to the statements that precede and follow it (Foucault 1972b, 28).

In thinking about a statement through this unique multiplicity you not only have thought itself, acts that are discursive, and non discursive acts, in conjunction with virtual spaces (the mind), physical spaces, fixed spaces, across spaces, fixed moments, and moments across time, these folded relations also offer themselves to the image of networks, but a particularly complex and messy one with layers/planes/lines that do not necessarily ever converge within a singular seamless dimension. As a result, one is ultimately left with the impossibility of knowing.

Even though which events count as ‘Rights of Nature’ is not only arbitrary (in the sense of there being no necessarily determined or pre-given boundaries) but that any

act of interpreting what is or is not part of rights for nature performs power, thinking beyond what the ability of any statement can say in either isolation (as random occurrences) or as part of an actualizing higher order, requires an active deciding of which events are to be included, considered, and privileged. In tracing the connection around particular cases, events, sites, texts, bodies, and organizations, I am deciding to emphasize a specific interpretation of rights for nature and not others. Moreover, these biases are in part a response to the conceptualization that emerges when the case of Ecuador and the text of the Universal Declaration for the Rights of Mother Earth play such a dominant and central role in the public (and academic) imaginary of 'rights for nature' that the populous mask obscures which subjects are providing such conceptualizations. Instead of the story of universal rights, life itself, and indigeneity, I decided I wanted to emphasize the (elite) actors producing such juridically specific language, how they select authorities of nature, and what I determined to be the most prolific discursive sites in the United Kingdom, United States, and Australia. In turn, I hope to offer a slightly different version from what is considered the predominant narrative, through making visible those citing the dominant narrative as part of the story itself. However, this is far from a comprehensive analysis, nor one that highlights the contestation, or moments of resistance, but rather the points where relations of power have become crystallized or solidified (even if never inevitably or indefinitely).

Chapter 3: Problem, Cause, & and Solution

The Narrative Arc of Rights for Nature

First, I present my discursive analysis on the narrative logic of the argument. Here, I will show how ‘Rights for Nature,’ while presented as seemingly universal and coherent, can also be understood as a very particular solution to the particular diagnosis of a particular problem that in turn produces a series of confounding contradictions. First, I argue that the problem, most generally speaking, can be identified as the threat to life itself, through showing how various texts express a multiplicity of crises that (more specifically) are all conceptualized as a rift between the social and natural order, and whose effects target a range that spans from humans to non-humans, ecosystems, the entire Earth, future generations, to the universe at large. Secondly, I argue that the root cause for this rift that threatens life itself is presented as the ontological fallacy of Western dualisms, most importantly the one between humans and nature. I show how the risk posed to life is deemed the effect of a culturally mistaken, hierarchical and anthropocentric way of valuing. The human-nature dualism is proven fallacious through a converging non-dualistic ‘truth,’ revealed not only by the newest findings in modern sciences, but also validated by indigenous knowledges. Moreover, it only continues to be reproduced through the modern legal regimes that codify nature as an object of property for ownership (control) by human subjects (legal persons). Lastly, I argue that

the solution offers a corrective to the dualism by making nature a subject through law. First, I show how rights themselves are first and foremost interpreted as securing the existence of that which already exists, and thus all existence, all life, already has the right to exist, evolve, and flourish – it only now needs to be institutionalized in order to suture the rupture. From there I discuss how rather than being an interpretation or produced somewhere, these ultimate rules/truths are considered to exist a priori to human effects and just in need of being discovered through indigenous traditions or the newest findings in the life sciences and ecology. Yet, at the same time it also requires an international campaign in order to bring about a transformation across all scales that aligns with this transcendental order.

THE PROBLEM:

I *argue* that the problem that these new universal rights are posed as a solution for can first and foremost be identified as the threat to life itself. First I will show that despite the varying degrees of alarm, the multiple and interlinking crises that threaten the health, and thus in it's logical extreme, survival, of both the human species and the global environment can be attested to through the manifest evidence provided by climate change, biodiversity loss, toxicity levels, and the incessant failure of existing governance structures to resolve anything. Secondly, I will show how the crises are conceptualized as a rift, or an imbalance, between the social and the natural order. In contrast to questioning the necessary existence of any potentially stabilized order, both the social and the natural order are deemed to be not only distinctively existing according to their

respective logic, but also presently locked in a mode of friction and disequilibrium with one another. Hence, in the assumed universal socio-natural relation that underscores this supposed problem, there is the always existing potential for a social order to operate “in balance” with the natural order. Lastly, I will show that this problematic places the subject of life and thus targeted object of political management between the social and natural order through life forms that range from humans to non-human bodies and populations, ecosystems, the entire Earth, future generations, to the universe at large.

The narrative begins with the notion of crises, demonstrated through the processes of climate change, biodiversity loss, toxicity levels, and other forms of devastation, destruction, and disruption that threaten everything from health and well-being to complete collapse. In doubling down on the problem, these crises not only fail to be addressed by Conference of the Parties (COP) meetings and existing environmental law, but are additionally perpetuated by the forms of such current solutions. Such “myriad” and “interconnected” social and ecological crises that are understood to “have destabilised the equilibrium of the whole planet” (Hosken 2011, 33) are predominantly identified, by the global south and in international platforms as climate change and biodiversity loss (“UDRME” 2010; “The People's Sustainability Treaty” 2012), where as US ordinances tend to more pointedly articulate the problem as pollution and deposition of toxins (Tamaqua Borough, PA 2006; City of Pittsburgh, PA 2010).

Additionally, while the level of risk varies from a “significant threat to health, safety, and welfare” (Tamaqua Borough, PA 2006, City of Pittsburgh, PA 2010) to placing "humanity...at the edge of a cliff" (Solon 2012), to “complete collapse”

(National Ganga Rights Movement 2012; Pachamama Alliance), they still at large, generally tend to veer toward the extreme end of the continuum. Moreover, the various texts implicate a broad array of processes in reproducing such a crises of disruption, exploitation, and ultimately destruction and death. Some statements highlight the general processes of existing governance systems (“The People's Sustainability Treaty” 2012; 10th World Wilderness Congress 2013) at the broadest end, while others note the role of capitalism and imperialism (Masioli 2010¹, “UDRME” 2010, Solon 2012), and still others more specifically point to the privileged rights of corporations (Town of Newfield, NJ 2009). However, the majority of statements point to either the general environmental liberal regulatory complex (such as the Clean Water Act, National Environmental Policy Act and California Environmental Quality Act), COP meetings, or modern environmental law at large, as the most immediate mechanisms for reproducing the problem (Cullinan 2011; Margil 2013; City of Santa Monica, CA 2013; European Citizens Initiative 2014).

More specifically, it seems the crises are conceptualized as a rift, or an imbalance, between the social and the natural order. In contrast to questioning the a priori potential of stability, whether of human or a more-than-human order, both social and natural systems are recognized as not only having a distinct existence in accordance to varying logics but also an instable existence as both are presently locked in a mode of friction and volatility with one another. Yet, despite this current instability is the always latently existing potential for the social order to operate “in balance” with the natural

¹ Itelvina Masioli , is a Brazilian leader of the international small farmer movement, La Via Campesina, speaking on April 20, 2010, at the People's World Conference on Climate Change and the Rights of Mother Earth in Cochabamba, Bolivia.

order. Most exemplary of this conceptualization is the way climate change is presented as the “ultimate indicator” of this disjuncture, the product of a social order not in harmony with the order of nature and thus undermining the viability of both the social and natural world (Hosken 2011, 33). This is also poignantly expressed in a report titled, “Does Nature Have Rights: Transforming Grassroots Organizing”, which states “But what is climate change but Nature telling us we have lived beyond the limits of *nature’s law?*” (Global Exchange, Council of Canadians, and Fundacion Pachamama 2010, emphasis added). In capturing the way in which climate change represents the unnatural friction of the social order on the natural order, the mobilizing slogan that emerged from COP15 protests claiming “system change, not climate change” emblemizes the resultant burden on the social for a self-correction that counteracts its effects on the becoming abnormal of the natural order (Cullinan 2011, 188; Masioli 2010). While the instability of the current social order is, by some, attributed to individual human decision making such as consumption and reproduction behavioral patterns (City of Santa Monica, CA 2013, 4.75.020a), by others it is attributed to the structural contradictions within the social order such as the impasse of “meaningful regulatory limitations and prohibitions” when it “conflicts with certain legal powers claimed by resource extraction corporations” (City of Pittsburgh, PA 2010, 618.01).

Underpinning these crises is concern for the protection of the agent at stake (in its own name!). So who are the subjects and objects of the crisis? Life becomes the subject of political representation and targeted object of political management, caught between the social and natural order. The category stretches from natural communities, citizens and environments, planet Earth, future generations, to the universe at large.

While the intended reference that such a generic concept of life specifically signifies seems to encompass significant variability and slippages, I will only describe the variance here and then further explore the significance of this ambiguity when I later unpack the premises underpinning this narrative arc.

For the cases within the US, earlier ordinances are concerned with life as citizen whether as humans or as what provides the vital resources for humans, as can be seen in a Tamaqua ordinance which explicitly refers to “citizens and the environment” (2006) or a Pittsburgh ordinance’s reference to “the air, soil, water, environment...neighborhoods ...and the bodies of residents within [the] city” (2010). Where as, some of the later US ordinances regard life, not in its political (or qualified) form, but as purely biological. Such is the case with a Santa Monica ordinance that refers to “the world’s populations and ecosystems” in some instance and all “natural communities and ecosystems” at other points in the text (2013; however this language can also be noted in the National Ganga Rights Movement 2012). In other cases life has a specific temporal-spatial composition that includes the promise of continuity into the future as well as being a “holistic” entity, where the social, cultural, economic, and environmental are multifaceted parts of an indivisible whole. The Whanganui River Treaty recognizes the river in question through the label of Te Awa Tupua, which "encompasses the natural environment...features of the river and the interrelationship of people (all people not just Iwi) with the river," (“New Zealand Wanaganui River and Iwi Agreement” 2012, 2.16). The significance of this conceptualization includes a targeted "commitment" to "future generations" and the "full range of environmental, social, cultural and economic interests in the Whanganui River" (1.10). While statements that function as international

declarations focus on the Earth at large, as the discursive subject that best captures the breadth of “life as we know it” (“UDRME” 2010, “Peoples Sustainability Treaty” 2012), more pervasive in the texts that function as theoretical authorities and most unique to this particular environmentalism, life or existence itself, at its essence, is the totalizing articulation of the most abstracted and undifferentiated, yet transcendent whole, the universe (de Chardin 1959; Berry 1978; Berry 2001a; Berry 2003; Schillmoller and Pelizzon 2013).

Certainly within this discourse there is variability and even contestation about how to conceptualize the problem to which ‘Rights for Nature’ is the solution. But there are also significant regularities. By focusing on the patterns, I argue that the problem encapsulates a breadth of crises between society and nature that targets the entirety of life.

THE CAUSE:

In analyzing the logical link between what is conceived of as the problem and how the particular solution becomes justified, I *argue* that the apparent root cause of these problems is interpreted to be the ontological fallacy of Western dualisms, most critically between humans and nature. Interestingly, this analysis will likely be familiar to geographers and those in related disciplines (such as environmental history and anthropology) as it takes up a similar concern to those of critical nature-society geography and political ecology (Castree et al. 2004; Whatmore 2006; Braun and Whatmore 2010; De La Cadena 2010; Bennet 2010). The implications of such a similar

starting place is the susceptibility, as geographers, to take for granted narratives that mimic their logic as truth, rather than querying it in the way we encounter a dualistic analysis. In analyzing this critique of dualisms, I will first show how the risk posed to life is deemed the effect of a culturally mistaken hierarchical and particularly anthropocentric way of thinking, knowing, and valuing. Secondly, I show how the illusion of this dualistic human-nature relation is proven fallacious through a (dynamic yet progressively evolving or teleologically) converging non-dualistic ‘truth’ revealed not only by the newest findings in the natural and hard sciences but also validated by indigenous knowledges and ways of being. Lastly, I show how spuriously placing the human species as both separate and above nature only continues to be reproduced by modern legal regimes that codify nature as an object of property for ownership (control) by human subjects.

The first component of this claim is that today’s dominant rationality spuriously holds the human species to be both separate and above nature, thus objectifying the latter at the expense of the human subjects will. Accordingly, accepting this particular privileging of people reflects the idea of human exceptionalism (Schillmoller and Pelizzon 2013). Implicating this pyramid worldview, which holds human life as categorically discreet and superior in systems of rule and governance, was part of the critique from the very first Earth Jurisprudence meeting in 2001 through the “Airlie Principles” (Berry 2001b) and has further been reiterated in popular books, academic articles, NGO reports, international peoples agreements, and blog posts. Academic article, *Wild Law: The Philosophy of Earth Jurisprudence* (Burdon 2010) states it is anthropocentric ideas that “render the natural world profoundly vulnerable to the needs

of a growing industrial economy” (2). In the UDRME (2010), this sentiment is expressed through the statement “it is not possible to recognize the rights of only human beings without causing an imbalance within Mother Earth.” Similarly, the People’s Sustainability Treaty (2012) proclaims that the “great destruction, degradation, and disruption of Mother Earth, putting life as we know it today at significant risk” have been “wrought” by the “existing governance systems that assume that humans are separate from the environment.” This root cause of the problem is even shared in virtual/digital-only platforms, where bloggers who claim to “offer practical solutions for self-reliance” assert the dilemma as seeing “ourselves as separate from Nature,” which thus reduces “the natural world in terms of inanimate 'resources' to be exploited for our own purposes (Brenan 2011).

In making sense of such claims that locate “depredations of anthropocentrism” as the source for undermining the “autonomy of reality” (Schillmoller & Pelizzon 2013, 3), one term that is frequently deployed is the homosphere (Culliman 2011). Cullinan’s popular book written as a manifesto on Wild Law, states “for centuries now” the “delusory” construction of a “human world that is separate from the real universe” and “the biosphere into which we were born” has produced the “myth of human supremacy (as the homosphere), that is now more real to us than Earth” (2011 51). Moreover, modernity as the “dominant culture” that produced the homosphere is also understood through the unavoidable immersion in a technocentric world (synthetically mediated as mastery/control), which produces the resulting conceptual and material alienation between humans and the “natural world” we are “dependent on...for our basic life support systems” (Rivers 2007, 82).

The second part of this argument is how the legal subject/object bifurcation along human/non-human axis is seen as merely the reflection of a political reality that has not yet caught up with the realities within scientific development (Cullinan 2011², European Citizens Initiative 2014). While political reality is suggested to be “governed on the basis of discredited 17th century understanding of how the universe functions,” the scientific realities of “new physics based on quantum theory, [and] developed by scientists such as Albert Einstein, Niels Bohr, Erwin Schrodinger, and Werner Heisenberg” have long rejected the worldview of “Galileo, Bacon, Descartes, and Newton” through revealing the “universe [as] a single integral whole composed of a dynamic network of relationships” (Cullinan 2011 46).

Moreover, this non-dualistic truth is considered “most striking” for its shared “common ground with many ancient philosophies” (Cullinan 2011, 46). The implication of this convergence is that while using “the language and insights of modern physics to explain these ideas, it is equally possible to use the teachings of many spiritual and philosophical traditions to arrive at the same point” (Cullinan 2011, 46). Although arriving at the same non-dualistic ontology, the “more conventional [approach] derived from the modern Western mind” offers the objective, scientific, and empirical form (epistemology) through observation, measurement, and recording, while the epistemology “more common among indigenous peoples” offers the “more intimate and sometimes intuitive experiential mode of connecting with the natural world and

² “Ironically, the leading physicists and mathematicians of today who are in many ways the successors of Galileo, Bacon, Descartes and Newton, have already rejected this worldview. Yet we continue to govern ourselves on the basis of a discredited 17th century understanding of how the universe functions. No wonder we have problems.” (Cullinan 2011, p46)

understanding it, as it were, from within” (Filgueira and Mason 2009, 3 referencing Cullinan 2011).

Although the human/non-human nature dualism and hierarchy is considered an ontological fallacy, the inextricably coupled claim of ever evolving epistemological progression is also supported by placing the fallacy of the dualism in historical relation to the expansion of legal personhood for slaves, women, children, and disabled people, whom were all at one point deemed biologically external (and inferior) to the definition of being a full human (Stone 1972; Cullinan 2011; Suarez 2013; European Citizens Initiative 2014). Evoking this historical context in which the once rights-less eventually becomes rights-bearing is to illustrate the relationship between systems of “law and culture” and its unfolding toward social leveling (Global Exchange, Council of Canadians, and Fundacion Pachamama 2010; Boulder, CO 2013)³, all the while conflating a historical/political impetus (civil rights movement, etc that produced a shift in rearticulating who is in and who is out) with a biosocial fact (all members of the human species are a priori equal).

The last component of this claim is that this dualism as a power relation, while a legacy of colonial practices, only continues to be reproduced through modern legal regimes. The logic follows that this hierarchy that biologically severs the continuum of nature, and places human life over non-human nature, is epistemologically reproduced through political-juridical structures that recognize, protect, and foster nature as property and thus an object (instead of a subject) by law. Modern law, including environmental

³ “We the People of this Community declare that recognizing the rights of Nature continues a long, enduring and necessary history securing rights for the “rightless” – including women, children, African-Americans and others – who were once considered “property” under the law.” (Boulder, CO 2013, Section 3)

law, is stated to give rise to the illusion of nature as subordinate to humans through “mechanistic,” “anthropocentric,” and “adversarial” premises that cut across almost all of the worlds nation-states and international legal bodies (European Citizens Initiative 2014)⁴. As a result, the existing efforts to protect the environment through adopting regulations, at the most limits the degree of harm that can be done, while simultaneously legalizing those harms (National Ganga Rights Movement 2012; Margil 2013; Sheehan 2014; European Citizens Initiative 2014). Empirically speaking, the outcome of such an approach speaks for itself as almost all accounts indicate an increasingly proximate horizon for breaching environmental limits (National Ganga Rights Movement 2012, City of Santa Monica, CA 2013). This unanimity in the governing of non-human nature as a thing to use for “private, short-term economic benefit, generally with minimal regard for the health of the environment” (City of Santa Monica, CA 2013, 4.75.020 e) is referenced in the Does Nature Have Rights Report (2010), the Ganga Rights Act (2012), the 10th World Wilderness Congress (2013), the Santa Monica city ordinance (2013), and many others.

While some statements situate the struggle between living beings (and their ways of life) and the property rights regime (at least in the Americas) as a legacy of a particular *colonial moment* codified in legal rule by the papal bull Pope Alexander VI in 1493 (Speer 2012), others articulate the process of legally objectifying nature in the

⁴ “Modern environmental law in most countries operates still within the following paradigms: mechanistic (ie. viewing the world as deterministic and made up of separate unconnected objects); anthropocentric (ie. viewing the world as existing solely for the use and enjoyment of human beings – this is where ideas about “natural resources” and “natural capital” derive basing nature’s value on its utility to humanity); and adversarial (competitive/retributive model where one party wins at the expense of another). None of these paradigms reflect the full scientific reality of natural systems. This gives rise to the illusion of a “power-over” relationship with nature which has led to our current predicament” (European Citizens Initiative 2014)

name of property through a more *general capitalist dynamics* that “seeks only to guarantee benefit for those few who wield economic power” (ALBA 2010), while there are still others that don’t make a differentiation at all (“UDRME” 2010) and hold “the capitalist system and all forms of depredation, exploitation, abuse and contamination” responsible. In contrast, with the exclusion of Santa Monica⁵, many US ordinances such as in Tamaqua and Pittsburgh, Pennsylvania locate the cause not in a broader structural mode of (socially) producing nature as property or an object through law, but rather in a particular legal development of regulating corporations bestowed with constitutionally-conferred powers of personhood in conjunction with limited liability (Tamaqua Borough, PA 2006, City of Pittsburgh, PA 2010). The significance of this variation may lie in whether law and culture are other sides of the same coin through historically specific social structures, or law is a particular projection of culture, in a way where the latter conceptualization allows for a cultural lag in law, and a space for legal changes as an effect of culture. *Wild Law: The Philosophy of Earth Jurisprudence* expresses how anthropocentrism only continues to be reproduced through our social institutions because of path dependency, but much of the constituent individuals are not advocates (Burdon 2010), which suggests a gap between what it is legally codified and what are culturally held views by individuals. In this telling, if culture has already shifted then it is just the laws that must be made to change, as they only exist as a legacy to transformed cultural values. Yet, despite the variability in the conceptual relation

⁵ Although the Santa Monica ordinance cites Pittsburgh as a precedent, it limits references to corporations and corporate rights and in the last instance ultimately deduces the causal factor to be “the treatment of natural world as mere property” (City of Santa Monica, CA 2013, 2)

between law and culture, the ultimate cause remains almost uniformly attributed to the idea of anthropocentrism, as a particular dualistic form of thought.

THE SOLUTION:

Given the narrative logic between the problem (as the risk to life itself) and the cause (as the legally constituted cultural error of anthropocentrism), I *argue* the solution offers a corrective to the dualism that objectifies nature through law by making nature a subject through law. First, I show how rights themselves are first and foremost interpreted as securing the existence of that which already exists. Therefore recognizing nature, the Earth, as a living subject (of which humans are only a part) and thus capable of having and expressing its own interests, requires recognizing its rights to exist and fulfill its role in the reproduction of existence itself (renew vital cycles), as well as better its form (evolve) and way of life (flourish). Secondly, I show how rather than being an interpretation or produced somewhere, these ultimate rules/truths are considered to exist a priori to human effects and just in need of being discovered, either through indigenous traditions or the newest findings in the life sciences and ecology, which are ultimately considered the same source. Lastly, I show how these rules are framed as part of a plan (campaign) for implementation across all scales in order to bring about a global transformation of transcendental order.

First, I'll show how these so-called 'Wild Laws,' built on the notion of 'Earth Jurisprudence,' depend on the idea of rights as securing the existence of that which already exists. However, not only does life then have the right to exist and thus fulfill its

role in the reproduction of existence itself, but also to better its form and way of life. These principles were laid out directly in a document, “Origin, Differentiation, and the Role of Rights,” cited as a theoretical authority, which states: “Every component of the Earth community, both living and nonliving has three rights: the right to be, the right to habitat or a place to be, and the right to fulfill its role in the ever-renewing processes of the Earth community (Berry 2001a, principle 5). This precise arrangement of rights is then repeated not only verbatim by Berry again in 2006 in his “10 Principles of Earth Jurisprudence” which were distilled from his book entitled Evening Thoughts: Reflecting on Earth as Sacred Community (2006) published by the Sierra Club, but also remains a visible theme across a plurality of contexts. The right “to be” can be found on its own in the form of rights to pure existence, or it can be found in the form of rights to what is considered the source of existence, such as the right to habitat or place, the right to healthy and ‘untampered’ air, water, and etcetera. Whereas the right to fulfill ones role in the reproduction of life at large, as a separate set of rights, appear in the form of as rights to evolve and flourish. Such rights also include the responsibilities of keeping the source of existence in its “healthy” state.

The direct recognition for the ‘rights to exist’ are explicitly advanced in US municipal ordinances (such as in City of Pittsburgh, CA 2010, 618.023 b), academic articles (such as by Schillmoller and Pelizzon 2013, 27), grassroots movements in postcolonial countries (such as the Ganga Rights Act 2012), and transnational declarations (such as the UDRME 2010, in which such parts of the declaration are also repeated verbatim by the People’s Sustainability Treaty 2012, and endorsed by regional alliances in the global south, such as by ALBA 2010). At the 2012 conference for the

American Association for the Advancement of Science in Vancouver, a panel of scientists presented a declaration for cetacean's rights to life, liberty, and well-being as a holistic individual, which extended not only to dolphins and whales but to the cetacean environment as well (Sheehan 2013). Through this framing, existence becomes articulated through the foundational pillars of liberalism. For the Whanganui River Agreement, sustaining the existence of the river, as such, is conceptualized as a mean to secure the three specifically intersecting interests of the Iwi (the indigenous peoples), the Crown (essentially the state of New Zealand), and future generations ("New Zealand Whanganui River and Iwi Agreement" 2012). Whereas the rights to healthy sources of life, which are also central components to the UDRME and the Ganga Rights Act, reflects the sole way in which the Tamaqua ordinance (2006)⁶ conceptualizes the most fundamental and inalienable right. The UDRME also recognizes directly each being's "right to a place," mirroring Berry's original phrasing.

The other set of supposedly inherent rights pertain to 'fulfilling one's role' in the reproduction of life at large, or the sources for existence, and is made legible through one's rights to evolve, flourish, and the maintenance of the conditions necessary for those processes. In the City of Pittsburgh ordinance (2010) and an academic article by Schillmoller and Pelizzon (2013), it is the exact language of "flourish" which is utilized, while in the Ganga Rights Act (2012) the texts includes rights to "thrive, regenerate, and evolve." The UDRME thoroughly details these rights, which secures that each plays its role in the harmonious functioning of Mother Earth, in calling for the recognition of:

⁶ "All residents of Tamaqua Borough possess a fundamental and inalienable right to a healthy environment, which includes the right to unpolluted air, water, soils, flora, and fauna." (Tamaqua Borough, PA 2006, 7.7)

(c) The right to regenerate its bio-capacity and to continue its vital cycles and processes free from human disruptions; (d) the right to maintain its identity and integrity as a distinct, self-regulating and interrelated being; (h) the right to be free from contamination, pollution and toxic or radioactive waste; (i) the right to not have its genetic structure modified or disrupted in a manner that threatens its integrity or vital and healthy functioning (2010, Article 2)

The way in which securing the whole through rights to evolve translates into regulating particular human activity is further apparent in the Ecuadorean Constitution, in which adhering to the function of one's existence becomes consistent with the "prevention and restriction" of "activities [that] might lead to the extinction of species, the destruction of ecosystems and the permanent alteration of natural cycles" including "the introduction of organisms and organic and inorganic material that might definitively alter the nation's genetic assets" (Legislative and Oversight Committee of the National Assembly 2008, Article 73). This slippage in which regulating against collective harm can open up avenues for criminalization becomes intentionally folded into a proposal to add Ecocide to the Rome Statute. By defining ecocide as acts that damage an ecosystem to the extent that the survival of its inhabitants are threatened comparably to acts of war, the proposal aspires to classify the violation as the 5th international Crime Against Peace. Therefore, muddying the border between wartime and peacetime legal regimes. While in 1998, Berry advocated for the recognition of the "absolute evils of biocide and geocide" (Berry 1998, point 8), it wasn't until a global initiative for Eradicating Ecocide, formed through documents such as the "Ecocide Act" (Higgins 2012)⁷, *Protecting the Planet: A proposal for a law of ecocide* (Higgins, Short, and South 2013), and *Ecocide is the missing 5th Crime Against Peace* (Higgins et al.

⁷ This was in the preamble of Polly Higgins book, *the Earth is Our Business: Changing the Rules of the Game*. It is also identical to the Ecocide Directive that was proposed in the European Union through the European Citizens Initiative.

2012), that the concept become an extension of the logic of Earth Jurisprudence. This association is also made evident in “The People’s Sustainability Treaty” (2012)⁸, which urges the UN to augment the Charter of the International Criminal Court (i.e. the Rome Statute) to incorporate “Ecocide” as a means to hold transnational violators of destroying the environment, criminally responsible.

In addition to the content of the rights themselves there are the meta-principles that qualify the operation of these rights. According to Berry, while rights to exist and evolve may seem universal, in that they are equally applied without any distinction of kind or form⁹, they are also role-specific and thus qualitatively different. This pluralized conception bestows fishes with fish rights, birds with bird rights, and humans with human rights (Berry 2001, Berry 2006, a point essentially made by Stone 1972, 10 as well). This principle is also reiterated in Article 1 of the UDRME (2010). Yet, following this idea of equal but different, the question arises, what happens when these rights conflict? What will be the mediating principle in the instance of conflicting rights? Although there are some variations in the response to these questions, the overarching theme is that “any conflict between...rights must be resolved in a way that *maintains the integrity, balance and health of Mother Earth*” (“UDRME” 2010, similarly described by Thiong’o 2007 and at the 7th World Wilderness Congress 2001). Similarly, a 2012 Supreme Court decision in India recognized that “human interest[s] do not take automatic precedence [over the environment’s interests itself] and humans have

⁸ Which remember is essentially identical to the UDRME

⁹ The way in which these rights are indiscriminately applicable to all life, can be further underscored by EU Being Nature initiative, which calls for the recognition of the “natural rights of all life comprising nature (eg animals, plants, ecosystems, mountains, rivers etc)” (European Citizens Initiative 2014).

obligations to nonhumans independently of human interests” (Radhakrishan and Prasad 2012, point 14).

However, this is where a confluence of contradictions emerges. At the same time as the interests of the whole takes precedence in the last instance, the Peoples Sustainably Treaty insists none of this would restrict the “inherent rights of all beings or specified beings, including but not limited to those articulated in the U.N. Charter, the U.N. Universal Declaration of Human Rights, and the U.N. Declaration on the Rights of Indigenous Peoples” (2012). What does this mean in the present context where corporations are also considered legal beings? Or when private property regimes secure the protection of some beings more than other beings? In regard to the Whanganui River, the treaty clearly specifies that existing private rights will not be under threat (2012, point 7). Similarly, Berry claims that, while “property rights are not absolute” they represent “a particular human "owner" and a particular piece of "property,” which may allow both to “fulfill their roles in the great community of existence” (Berry 2001, Berry 2006). Yet this still leaves many loose ends hanging. However, the way in which both the good of the whole will take precedence at the same time that all these various and conflicting rights (from corporate personhood to indigenous rights to the rights of the environment) will be upheld, without resorting to property regimes (or right by might), remains inconclusive.

Bundling this series of rights into a body of Wild Law, for the practice of an Earth Jurisprudence, would amount to giving “formal recognition to the reciprocal relationship between humans and the rest of nature” (Filgueira and Mason 2009, 3). This definition of Earth Jurisprudence has been echoed from advocates across the global

north and south (such as by director of UK based Gaia Foundation, Hosken and founder of Kenyan based Green Belt Movement, Wangari Maathai¹⁰). On one hand this definition is very abstract and leaves a lot of room for various actors to use the term for radically divergent objectives, on the other hand in the widely circulated report “Wild Law: Is any evidence of Earth Jurisprudence in existing law and practice,” an international research project sponsored by the UK environmental law association (UKELA), authors Begonia Filgueira and Ian Mason produce a specific list of measurable indicators to standardly evaluate policies across the world for what can be technically classified as abiding to Earth Jurisprudence. See report for details, but includes all three of Berry’s main inherent rights, as well as conflict resolution mechanisms that prioritize the well-being of the Earth Community as a whole, and lastly includes a component on community participation and governance (2009).

Secondly, I want to show how these ultimate rules are suggested to be uncovered from both the Earth and indigenous peoples. The focus here is the way in which ‘nature itself’ is identified as that which operates through ‘fundamental laws’ or the ‘great jurisprudence’ (Berry 1999; Schillmoller and Pelizzon 2013) and thus serves as the primary “source of [all] law” (Thiong’o 2007, 174). Rather than being produced somewhere this set of laws is considered to exist a priori to human effects and therefore are just in need of being discovered or uncovered, either through “living” or “ancestral” indigenous traditions or “read from the book of Nature” (Hosken 2011, 26) through scientists that “define and track ecosystem health” (Sheehan 2014). Yet, ultimately these

¹⁰ “The 7th World Wilderness Congress (2001) adopted a resolution, proposed by the late Nobel peace prize laureate professor Wangari Maathai, stating that delegates should “develop a jurisprudence that recognizes humans as inseparable from the planetary ecosystem”” (10th World Wilderness Congress 2013).

are considered the same source, since the indigenous “traditional worldview is earth-centered” (Thiong’o 2007, 174)¹¹. The ways in which indigeneity becomes entangled with a pre-social natural order will be elaborated on further in the last chapter which illustrates how indigeneity underpins this set of proscribed solutions.

In the chapter “Reflections on an Inter-cultural Journey into Earth Jurisprudence”, in the popular-oriented book Exploring Wild Law: The Philosophy of Earth Jurisprudence¹², Gaia foundation director writes, this “re-learn[ing] the language of Nature” requires direct contact in order to “redevelop [the] senses, which have been atrophied by our obsession with the rational mind and the material world” (Hosken 2011, 26). However, few emphasize a phenomenological approach and instead most advocate turning to the ecological sciences to learn the rules that have governed the “integrity, interrelationships, reproduction, and transformation” of Nature over the past “millions of years” (Solon 2012; see also Burdon 2013, etc). In turn, concepts coming out of the life sciences such as ecological integrity become the key tools for producing normative standards through ‘objective’ truths. Nonetheless, the conceptualization of these rules *as produced* is continually obscured in favor of the notion of them as already existing. While some advocates make note of the particularly subjective dimension, such as “what sorts of information is meaningful, who is recognized as speaking with accuracy and authority, and who decides these questions,” the concern is geared more toward the role of human (species) partiality in the application or implementation of

¹¹ However, this quote comes from a passage where he is referring more specifically to indigenous traditions within the “African context” (Thiong’o 2007, 174).

¹² Yet, this approach also rings similar to the position of some work by cultural ecologists such as in Spell of the Sensuous by David Abram (whom also just happens to be the founder of an Alliance for Wild Ethics).

what are still considered ‘real world’ truths, than the purported claims of decentering the “epistemic conditions of knowledge” or the situatedness of truths themselves (Schillmoller and Pelizzon 2013, 28).

Lastly, these ultimate rules are to be ushered into practice at every scale, in turn aggregating into a global call for a “fundamentally new form of governance” (National Ganga Rights Movement 2012). Nonetheless, this requires an active effort in “initiating, supporting, identifying, and connecting” the nodes in the networks doing this work (The Gaia Foundation 2015). While later I will show how the Gaia Foundation has played one of the most active roles in reproducing and expanding this transnational network/alliance of actors, institutions, etcetera, here I will turn to the UDRME to illustrate one of the most overt animations of these efforts, which in the last paragraph of the preamble, calls for:

...the General Assembly of the United Nation to adopt it [this declaration], as a common standard of achievement for all peoples and all nations of the world, and to the end that every individual and institution takes responsibility for promoting through teaching, education, and consciousness raising, respect for the rights recognized in this Declaration and ensure through prompt and progressive measures and mechanisms, national and international, their universal and effective recognition and observance among all peoples and States in the world (2010, preamble).

This declaration is not only reified in being the most cited text within the discourse on ‘Rights for Nature’, but such language is also repeatedly articulated across various other enunciative moments as a constitutive component to the solution. For example, the 10th World Wilderness Congress in 2013 adopted a resolution for the establishment of a global coalition that would advance the “adoption and implementation of new laws recognizing the rights of nature, at the local, national, and international levels” (10th World Wilderness Congress 2013). This consistent promotion and signaling toward

global coalitions as necessary for the implementation of these ultimate rules across all scales, including at the international level, reflects its own discursive significance beyond the delineation of the rules themselves.

In summary, the first section in this chapter laid out my analysis for the conceptualization of the problem in this particular narrative as a rift between the social and the natural order that places life itself at risk. Secondly, I elucidated the supposed diagnosis of this problematic as Western dualisms codified through a legal regime that solely recognizes humans as the subject of rights while rendering non human nature an object of property by law. Significantly, this resulting separation of humans and nature is proven fallacious through ‘true’ expressions of an interconnected (non-dualistic and mutually enhancing) human-nature relation, which can be found in both modern science and indigenous knowledge alike. Lastly, I explained how the resolution that derives from this dilemma is an international campaign for extending legal standing to nature as a subject with its own inalienable (sovereign) rights. In turn, what this analysis of the problem, cause, and solution shows is that in this logic, life is simultaneously what is at stake in modernity’s dualisms and is the source of a non-dualistic resolution. And it is here that the striking becoming human/becoming nature paradox, which I identified in the introduction, emerges. Through this paradox, in which humans and nature becomes more fully themselves by becoming more like the other, human, nature, indigeneity, and rights come to be seen as natural, presocial, and eternal truths. This is likely an uncomfortable conclusion for many critical geographers despite the strikingly common concern for ways to think and act beyond the limitations of the enlightenment subject constituted by its (false) emancipation from a separate and inferior nature. Yet it also

suggests the degree to which there may be a vulnerability/proclivity to unquestioningly accept instances where such concerns become taken up as phenomenon beyond the walls of academia. Therefore, querying the relations of power that produce and are the effects of these instances becomes all the more pertinent.

Chapter 4: Who Speaks for the Trees?

Network Analysis of Actors, Sites, and Interests

Given the paradoxes within the logic of the argument itself, it prompted me to wonder just *who* exactly are putting these ideas together. Therefore, in my next section, I do a network analysis on the historical lineages of its emergence, through disentangling the citational politics between key actors, institutions, and texts. In showing the (historically specific) entanglement of relations that made possible the emergence of Earth Jurisprudence as the means and ends for taking humanity beyond modernity's erroneous trappings of anthropocentric dualisms; I argue that statements on rights for nature emerge at an intersection conditioned by at least three particularly situated and embodied modes of enunciation, which I will call 1) alternative development, 2) Western holistic environmentalism, and most significantly 3) juridical-legal, which is also paradoxically the least visible. This first section will discuss how the production of positioning rights of nature as a challenge to western development, both conceptually and in terms of from where and who it is coming from, is only made possible through the exact relations of power that constitutes Western development. Secondly, I will explain how the supposedly indigenous conceptualizations of nature are actually made not only relevant but also authentic by disciplinary authorities specific to the field of Western environmentalism. Lastly, I will unpack how translating the desire to overcome

modern social relations in accordance with indigenous knowledges and ecological holism, doesn't just happen to be through the language of law, but depends upon (and in return confers benefits upon) a particularly juridical set of actors and interests.

ALTERNATIVE DEVELOPMENT:

This section on alternative development examines statements on 'Rights for Nature' that are positioned as emerging from actors and institutions particularly within the global south as well as other subaltern sites that represent the marginalized voices of Western development. Through this analysis of statements as events enacting alternatives to development, I *argue* that foregrounding the legal recognition of the cultural or biological demarcation (construction) of collective subjects as a subaltern project cannot be understood outside the shifts in development itself, without obscuring the historically contingent relations of liberalism. I show this through three parts, where I first discuss how the voiceless or the other of development is only heard once they become articulated through transnational alliances made possible through transforming global norms. Secondly, I illustrate how 'Rights for Nature,' far from being an alternative to the green economy, is its necessary complement in the realization of sustainable development, and lastly, I show how narrow the links are in the alliances that provide legibility for the other, in that they all point to the same few actors.

BECOMING LEGIBLE - MAKING ALLIANCES WITH THE VOICE OF THE VOICELESS

This first part will lay out how the increasingly uneven relations across difference, as an outcome of the epistemological techniques (and other strategies) that make entrepreneurship the optimal principle for organizing the self, the market, the State, civil society, and the external environment (Mansfield 2005), has produced the possibility for new alliances that cut across development actors and the targets of development. Ironically, it even makes possible alliances that articulate allegiances in the names of those (the subaltern other) rendered silent by the exact same conditions that now purportedly provide the means for the voiceless/silenced to speak. Much of the discourse itself, whether academic or popular, situate the emergence and mobilization for nature as a rights-bearing subject, within the rise of indigenous social movements and the acquisition of State power by anti-imperial platforms, specifically in certain Latin American countries (Escobar 2011; Gudynas 2011; Radcliffe 2012). The opportunity for such mobilizations to garner that level of political power was fueled in part by the social, environmental, and economic consequences of Western development in general and the Structural Adjustments Programmes (SAPs) of the 80's and 90's in particular (Ibid). Additionally, as “a target for global development aid and technological diffusion since the dawn of the green revolution more than 30 years ago, [with] technicians, extensions agents, and development officers ... crawling across the mountains for at least that long” it is no surprise that those invested in development find

that “ if there were ever a place to study the global-local linkages of survival, adaptation, and upheaval, this would be it” (Robbins 2004, 191).

As challenges to development and responses by development become placed in an iteratively dialectical relation, the concept Pachamama has been taken up to signify how harmonious human-nature relations can be rethought within the indigenous worldview labeled Buen Vivir (Vidal 2011; Sagas 2015). However, others note, Pachamama has not always functioned for such purposes, but has rather been deployed under specific regional and social contexts in Bolivia as a distinctly *modernized* “indigenous” practice and explicitly entangled with death, violence, conflict, and sacrifice (Howard-Malverde 1995; Juan San 2002). Only as the term became (re)mobilized within a global discourse, has it become purified from both its relation to death and to modernity. Yet, even according to some proponents of ‘Rights for Nature’ who are Latin American scholars, such as Gudynas (2011), the function of Buen Vivir, while supposedly indefinable and anti-essentialist, at once, signals a rejection of Western development theory, including the neoliberal idea of sustainable development, and at the same puts forth an alternative articulation that reflects indigenous cosmology. As this became codified in Ecuador’s constitution that was redrafted in 2008, Buen Vivir became interpreted through adherence to respect for the diversity of “inter-culturality” and “harmonious cohabitation with nature” (Article 275), where “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” (Article 71). In turn, the State takes on new roles in interpretation and enforcement as rights are expanded (See Article 71, 73, etc).

In accordance with various scholars (Escobar 2010; Peck et al. 2010; Bebbington and Bebbington 2011; Radcliffe 2012; Grugel and Riggirozzi 2012; Yates and Bakker 2013), this legitimization of a new role for the state through the expansion of political representation to all biological and cultural forms of life, can be identified as part of a postneoliberal turn. While some of the literature recognizes postneoliberalism as merely the shifting reconstitution of neoliberalism in response to crises and resistance (Peck et al. 2010; Bebbington and Bebbington 2011)¹³, other are more quick to point to the ‘notable’ differences in the production of state-society relations (Escobar 2010; Radcliffe 2012; Latta 2013). For Radcliffe, it is through foregrounding differential rights in accordance with identity and collective or social rights, instead of rights based on sameness, that the “rights regime for individuals, collectives, and nature” established by the “2008 constitution...challenges liberal theory’s presumption of a universal model of citizenship” (Radcliffe 2012, 243). However, other scholars note despite the dispersed unity of indigenous livelihood movements within both the Andes and Ecuador more generally, the “peculiar articulation of ethnic identity” if pointing to any pattern, suggests that “indigenous movements often embrace modernization¹⁴” versus some novel popular/political legitimization of some authentically traditional way of being (Robbins 2004, 192 in reference to the work of Perreault 2001). Moreover, in a talk given at the Yale Center on Environmental Law and Policy on “Nature’s Rights in Practice: The Rights of Rivers to Flow”, spokesperson and executive director of the Earth Law Center in the Bay Area, Linda Sheehan, without any critical skepticism, uses

¹³ Which Bebbington (2013) and Peck et al (2010) reference, respectively, as “ultra neoliberalism” and “deep neoliberalism.”

¹⁴ He then goes on to say “but on their own terms,” which I excluded, because at this point, I’m still unsure how I’d qualify my incorporation of such a an addendum to this claim (Robbins 2004, 192).

Adam Smith, to show how collective subjects are always just as central as individual subjects for the principles of liberalism, in explaining that he “lauded as “wise and virtuous” the individual willing to sacrifice his own private interests in the name of the collective public interest (2014). Despite how the emphasis on cultural identity (as the recognition of difference) and collectives seem to offer a decentering of classical liberal rule, they could also be interpreted as the effect of a historically contemporary reconstitution of the same state-society relation.

At the same time, the appeals to authenticity, as an old colonial strategy, are far from anything new (Li 2007)¹⁵. According to Michael Dove, the emergence of indigenous peoples as a transnationally distinct category of humans cannot be separated from the emergence of global environmental politics. As shifts within both academia and the international development industry led to the articulation of social difference through the frame of culture, labor and peasant identities were replaced by indigenous identities in order to (materially) access the international claims for the recognition of sacred sites and rights for community environmental governance (Dove 2006). By the first UN held conference on environment and development in 1992, one of the principles of the Rio Declaration, a key outcome document, already recognized that more successful development interventions could be achieved through incorporating the unique system of environmental knowledge embodied by indigenous people (United Nations 1992, principle 22). A fitting precursor to the UN declaring 1995-2005 as the official ‘Indigenous People decade.’

¹⁵ “A third tactic was to argue that improvement for natives did not mean becoming like their colonial masters, it meant being true to their indigenous traditions. It was the task of trustees to improve native life ways by restoring them to their authentic state. Intervention was needed to restore natives and native life to the authentic state” (Li 2007, 15)

By 2010, the Universal Declaration on the Rights of Mother Earth (UDRME) adopted at the Peoples World Conference on Climate Change and the Rights of Mother Earth in Cochabamba, Bolivia, was presented as the rallying platform for the coming together of indigenous movements, women's organizations, and other conservation and human rights groups mobilized against the COP process specifically (and COP15 the previous year in Copenhagen), and market-oriented environmental solutions more generally. However, this declaration was then presented by Pablo Solon, who was the Ambassador of Bolivia at the time, to the UN at COP17 in Durban, South Africa. Although anti-COP in narrative it was coming from sites that were also nudging closer toward being on the inside of the COP process as well. While the drafting of the UDRME was the responsibility of one of the conference's seventeen working groups and made open to discussion through online comments and a pre-conference meeting of indigenous people's organizations, the lead author and co-president of that working group was Cormac Cullinan (whom I will discuss further in the juridical-legal section). In the 2011 edition of his book on Wild Law: A Manifesto for Earth Justice, Cullinan maintains that despite the broad range of interests from rural farmers, to academics, and professionals, the collaboration "to find the words to express... their perspective in legal language which the international community could understand" was "remarkably coherent, consistent, and detailed" (187-9). In contrast to any such coincidence, this declaration specifically draws from the previously drafted Universal Declaration on Planetary Rights.

As an effect of these constitutive correlations, indigenous rights and community ecological governance are also considered indistinguishable to the interests of Earth

Jurisprudence/Wild Law. Many global (development and environment) NGO's that operate from the North, such as the Gaia Foundation, explicitly orient their entire organizational mission and vision around the linked, yet distinct, thematic categories of earth jurisprudence, indigenous knowledges & territories, communities ecological governance, and forests, food, and climate (see front page of website www.gaiafoundation.org)¹⁶. Yet, the 'indigenous' organizations they are supposedly collaborating with in the 'global south' *do not all necessarily* make visible in the same way the discursive relation between indigenous rights, community ecological governance, and Earth Jurisprudence.¹⁷

Despite the abundance of literature that has scrutinized the proliferation of academic and popular "romantic essentialism" of "community" identities (See Robbins 2004 in reference to Rangan 1995) as overshadowing the layers of heterogeneity that can make for quite "uneasy alliance[s] around certain issues" (Zimmer and Bassett 2003, 6), the imperative to be "authentic" can also result in "access to project resources" (Sundberg 2003). In contrast to notions of either simple appropriation or exploitation (or silencing the subaltern), the effects of this process is better understood through a negotiation of the stakes in performing particular identities over others. Those who can present their "views" in accordance with the "environmental discourses of NGOs as living in harmony with nature" are in a "better position to gain access to project benefits" where conversely those "considered to lack the NGO-constructed cultural

¹⁶ This can also be discursively seen under the section of Earth Law precedents, which are stated to consist of "legal instruments, cases and strategies which recognize" not only "Rights of Nature" but also "respect for indigenous peoples' rights and responsibilities to govern their sacred lands and territories according to their ecological knowledge and customary law" (Gaia Foundation, Earth Law Precedents)

¹⁷ See Leaflet 2014 developed by Gaia Foundation for the ABN

ecological traits [are] denied access to NGO-sponsored programs” (Zimmer and Basset 2003 on Sundberg, 2003, 6). My point here is to suggest there are not just those with all the power (the international environmental NGOs) and those that are solely disempowered or duped (those made vulnerable by state and capital), but that power relations are dynamically produced just as much by the agency of those with the lower as the upper hand – as they are a *relation*, but that does not mean with equal force, nor to equal, mutually enhancing, effects.

RIGHTS FOR NATURE AND THE GREEN ECONOMY: THE TWO FACES OF SUSTAINABLE DEVELOPMENT

This second part will illustrate how on the one hand ‘Rights for Nature’ represents a critical response to the green economy, while on the other hand rights of nature has a complementary relationship to the green economy as they are both integral to the logic of sustainable development. Despite positioning rights for nature as an indigenous “concept that seeks to challenge the materialistic world view inherent in colonial capitalism” (Announcement by Debra Dobbins on behalf of WACWC, for lecture by Dr. Ernesto Sagas at Colorado Mesa University on 1/2/2015), personifying nature serves as a necessary step in greening capitalism through making natures interests visibly incorporated into a market rationalization. The UN resolution on Harmony with Nature, which in calling for “holistic and integrated approaches to sustainable development that will guide humanity to live in harmony with nature,” invites states:

To further build up a knowledge network in order to advance a holistic conceptualization to identify different economic approaches that reflect the

drivers and values of living in harmony with nature, relying on current scientific information to achieve sustainable development, and to facilitate the support and recognition of the fundamental interconnections between humanity and nature (General Assembly resolution 68/216, 2013)

In this case, sustainable development is understood to be the means through which human and natural systems will be brought under nature's order. Moreover, this puts 'science' to work in the identification of the "drivers and values" necessary for expanding economic logic into broader and deeper spheres of life, through making visible to the market what had previously been unidentifiable. Although some such as Pablo Solon (2012), Vandana Shiva, and Maude Barlow (Goodman 2011) starkly position 'Rights for Nature' in opposition to the 'green economy' approach to reconciling environment and development (that 'sustainable development' has been essentially reduced to), for the most part the compatibility between these two approaches have been predominantly rendered not the least bit contradictory.

In response to the network of advocates¹⁸ sending proposals to the UN for sustainable development to be redefined to embody the principles of Earth Jurisprudence, prior to the 2012 UN Conference on Sustainable Development in Rio de Janeiro, Brazil, the main outcome document acknowledged that "some countries recognize the rights of nature in the context of the promotion of sustainable development" (United Nations 2012, paragraph 39). It then goes on to claim that they are "convinced" that in order to achieve sustainable development, defined as "a just balance among the economic, social and environmental needs of present and future generations," the promotion of "harmony with nature" is necessary (United Nations

¹⁸ Proposals were sent by the Global Alliance for Rights of Nature, Earth Law Centre, Rights of Mother Earth, Planetary Boundaries Initiative, and Gaia Foundation in collaboration with Wild Law UK, Alliance for Future Generations, and BOND-DEG - UK NGO

2012, paragraph 39). In this framing you have an inverse of the causality suggested by the UN Res 68/216, where ‘harmony with nature’ is considered the means through which ‘sustainable development’—as the ends— will be realized. While on one hand this reversal of ends and means may seem contradictory or incongruous, it also provides a tautological justification through which both variations may be strategically utilized complementarily. Either way the relationship between Wild Law (or Earth Jurisprudence) and Sustainable Development is far from antagonistic, and moreover, parallels the tautological relation between the green economy and sustainable development.

At the same time as the Heads of States and large ENGOs were meeting at the official sustainable development conference to represent the global consensus of the United Nations, there was a “People’s conference” on the other side of town. The outcome of this ‘counter’ conference included a Peoples Sustainability Treaty, which supposedly represented those who effectively felt shut out of the ‘official’ process, which structurally excluded voices not backed by enough capital. The treaty called on UN and Member States to commit to implementations of sustainable development that incorporated “specific actions that protect and promote the rights of nature to exist, thrive, and evolve,” including quantitative measures such as “tracking metrics” (“People’s Sustainability Treaty” 2012). Once again, at the same time as the treaty represents itself as the populist alternative to the neoliberal articulation between environment and development, the dominant consensus on rights for nature seems to also accommodate, quite unproblematically, its own project with that of sustainable development.

Moreover, the way in which the ‘green economy’ and the ‘Rights for Nature’ are not only far from alternatives but rather reinforce one another, is also gestured to in Exploring Wild Law: the Philosophy of Earth Jurisprudence, where Hosken¹⁹ proclaims that “maintaining the critical order of the ecosphere” ought to be “the overriding human enterprise” (2011, 34). In accordance with such statements, the logic of enterprise is not only read as an unavoidable mode of being human, but as the solution for securing the continuity of order (or the deterrence to disorder) on a global scale. The suggestion is that while the current form of enterprise may have precipitated the destabilization of the global ecosystem, that the logic of enterprise itself can be reoriented to produce global order. Underpinning this idea is the malleability of the logic of enterprise and the existing potential for it to discreetly distinguish ends from means. Such an assumption is made explicit by the report that the Global Exchange, Council of Canadians, and Fundación Pachamama presented at COP16 in Cancun, in clarifying that “these laws do not stop property ownership or development; rather they stop the kind of development that interferes with the existence and vitality of ecosystems” (Biggs and Margil 2010, 17)²⁰. While some suggest that this will supposedly be achieved through “subordinating corporate rights where they conflict with the long term common interests of the whole” (European Citizens Initiative 2014), it is questionable how this will be enforced when the State has become increasingly restructured to operate under the same logic as corporations. A process that is further supported through policies, such as in the Whanganui River Treaty, that promote cost effectiveness and efficiency as measures of

¹⁹ She was actually quoting Teddy Goldsmith

²⁰ This is also an excerpt from a longer article in book, The Rights of Nature: The Case for a Universal Declaration of the Rights of Mother Earth (Cullinan et al. 2011).

not only the governments ability, but also *authority* to manage the river (“New Zealand Whanganui River and Iwi Agreement” 2012).

The Whanganui River Treaty was agreed upon between the Crown of New Zealand and the Iwi indigenous peoples in 2012, as a “whole river” management strategy for the Whanganui River, which incorporated local participation and recognized the residents and the river itself as inseparable. The view of nature and rights solidified in the agreement supposedly reflects a compromise between the basis of state and private sector authority “to capture, to exclude, to develop, and to keep” and the basis of Maori authority “to protect, to conserve, to augment, and to enhance over time for the security of future generations” (Kennedy 2013, 29 quoting a Dr. Peter Sharples), as if both modes weren’t already the other side of the same coin. According to the agreement itself, negotiations first started between 2002 and 2004 and then were delayed due to a deadlock that prolonged any movement until talks recommenced beginning in 2009. However, I am unsure who had influence crafting the drafts and what led to these red and green lights in the negotiation process. Although it is notable, this particular group of people already had long standing recognition by the state and it was only in the name of authority made enforceable by an existing and quite dated treaty from 1840 that the violations of the river, in the context of indigenous rights, came to be negotiated through a new resource management strategy that would compensate both the Iwi, as the treaty partner, and the river itself, by extending legal personhood to the latter (Kennedy 2013, 30-31). Furthermore, this new agreement has since been taken up as a critical precedent for the global realization of Earth Jurisprudence, as can be seen in citations from later policies, such as by the Europeans Citizen Initiative proposed this past year in 2014

called “Being Nature: Recognizing and Respecting the Inherent Rights of Nature.”

While the negotiations for this policy, which recognized an entire ecosystem as a legal subject, commenced in the early 2000’s, the momentum of those advocating Earth Jurisprudence may have contributed to its eventual resolution in 2012 through the proliferation, elaboration, and thus normalization of such ideas.

THE ILLUSION OF THE SUBALTERN: THE SELF AND OTHER OF DEVELOPMENT

In this last section I unpack how the links in the transnational alliance all point to the same few actors, while ironically predicating their authority to speak in the name of the marginalized other. By the close of the first decade of the 21st century, what began to look like a large and dispersed network of organizations separately converging around the same solutions, upon closer inspection could never have existed without the particular influences/intervention of northern development actors. Starting in 2004 and through 2009, the Gaia Foundation coordinated annual trips between Africa and Latin America under the banner of a ‘Colombian Intercultural Exchange.’ Through the program, the Gaia Foundation along with Gaia Amazonas brought leaders from the African Biodiversity Network (ABN) to visit indigenous communities in the Colombian Amazon so that they could learn how to “revive their cultural traditions and secure legal recognition of their authority to govern their sacred territories according to Earth-centered customs” (“Story of Earth Jurisprudence” 2014). The other organizing partner, Gaia Amazonas, while officially Colombian-based, was founded by one of the early

members of the Gaia Foundation, Martin von Hildebrand (now a Colombian national but born in NYC to Austrian and Irish parents)²¹, in order to protect both cultural and biological diversity in the Northwest Amazon with indigenous governance systems that operate under Earth Law principles (Gaia Foundation). Notably, Hildebrand was also present at the 1st Earth Jurisprudence meeting in 2001 and contributor to the resulting Airlie Principles.

However the lineage of indigenous contributions to the emergence of Earth Jurisprudence (at least in the context of relations with African organizations) is predominantly uni-directionally recognized by the non-indigenous voices. The ABN formed in 2002, with significant support from the Gaia Foundation, in order to address threats to biodiversity through legal instruments at the national, regional, and international level based on indigenous notions of community ecological governance. The network of 36 partners from 12 African countries includes organizations from Kenya (Porini, Institute for Culture and Ecology), South Africa (Mupo Foundation), Ethiopia (MELCA), and Botswana (Ngwenyama Lodge). Yet for most of these ‘grassroots’ organizations, the Gaia Foundation served as a crucial formative partner through the “Colombian intercultural exchange” program, which provided the immediate context for their emergence [elaborated further in the preceding paragraph].

Many of these organizations’ founding leaders supposedly gathered at Kwa Zulu Natal, South Africa in 2002 for the endorsement of the Valley of 1000 Hills Declaration,

²¹ Interestingly, Hildebrand came to Colombia with his parents, who were invited to Bogotá to establish University de los Andes. He was raised in the University’s Law Faculty center. Moreover, his grandfather, Dietrich von Hildebrand, was a well known German Roman Catholic philosopher and theologian, who studied under Husserl (Lorna 2015).

which according to the Gaia Foundation, serves as an ‘African’ precedent for Earth Jurisprudence. Despite being able to locate the outcome document, which conclusively states that it is most “fitting that the local community is humanity's best manager of land, water and biodiversity” given that the “many local communities have maintained an intimate relationship with the ecosystems on which they depend and have shared timeless connectedness with all life,” the gathering itself, through which this document emerged suggests more ambiguous findings (2002). According to the Gaia Foundation, this *Earth Governance Colloquium* was convened by Gaia and EnAct International (see the Story of Earth Jurisprudence), however, the declaration itself states it was drafted by participants from Africa, Asia, Latin America, North America and Europe at the *Conference of Community Rights*.

In 2004, the ABN supposedly produced another one of the early crucial precedent statements, entitled the Botswana Principles of Earth Jurisprudence (“Story of Earth Jurisprudence” 2014). However, I could not locate this document anywhere and any reference to it was exclusively within Gaia Foundation sources. Other rights for nature precedents that the Gaia Foundation attributes to the ABN is the Statement of the Common African Customary Laws for the Protection of Sacred Sites and a resilience workshop in Kenya on using Earth systems science to support community ecological governance. In following up further on the relation between Earth Jurisprudence or Wild Law and the organizational investments of the ABN, only material provided by either Gaia Foundation, Global Alliance for the Rights of Nature, Wild Law UK, and the Ecozoic Times ever cite a correlation/connection. The grassroots organizations, which are supposedly part of the global mobilization for wild law, at least in these cases from

Africa, may only be barely invested in these ideas and their outcomes. The role of the UK-based Gaia foundation can be noted for not only producing fragmentation in its own image in Latin America & Africa but also through US outlets, such as the Ecozoic Times that tells the 'History of Earth Jurisprudence' by exactly copying and pasting the story the Gaia Foundation tells on their website.

According to the ABN, their focus includes the thematic categories of community seeds and knowledge, community ecological governance and sacred territories, and lastly, youth culture and biodiversity.²² Nowhere does the ABN itself use the language of Wild Law or Earth Jurisprudence. Yet their vision of “vibrant and resilient African communities rooted in their own biological, cultural, and spiritual diversity, governing their own lives and livelihoods, in harmony with healthy ecosystems,” opens up a discursively amorphous space through which the indigenous figure can be mobilized to render community governance translatable within an earth jurisprudence lexicon (“Mission and Vision” 2014).

The most visible indigenous African scholar, Ng’ang’a Thiong’o, not only co-taught a course on Earth Jurisprudence at Schumacher College in 2008, geared towards businesses, individuals, educators, and NGO’s alike, but also was the lawyer for the Green Belt Movement founder, Wangari Maathai. In the book Exploring Wild Law: The Philosophy of Earth Jurisprudence (2011), edited by Peter Burdon, the chapter on “Earth Jurisprudence in the African Context” is an extract from a 2007 interview Thiong’o. While other contributing authors of course included Cormac Cullinan, the list also covered Mari Margil, Polly Higgins, Liz Hosken, Herman Greene (from the Center for

²² This is based of material provided on their website (<http://africanbiodiversity.org>)

Eozoic Studies), Ian Mason (head of Law and Economics at the School of Economic Science in London), Stephan Harding (founder of Alliance for Wild Ethics and professor of holistic science at Schumacher), Liz Rivers (former commercial lawyer that now works with the UKELA and facilitates courses at Schumacher College), and many others. The book launched at the 3rd annual Australian Wild Law conference that Peter Burdon organized to mirror the similar conferences that the Gaia Foundation and UKELA had started in the UK.

It is not only organizations in Africa whose origins are linked to influences from UK/US. The organization, Fundación Pachamama, that invited the Community Environmental Legal Defense Fund (CELDF) to assist with the drafting of the Ecuadorean Constitution, came into being as a sister organization to the San Francisco based Pachamama Alliance. After visiting the Achuar of Ecuador and Peru, Bill and Lyne twist responded to the supposed requests for “allies from the north” and subsequently established the Pachamama Alliance in 1996. A year later, Fundación Pachamama formed in Ecuador in the name of “carrying out work on the ground with our [their] indigenous partners” (Pachamama Alliance 2015a). For examples in sharing the distribution of sponsored partnerships, one can see the Fundación Pachamama collaborating with the Global Exchange and Council of Canadians to produce the document “Does Nature Have Rights: Transforming Grassroots Organizing” for presentation and distribution at COP16 in Cancun; while the Pachamama Alliance took up the role with, the Global Alliance for the Rights of Nature, the CELDF, and the Indigenous Environmental Network (IEN) in sponsoring the “Rights of Mother Earth” conference at National University in Lawrence, Kansas. The point to take from all this is

that what seems to be a grassroots or indigenous network mobilizing for the global adoption of Earth Jurisprudence, consists of organizations that either originated through foreign influences or operate only peripherally to the objectives that are then externally made legible as Wild Law. At the same time, the translation of the oft-cited indigenous (Andean) term Pachamama into the idea of Mother Earth (as both the source for the inseparability of all life, and as an existing subject and thus right-bearing entity) can then be positioned to function as an organizational strategy.

Merely months after Cochabamba, where the image of Evo Morales became a critical face of the movement, as the first indigenous president who also just implemented the Law of Mother Earth, ‘world leaders’ advocating ‘Rights for Nature’ gathered in Quito to establish the Global Alliance for the Rights of Nature. The Alliance aims to serve, through aggregating a grassroots network of individuals and organizations, as the key means for advancing the ideas of UDRME and “creating global, national, and local jurisdiction and cases that guarantee these Rights” (“Founding the Global Alliance” 2015).

While the group of founding organizations consisted of nine from Latin America, four from North America, two from Europe (both UK), one from Africa (but South Africa), and one from South Asia (India), the resulting executive committee did not quite mirror that distribution. The executive committee includes Vandana Shiva (Navdanya, India) as founder, Bill Twist (Pachamama Alliance, US) as CEO/co-founder, lawyer Cormac Cullinan (EnAct International, South Africa) as director, Maude Barlow (Council of Canadians) as national chairperson, lawyer Michelle Maloney (Australian Earth Laws Alliance – but also teaches at the Center for Earth

Jurisprudence in the US) as convener, and Carine Nadal (Gaia Foundation, UK) as an Earth Law officer. Natalia Greene, who serves as the ‘Rights of Nature Consultant,’ is the only member that represents an organization from Latin America. Moreover, her institutional affiliation with Ecuador’s national coordinating entity for environmental NGO’s (CEDENMA) was not even one of the Latin American organizations included in the list of founders. Lastly, the position for administrative director of the executive committee was given to Robin Milam, whose background in social entrepreneurship is deemed not only advantageous but supposedly proven reputable through her expertise in “strategic planning and business systems development” for corporations from IBM to American Express (“Executive Committee” 2015).

Outside of the executive committee, the composition of the Alliance consists of an Advisory Council that functions as a sort of general assembly for the rest of its members and four key working groups on legislative assistance, international advocacy, communications and learning, and ancestral knowledge. The CELDF, one of the founding partners, became head of the legislative working group and Tom Goldtooth, the executive director of the Indigenous Environmental Network became head of ancestral knowledge. Goldtooth also served as the judge for the climate change case presented by Pablo Solon at the ‘Rights for Nature’ tribunal that the Alliance convened in early 2014, again in Quito, Ecuador.

In the four years that passed from the establishment of the Global Alliance for the Rights of Nature to the world’s first Rights of Nature Ethics Tribunal that they sponsored, there was an explosion of activity that continued to normalize the production of ‘Rights for Nature’ from cases that tested legal standing, to academic articles, to

popular books, to voluntourism opportunities, to national acts, and to local ordinances. However, the tribunal strategically functioned in consolidating these developments through fleshing out a detailed legal analysis of nine example cases. The proclaimed goals of the tribunal to not only “examine constructs” necessary for “legal experts” but to also reframe “prominent environmental and social justice cases” within the context of Earth Jurisprudence, served to emblemize the broader objectives of the global rights of nature summit being convened, of which the tribunal was the main act (“2014 Global Rights of Nature Summit Outcomes: Rights of Nature Ethics Tribunal in Quito, Ecuador” 2014). The Summit gathered scientists, attorneys, economists, indigenous leaders, authors, spiritual leaders, politicians, actors, and activists from every continent but Antarctica in the name of learning lessons emerging from Ecuador’s implementation, examining the intersection of rights of nature and other social movements and global issues, and defining a framework for action to expand the global implementation and integration of rights for nature. The point to take from all this is that the seemingly universal applicability of ‘Rights for Nature’ principles– in spite of variations in socio-environmental problems or places – depends on the particularity of Ecuador, coded as other of development, in order to hide the particularities of the Western savior as agents of development.

Intriguingly, while the Ancestral Knowledge Working Group of the Global Alliance for the Rights of Nature, articulates its project as undifferentiated from providing support to the “various political struggles faced by Indigenous peoples all over the world in defending their ancestral homelands from cultural and environmental destruction” (Goldtooth 2015), the UKELA sponsored report on surveying the existence

of Wild Law already in practice, was careful to *not suggest* that any existing environmental governance, whether based on customary law or of other forms, could ever be (already) fully consistent with Wild Law. In chapter one of the report, labeled Introduction to the Wild Law Project, the author ensures to note that despite their research project being for the purpose of exploring the resonance between already existing governance and the principles of Wild Law, by recognizing the unlikelihood that any system fully meets the standards, it simultaneously maintains the call “for a complete revision of legal and governance systems so that they become consistent with Earth Jurisprudence in all their aspects” (Filgueira and Mason 2009, 2). In turn, it seems that while on the one hand, the connection between related discourses on community ecological governance and earth jurisprudence are constituted through the indigenous figure, on the other hand, the tidiness of this relation still requires active intervention.

WESTERN HOLISTIC ENVIRONMENTALISM:

Even scholars such as Gudynas (2011), who locate the innovative constitutional practices of Ecuador and Bolivia within indigenous cosmologies, also recognize particular resonances with holistic Western environmentalisms. Moreover, *I argue*, that examining the dispersed body of texts that market or institutionalize ‘rights for nature’ both outside and inside the context of Latin America, as a discursive unity, suggests entirely different conditions for its emergence, which far from emanating out of indigenous worldviews implicate deeply western conceptions of nature (and law). This argument is broken into three sections, the first part discusses how the concern over the

limits to anthropocentrism (and the limitations of those concerns) have not only long standing continuities with Western environmentalism but has in many regards constituted (disciplined) the field of knowledge. In the second part, I show how the turn toward a divine (supernatural) reconciliation to the dilemma of anthropocentrism (and the limitations to moving beyond it) is only made possible through not just very human acts, but historically specific relations of cultural authority. Last in this section, I explain how these culturally specific forms of authority produce authentic nature (as not merely the western conception of nature) through appealing to the intersection of science and ethics.

THE IMPASSE OF ANTHROPOCENTRISM

This first section will trace the debate over anthropocentrism, which not only shaped the emergence of ecological holism as a key feature of Western environmentalism, but also provides its continuous thread through which ‘Rights for Nature’ becomes the most contemporary iteration. The idea of all life as interconnected but independent, which prompted the quest for how to intrinsically value nature outside of its instrumental values to humans, served as one of the foundational narratives and dilemmas in Western environmentalism. The emergence of this particular narrative is predominantly associated with the work of Aldo Leopold, who in the 1940’s, developed a philosophy on “land ethics,” which in recognizing “the individual [as] a member of a community of interdependent parts” proposes “a body of self-imposed limitations on freedom” in order to “change the role of Homo Sapiens from conqueror of land-

community to plain member and citizen of it” (Burdon 2011, 4 quoting Leopold 1949). While this strand of environmentalism was at the time considered marginalized within the modern imaginary of nature, this problematic nonetheless consistently continued to re-emerge although in slightly different ways. However, this required engaging the most piercing/poignant critique of holism.

If all life is interdependent, how can non-human natures interests be articulated independently from the particular humans articulating them? By the 1960’s and 70’s, there were iterations that were not only dependent on subtle, yet still notably divine appeals for an objective authority (such as Deep Ecology) but also those that were dependent on rationalizations from the newly emerging science of systems that transcended disciplinary boundaries ranging from ecology, to immunology, to informatics (such as Gaia Theory). Although these conceptions of nature and their various rationalizations were on one hand continually sidelined, as market-oriented environmentalism gained increasing popularity, on the other hand, the effort to make nature, including the entire Earth, intelligibly valued as a living subject, endured and adapted. These ideas do not just parallel the argument of ‘Rights for Nature’, but are directly cited as precursors and precedents.

In contrast to a shallow ecology that recognizes the interrelatedness and interdependence between humans and the rest of the non-human world, while still privileging human beings as the only subjects at the expense of nature as object, Deep Ecology completely collapses humans and nature into a single plane of relations. This collapse occurs through a self-realization that essentially recognizes the whole as the self and the self as the whole. Norwegian philosopher, Arne Naess first began to develop

these ideas in tandem to his environmental activism in the 1970's, which later led to the elaboration and expansion of such ethics through Devall and Sessions (1985). The overlap of Deep Ecology with the logic underpinning the conceptual tools unpacked in the following chapter, on holistic models of life, has been commented on by those from Tom Brenan on his blogpost "Wild Law: Recognizing the Rights of Nature" (2011) to Eduardo Gudynas' article *Buen Vivir: Today's Tomorrow* (2011).

Without referencing Deep Ecology, but rather posturing to one's own original lexicon, Levi Bryant develops the idea of a 'wilderness ontology' that seemingly reflects strong parallels (2011). According to Schillmoller and Pelizzon (whom I will further elaborate on later in this section) in their article "Mapping the Terrain of Earth Jurisprudence", a wilderness ontology axiomatically claims "no distinction between the natural and the cultural, the human and the natural, but only a flat field in which humans are simply 'beings amongst beings'" (2013, 17). Furthermore, these authors go on to clarify that such a position is not to suggest the absence of humans as a logical conclusion, but rather offers to correct the critique leveled against deep ecology by claiming "humans are among beings without enjoying any unilateral, sovereign role" (2013, 18). However many suggest Alfred Whitehead provides the most convincing articulations of such a concept with the term 'flat ontology', which places humans neither "condescendingly higher than nature, as in anthropocentric humanism" nor nature higher "than human life, as in the biocentrism of radical anti-humanist ecologism" (2013, 23). What emerges from these conceptualizations of nature (and human relations) is a framework for debate that can only be negotiated within these two poles of anthropocentrism and bio or ecocentrism.

In a perplexing struggle to negotiate these terms, the authors and proactive proponents, Schillmoller and Pelizzon, conclude their article by stating that human/nature relationships are ‘structurally *non-contractual*, [*but*] *asymmetrical* and rooted in ontological difference’...[therefore] holistic representations of nature predicated upon reciprocity between human and non human biophysical communities *should be approached with caution*” (Schillmoller & Pelizzon 2013, 28, emphasis added). However, they then go on to say, without addressing the contradiction, that “holistic notions of biological egalitarianism such as ‘mutually enhancing relations,’ ‘reciprocity’ and ‘creative cooperation’ appear as *central tenets* in much of the Earth Jurisprudence discourse.” (Ibid, emphasis added). This remark is then immediately elaborated on through references to and examples from the Wild Law report 2009 published by UKELA, Fritjof Capra who authored the Web of Life (as well as the Tao of Physics and many others), and of course Thomas Berry. While Schillmoller and Pelizzon are the only explicit advocates of Earth Jurisprudence to gesture towards any skepticism in the relations of power that animate (and are animated by) any and all constructions of human-nature relationships, their skepticism is first, only in regard to the human and non-human and secondly, it is subsequently discounted and then bracketed through a discussion of juridical normative imperatives (which I will reference again in Chapter IV for the section on indigeneity).

***GROUNDING DIVINITY IN HISTORICALLY SPECIFIC RELATIONS OF
CULTURAL AUTHORITY***

For this second part, I discuss how the marshaling of indigenous knowledges as the authentic expression of both humans and nature (and thus the way to move beyond anthropocentrism) depends upon a transcendentalism that masks the humans whom are in the privileged position of authority (OR whom are recognized as the right type of expert) to make those claims. While the philosophical legacy of Thomas Berry in turning to the logic of a non-denominational (more-than-human) divinity crucially makes indigenous cosmology the simulacrum of universal order, one should also note his derived position of an objective authority through expertise as a cultural historian and theologian integrating the newest science of western physics. In 1996, Thomas Berry coined the term Earth Jurisprudence, in discussing his recent book, The Universe Story: From the Primordial Flaring Forth to the Ecozoic Era (1994) at Schumacher college in the UK²³, as the way for transforming “destructive human behavior” into a “mutually enhancing relationship with Earth and her communities” (“Story of Earth Jurisprudence” 2014). Named after Thomas Aquinas, and oft cited as a ‘Geologist,’ his articulation of environmental holism particularly reflected his intersection as both a theologian and cultural historian. In combining previous appeals to new science and notions of divinity, Berry also incorporated appeals to cultural difference, an

²³ A UK-based but internationally-oriented school premised on providing “nature-based education, personal transformation, and collective action.” There are also classes at Schumacher College called Earth Jurisprudence: Making the Law Work for Nature instructed by Cormac Cullinan, Mellese Damtie, Ng'ang'a Thiong'o, Ian Mason and Liz Rivers. Moreover, Stephan Harding is the coordinator for the Masters Program of Holistic Science at Schumacher College and the founder of Alliance for Wild Ethics (Educating for Gaia), he also published the book *Animate Earth: Science, Intuition, and Gaia* (2006), which was then turned into a film.

anthropological narrative, as the last leg for the triangulation of authorities. Through his reading (translations) of the latest in western astrophysics in relation to his understanding of indigenous cosmologies, as the cultural ‘other’ to modernity, Berry identifies a diverging convergence in human thought that mirrors the order of the universe.

Although Earth Jurisprudence, as a neologism emerged in the context of Berry discussing his work on The Universe Story, it was neither his first (The New Story, 1978) nor his last work (The Great Work, 1999; Evening Thoughts, 2006) to serve as a foundational theoretical source for popular books like Wild Law: A Manifesto of Earth Justice, academic articles like *Mapping the Terrain of Earth Jurisprudence: Landscapes, Thresholds, & Horizons*, and international research projects like “Wild Law: Is there any evidence of Earth Jurisprudence existing in Law and Practice.” These overlaps are far from coincidental, in 1996, Berry and directors of the Gaia Foundation, Liz Hosken and Ed Posey, directly crossed paths in persons. By the early 2000’s, at the first Earth Jurisprudence meeting, which was hosted at the Airlie House in Washington, Berry and Cormac Cullinan met for the first time. Interestingly, this latter encounter occurred merely a year after Liz Hosken first introduced Cullinan to the work of Berry, upon meeting each other at a workshop in Cape Town in 2000. While the reverence for Berry as the father of ‘Rights for Nature’ from South African lawyer Cormac Cullinan can be found explicitly in any of his books, the work of Cullinan reflects merely one set of Berry’s legacy.

Another actor whose proliferating productivity has been through mobilizing Berry is Dr. Herman Greene, who in addition to holding a J.D. from University of North

Carolina also holds degrees in Spirituality and Sustainability from United Theological Seminary and in Ministry from University of Chicago Divinity School. In addition to Dr. Greene's part time practice as corporate, tax and securities lawyer at his private firm, Greene Law, he also established the Center for the Study of the Ecozoic and Society, at the University of North Carolina, under which he also serves as the president. Moreover, in a more global role, he has also published a book in China called *Go to Ecozoic*, translated Berry's The Great Work into Chinese, and lectured on the Ecozoic all over China. In 2014, for the 100th anniversary of Thomas Berry's birth, the Center for Ecozoic Studies and Carolina Seminars of the University of North Carolina, Chapel Hill sponsored a colloquium entitled, "Thomas Berry's Work: Development, Difference, Importance, and Applications" in order to "move from straight commentary and appreciation of Berry's work to the *critical reception and re-articulation* of his legacy as it bears on the real transitions needed" by "producing *thorough assessments of it* through scholarly and intellectual reflection and debate on the main dimensions" (Carolina Seminars of the University of North Carolina 2014, emphasis added). Additionally, his work has played a formative role in the establishment of the Center for Earth Jurisprudence (Patricia Siemen²⁴), The Forum on Religion and Ecology at Yale University, as well as in all the work done by the Gaia Foundation, all of which in turn function as discursive sites for the continuing proliferation of his work. Yet another key discursive site is the Thomas Berry Foundation, which created in 1998, by Berry, his sister and three other co-founders (Mary Evelyn Tucker, John Grim, and Martin Kaplan)

²⁴ Patricia Siemen is the director of the Centre for Earth Jurisprudence, and just this past month she delivered a talk on 'Earth democracy - The rights of nature' at Taru-Mitra (an ecological organization started by young students in Putna in 1988) in Digha, Putna, Northern India (Salomi 2015).

as a private operating foundation for sponsoring active programs in the field of religion and ecology, not only “publish[es] his essays and oversee[s] translations”, but have also begun creating an official “archive [for this work] at Harvard”, as well as regularly organizes a “Thomas Berry Award and Lecture” (Trapani 2014).

Inversely, one of Berry’s greatest source of provocation, in addition to what he calls ‘indigenous inspiration,’ was Jesuit priest, French philosopher, paleontologist, and geologist, Pierre de Teilhard de Chardin. In dedication to Teilhard’s commitment to the ideals of bringing together divinity and the natural milieu through universal consciousness, the American Teilhard Association formed in 1967. Thomas Berry was not only a founding officer of the association and on the board of directors from when it was first founded, he also served as president from 1975-1978. The Teilhard association not only served as a publishing outlet for many of Berry’s essays while he was alive (such as *The New Story* 1978), but also continued to produce documents that mobilized the same discursive themes (such as *Ethics for Economics in the Anthropocene* by Peter Brown 2012) after his death in 2009. Before passing away, Berry also assisted lawyers, Cullinan and Thiong’o in providing legal advice for the re-drafting of the Kenyan Constitution in 2007²⁵. Interestingly, despite the continual nods to and use of indigenous bodies and minds, it is only through actors authoritative on different terms (than being indigenous) that particular claims then become authenticated as universal by the specificities of indigeneity.

²⁵ Although the Constitution made it through the delegates at the Constitution Conference it fell short of approval during the referendum, although, Thiong’o goes on to state that this “due to other areas of contention,” not the chapter on the environment (2007, 175).

MAKING NATURE THROUGH THE INTERSECTION OF SCIENCE AND ETHICS

This last section will show how it is at the confluence/interface of appeals to modern science and liberal ethics that nature is constructed/made as an authentic truth (ontologically! The nature of nature) instead of mediated by those authorized as experts on the basis of such particular modes of appeal. Beyond the work of Thomas Berry alone, statements on the theoretical foundations for the Earth's rights, such as the IUCN published article by Peter Burdon, also depend on the environmental ethics of Aldo Leopold placed in conjunction with the classical liberal philosophy of John Locke and Immanuel Kant, in a far from antagonistic relation (2011). However it is Leopold's land ethic that becomes more widely re-threaded into the narrative of 'Rights for Nature', by not only Burdon and Cullinan, but also Anne Schillmoller and Alessandro Pelizzon. Notably, the two latter key actors are both associated with the School of Law and Justice at Southern Cross University in Australia, where Schillmoller is an adjunct fellow teaching and studying animal law, Earth Jurisprudence, and posthumanist perspectives, while Pelizzon is an associate lecturer, specializing in indigenous rights and Earth Jurisprudence. Performing merely a slightly different role, Burdon, who completed his PhD on "Biodiversity and Wild Law" at the University of Adelaide in Australia in 2011, now serves not only as a senior lecturer at the law school in Adelaide but also as the deputy chair of the IUCN ethics specialist group. Interestingly, the IUCN is also the outlet through which Burdon published his article *Earth Rights: The Theory* (2011). In addition to citations in books and articles, The Sand Almanac, as the primary work of

landmark Western environmentalist Aldo Leopold, also has pedagogical significance through its incorporation into course syllabi on Earth Jurisprudence at academic institutions, such as at Barry and St. Thomas University. It is through these various, yet particularly (and similarly!) situated actors that the intersection of (objective) thought on society-nature relations and law (as ethics) emerges as a strategic shift within articulations of Western environmentalism, while at the same time appearing as universally and transcendently self-evident.

This conception of nature through a transcendental law that codifies the primacy of the whole and the differentiation of the parts in the name of a humanistic, yet anti-anthropocentric whole, has not only given rise to a plethora of Northern, yet internationally oriented environmental organizations and actors solely dedicated to the advancement of Earth Jurisprudence (such as Global Exchange, Australian Network on Wild Law and Earth Jurisprudence, Pachamama Alliance, Bay Area Rights of Nature Alliance, and most notably the Gaia Foundation), it has also become an increasing norm across resolutions and policy statements from even the most unquestionably mainstream environmental organizations (such as the IUCN and the American Association for the Advancement of Science). One of the major internationally active, yet UK-based organization whose role in the production, dissemination, and standardization of ‘Rights for Nature’ as an emerging global discourse cannot be discounted, is the Gaia Foundation.

The name of the organization mobilizes the work of James Lovelock, who developed a theory called Gaia (1974) that bridged scientific accounts of life as organism with the holistic ethic of the interdependence of the whole and its parts. The

organization itself emerged in the mid-1980's, when a group of "ecological pioneers," including Liz Hosken (currently the co-director), Edward Posey (currently the co-director), Vandana Shiva (formed Navdanya in India), Wangari Maathai (formed the Green Belt Movement in Kenya), Jose Lutzenberger (formed Fundacao Gaia in Brazil), and others, who were concerned with the dual crisis of development and environment, sought to establish a way to spread alert on the root of the problem and develop alternatives ("Our History"). As the Gaia Foundation diagnoses the "crises we face" as "the process of "turning 'subjects' into 'objects', and objects into commodities to be bought and sold," overcoming these "symptoms of a deeper moral, ethical and spiritual crisis" that extends to all areas of life, can only realized through "enhancing traditional knowledge" and "strengthening community self-governance" ("About us"; and "Vision Mission & Values").

Later, the Gaia Foundation also formed the Earth Jurisprudence Resource Center, directed by Cormac Cullinan, whom they commissioned and funded to write their advocacy book, Wild Law: A Manifesto for Earth Justice (2011). Gaia Foundation is involved in almost every conference or workshop worldwide and is the primary partner and founder for the majority of the NGO's in the global south, which according to the Gaia Foundation are the same members that constitute the Earth Law Network. The point to take from all this is that the UK-based environmental organization, with its holistic premise of the Earth and existence, plays a pivotal role in internationally standardizing what is the (dis)uncovering of (wild) law as the order of the universe. Through occupying this intersection of alternative development and Western holistic environmentalism, such institutions cannot be dismissed in the production of conditions

for what may otherwise be potentially uneasy alliances. Although limiting the conditions of possibility for a specific discourse on Earth Jurisprudence to the reflexive articulation of concepts from alternative development in relation to Western environmentalism, may appear seemingly complete, by stopping at such point, the influence of the uniquely juridical element still remains curiously overlooked.

JURIDICAL-LEGAL:

Despite what could speciously be understood as the intersection of Western holistic environmentalism and indigenous alternatives to modern development alone, a third lineage remains uncritically explored. The translatability between modern science and philosophy, with the voices of the juxtaposed other to modernity, notably only occurs through the language of law. As a result, this contingent translation necessarily requires the expertise of lawyers for developing a viable legal argument, drafting policy and legislation, and then operationalizing and performing such a discourse in the courts. *I argue* more than a minimum presence, law firms, legal non-profits, law schools, and legal professional associations from the US to UK to Australia have played some of the most prolific and critical roles in the production, distribution, and consumption of the idea of a legal personality for nature. The first part of this section discusses how more than just making nature universal through Western environmentalism, the conditions of possibility for a discourse on rights for nature also depends on the universality of law, and in so doing extends (and secures) law as universal. In the second part, I show how it is the same actors that generate and disseminate the bulk of statements on rights for

nature that are further empowered (licensed) to speak through such a particularly juridical discourse. Lastly, I explain how the importance of legal cases and the logic of the court sanction the ability for particular modes and bodies to act, to the exclusion of others.

***MAKING LAW UNIVERSALLY TRANSLATABLE THROUGH NATURE,
MAKING NATURE UNIVERSALLY TRANSLATABLE THROUGH LAW***

This first part explores how mobilizing the language of law for articulating a nature that is universally just, becomes a key tool for articulating a justly expanded role for law. As mostly local Midwest US news outlets recently reported, Pennsylvania General Energy Company (PGE) filed a federal lawsuit in August 2014 against Grant Township for a municipal level fracking ban that conflicted with an EPA issued permit (in March 2014) granted to the energy company for converting a former gas producing well into a disposal site for fracking wastewater (Troutman 2014). While the overturning of the fracking ban reflects the main target of the lawsuit, it is within the same recently (June 2014) adopted community bill of rights that prohibited fracking, which is also responsible for establishing the legislative platform for the environment to defend its own rights. Hence, the lawyer, Lindsey Schromen-Wawrin, retained by the East Run Hellbenders Society to speak for the Little Mahoning Watershed's interests, argued in a brief accompanying the request for the ecosystem to intervene in the case, that whether the municipalities ban on fracking infringed on the rights of PGE or not, Little Mahoning must be present in the litigation anyways or else the ecosystem's existence

will have already been impaired in its inability to defend itself (Ellen 2015). If successful, this test of legal standing will set a precedent in the US for ‘Rights for Nature’ as a legal doctrine. As a representative from the Community Environmental Legal Defense Fund (soon to be elaborated on), the legal voice of the Little Mahoning Watershed, Schromen-Wawrin, knows this priority well. What seems to be on the surface about the effects of fracking and corporate rights, upon closer scrutiny, is primarily about elaborating the legal analysis necessary to recognize the value of existence through a framework of rights.

This emphasis on making the existence of the ecosystem visible and legible through legal recognition, over say, the necessarily uneven distribution of effects in the damaging or violation of said rights, can be found in section 4(c) of the ordinance: where any action by a resident to enforce or defend rights secured by this ordinance must bring that action in the name of that ecosystem (Troutman 2014). Moreover, this particular language (word-ing) used in the crafting of this ordinance is not unique. Grant Township, is only one of the many municipalities across Pennsylvania as well as in over a handful of other states (including California, Colorado, New Mexico, Ohio, Virginia, New Jersey, and New Hampshire) where the CELDF has provided templates and close assistance. In addition, the co-founder and executive director of the CELDF, Thomas Linzey and associate director, Mari Margil, spent a year assisting the Constituent Assembly of Ecuador, as they drafted, what then set precedent as the world’s first Constitution to recognize ‘Rights for Nature.’ The point to take from all this is that beginning with the case of the Little Mahoning watershed to trace the process of

wedding rights to securing life's existence leads us to the role of a US-based environmental law organization, CELDF, instead of Pachamama and Buen Vivir.

Founded in Pennsylvania in 1995 by Thomas Linzey and Stacy Schmader for the purpose of “building sustainable communities by assisting people to assert their right to local self-government and the rights of nature,” the CELDF began translating this mission into legally binding laws for communities starting in 1998 (“About Us: Mission Statement” 2015). By 2003, they expanded their efforts to include grassroots organizing all over the country through what they called ‘Democracy Schools,’ as a result more and more municipalities began adopting ‘Legal-Defense Fund drafted ordinances.’ However, it wasn’t until 2006 that Tamaqua, Pennsylvania became the first community in the US to adopt legally binding language that granted ‘inalienable rights’ to ‘natural communities.’ Yet, 2006 also saw the proliferation of many other milestones in the legitimization of this emergent form of environmentalism. It was also in that same year that the Sierra Club published the “10 principles of Earth Jurisprudence” from the writing of Thomas Berry. Furthermore, 2006 was the year the Center for Earth Jurisprudence was established at Barry University in Miami, Florida and St. Thomas University in Orlando; and the United Kingdom Environmental Law Association (UKELA) and the Gaia Foundation (UK) hosted the second annual Wild Law retreat and conference at the University of Brighton. While the roots of CELDF stem from the mid 90’s it was not until mid way through the first decade of the 2000’s that activity consolidating a particular coherence for Wild Law presented as an impending shift in socionatural relations multiplies as divergent in origins. As expressed in the book Exploring Wild Law: The Philosophy of Earth Jurisprudence, “2007 stands out as a

turning point, the point at which EJ shifted to another level of acceptance across the planet” (Hosken 2011, 33).

By the second decade of the 2000’s, Schools such as, Southern Cross University, University of Brighton, Auckland University, Adelaide University, and others were holding annual Wild Law conferences and workshops, with sponsors from legal professional associations that spanned from the UKELA to the Environmental Law Foundation (ELF). Pellizzon, like Burdon, not only publishes academic literature advancing the doctrine of Wild Law, but also has critically served to coordinate and organize the annual conferences in Australia, including the 1st Australian Earth Jurisprudence Conference in 2009 (Adelaide), the 2nd Australian Earth Jurisprudence Conference in 2011 (Sydney), and the Wild Law Workshop in 2012 (Melbourne). It was at the first conference in 2009, in Adelaide, that Liz Rivers (who was a former commercial lawyer and now teaches Earth Jurisprudence courses at Schumacher), on behalf of the UKELA, was invited to speak on the emergence of Earth Jurisprudence globally. Although UKELA existed prior to its involvement with Wild Law, the law association took up the agenda beginning in 2005 after Rivers recommended the director, Simon Boyle, read the first edition of Cullinan’s book Wild Law: A manifesto for Earth Justice (Cullinan 2011, 183).

That same year, 2005, was when the first annual wild law retreat and conference occurred in the UK. By the time the Gaia Foundation and UKELA hosted the 4th Wild Law conference in the UK in 2008, on turning ‘ideas into actions,’ it led to the commissioning of the Wild Law report, which developed a set of indicators to empirically evaluate if, and where –from Europe, to India, Africa, New Zealand, the US,

and South America – there is “any evidence of Earth Jurisprudence in existing Law and Practice” (2009). The report begins with quotes citing the value and validity of this research project from Thomas Berry, Cormac Cullinan, and Vandana Shiva.

The School for Law and Justice at Southern Cross University on the north coast of New South Wales, Australia, has played a particularly prominent role, in addition to hosting Wild Law conferences and serving as the institutional home for key actors, Pelizzon and Schillmoller. Firstly, the law school has launched an Earth Laws Network that offers a supplement to the Global Alliance in enrolling which organizations have investments in identifying their objectives within what counts as ‘Rights for Nature’. However, this is an eclectic mix that even includes other national networks of environmental lawyers whose goals, unsurprisingly, are limited to helping people to use the law (and only the law) to protect the environment, such as the Environmental Defenders Office (of Australia). Moreover, the Earth Laws Network also aspires to contribute to the scholarly advancement of Earth Jurisprudence, through establishing an International Journal of Earth Laws that can promote “issues related to the fields of Earth Jurisprudence and multidisciplinary and critical ecological governance” (School of Law & Justice 2015). Lastly, the School of Law and Justice launched an Australian Wild Law Judgment Project in 2014, which invites scholars to “re-writ[e] a wide range of different judgments--found in any area of law, including constitutional law, administrative law, torts, corporate law, property law, criminal law, contracts, and taxation law -- from a Wild or Earth Laws perspective” in order to “challenge the hegemony of anthropocentrism in the common law” (Maloney and Rogers 2014). These discursive sites have provided the material, technical, and authoritative means through

which the discourse on extending legal personhood to non human-nature in the name of non-dualism, not only comes to exist as a possibility, but can also be justly and rationally legitimized. Moreover, such ends serve as the new means through which the expansion of legal fields can be justified and the authority of jurisprudence secured.

***IF LAWYERS SPEAK FOR THE TREES THAN WHO SPEAKS FOR THE LAW?
DO ALL BODIES SPEAK EQUALLY?***

In this next part, I unpack how those who happened to come to advocate that nature's voice can be heard through law are the same class of people who are necessarily made the only official spokespersons of nature. In additions to law schools, tracing the role of South African lawyer, Cormac Cullinan, who not only published numerous editions of a full length book on Wild Law as a manifesto for earth justice, but also led the working group that drafted the UDRME, can not be over emphasized in the proliferation and dissemination of this specifically juridical emerging discourse. Cullinan founded an environmental law and policy consultancy firm in 1994 called EnAct International that specializes in developing "governance systems that promote ecologically sustainable societies" (Cullinan 2014). Three years after the firm was established in the UK, operations and Cullinan relocated to Cape Town, South Africa, to continue the same mission. Cullinan also co-drafted the Universal Declaration on Planetary Rights (which remember the UDRME is almost identical to) with international environmental lawyer Polly Higgins, who also works for Cullinan at EnAct International. Higgins' most active role has been in initiating a global campaign on

Eradicating Ecocide that uses the language of the Rome Statute to argue that international war crimes (crimes against peace) be extended to include ecocide.

According to The Ecocide Project of the Human Rights Consortium at the University of London, the term was coined in 1970 by American botanist and bioethicist, Arthur W. Galston, to signify “various measures of devastation and destruction which have in common that they aim at damaging or destroying the ecology of geographic areas to the detriment of human life, animal life, and plant life” (Higgins et al. 2012, 1–2). Soon after, in 1973, the term was taken up by the renowned lawyer Richard Falk, in the drafting of the International Convention on the Crime of Ecocide, in order to address the limitations of the Convention on Genocide, as it currently existed (Falk 1973). While the draft fell into a deadlock debate over the question of “willfulness” or “intent” of the harm and was never implemented by the International Law Commission, a handful of mostly eastern European countries (Georgia 1999, Armenia 2003, Ukraine 2001, Belarus 1999, Kazakhstan 1997, Kyrgyzstan 1997, Moldova 2002, Russian Federation 1996, Tajikistan 1998, Vietnam 1990) adopted articles to their domestic criminal codes around the late 1990’s, effectively using identical language as was used to define the crime of ecocide (Higgins et al. 2012). Although Higgins et al recognizes that these national Ecocide laws have failed to be very effectively enforced, they attribute this problem to high levels of corruption and low levels of respect for the law that plague the particular countries that have happened to have adopted such policies. In turn, her solution for a more effective outcome requires the international implementation of such laws so to combat particular countries negligence (Ecocide crimes in domestic legislation). Higgins further developed these

ideas in her book Earth is our Business: Changing the Rules of the Game, which was published in 2012.

However, what looks like distinct networks of activity emerging in the US and Europe, can be connected through tracing multiple instances of overlap, which for advocates, also serve to generate the appearance of a global convergence. A year after the CELDF-assisted Tamaqua ordinance passed, Cullinan and Thomas Linzey met up for a ‘Rights for Nature’ speaking tour at eleven different law schools across the US. As Cullinan notes in his book, it was after being contacted by Orion magazine, to write an article on Christopher Stone’s “Should Trees Have Standing?” that the features editor suggested he get in contact with a lawyer who was working on the same Wild Law and Earth Jurisprudence work that Cullinan was doing in the UK and South Africa, but under the banner of Rights of Nature. Upon Cullinan contacting Thomas Linzey, who immediately informed him of the ordinance adopted in Tamaqua just the evening before, Cullinan “was amazed and thrilled to find that a contemporary example of wild law already existed in the United States, despite the fact that Thomas had not previously heard of Earth Jurisprudence or read Wild Law” (2011, 184). Yet it was only soon after Thomas Linzey read a copy of Cullinan’s book that Linzey invited Cullinan to accompany him on a rights for nature speaking tour across the US. The speaking tour began at the Center for Earth Jurisprudence to support the Second Earth Jurisprudence conference convened by Patricia Siemen. It was there, Cullinan and Linzey met in person for the first time (Cullinan 2011, 184).

In that same year, Margil, who became an addition to CELDF in order to meet the organization’s campaign, fundraising, media/public outreach, and other strategic

needs, accompanied Linzey in a request to join Fundacion Pachamama, Alberto Acosta, and the Constituent Assembly in Ecuador. While Margil explains (to an audience of environmentalists in the US) of her original concerns of “an uphill battle” in “trying to explain to this former minister of energy and mines [Alberto Acosta] why communities in the U.S. were adopting laws recognizing ecosystem rights” she then notes to her pleasurable surprise that it turned out to be a “meeting of the minds in one of the most unlikely, but most critical places” (Margil 2013). While on the one hand, the effort in Ecuador to recognize the ‘Rights for Nature’ supposedly reflects the continuing efforts of Amazonian indigenous organizations that have been fighting for the recognition of their territories and rights since the 1980’s, on the other hand, it was only through lobbying by the assembled political-technical team of international and national environmental organizations, as well as academics, that a communications campaign encompassing not only “television, radio, and [traditional] press” but also “theatre, puppet shows, and cinema,” effectively resulted in the constitutional codification of the idea (Melo 2013, 34–35)²⁶. Nevertheless, this deemed miraculous resonance between rights of nature, Earth Jurisprudence, or Wild Law, and indigenous worldviews (ways of being, knowing, and doing – as the opposite of modernity) emerge time and again as a crucial nexus in tracing the mobility of these ideas and the set of (power) relations they embody.

²⁶ Author of “How the Recognition of the Rights of Nature Became Part of the Ecuadorian Constitution” in the “Rights for Nature and Economics of the Biosphere” report convened by the Global Exchange. He is not only an environmental and human rights lawyer in Ecuador, but also an advisor to the Fundacion Pachamama, and participated in developing the text for the new constitution.

THE CASES AND THE COURTS – PRACTICING ACTS OF NATURE AND THE ABNORMALITY OF LEGAL IRRATIONALITY

Lastly, I explore how the cases and courtroom rationality made visible through this discourse, enhances the agency of particular actors and epistemologies, while at least constraining, if not making impossible, ways of knowing that resist (good) liberal translation. Meanwhile, of the two official cases that tested nature’s standing in Ecuador, it is the case of the Vilcabamba River versus the local government of Loja, that has gained notoriety as the first international precedent to uphold constitutional recognition of nature’s existence. While cited by texts that range from scholarly literature (such as Schillmoller and Pelizzon 2013), NGO reports (such as Global Exchange 2012), to legislative acts (such as City of Santa Monica, CA 2013), the case of Vilcabamba is referenced time and again as a milestone demarcating the growing legitimacy of ‘Rights for Nature’. However, it is notable that the litigants who filed the lawsuit on behalf of the River’s personhood, in contrast to being neither indigenous nor local citizens, were US expatriates, Norie Huddle and her husband Richard Wheeler.

After buying land to develop “sustainable, conscious, rural living” nearby the river in 2008, the local government carrying out construction were determined legally responsible when a 50 year flood significantly damaged Huddle and Wheeler’s property (Huddle 2013). Yet despite the favorable ruling, little to no enforcement followed.

Although the lawyer for Huddle and Wheeler, Carlos Bravo, advised them to take a legal route that provided personal compensation for property loss, the expatriates, along with consultation from the Pachamama Foundation, conscientiously decided to set a world

precedent for the 'Rights for Nature' doctrine. However, it is peculiar how the other case in Ecuador that adjudicated in favor of nature's rights received almost no citations, no references, and no recognition by the 'Rights for Nature' global advocates. In this less referenced case there was not only swift follow up that included armed enforcement (and subsequent property damage), but also the injunction against illegal gold mining operations in the name Bogota, Onzole, and Cayapas Rivers was introduced by the State (Daly 2012, 65). That is, what serves to signify the world's first case in Ecuador did not involve indigenous interests at all, but a couple from the US, a San-Francisco based environmental organization, and the voluntary dismissal of an already available legal option. In contrast, the instance where the State's interest are privileged through such an expanded definition of legal standing, is, if not made invisible then at least undeniably played down.

Most significantly though, the articulation of a viable legal argument for a holistic environmentalism grounded in the legibility of nature's own subjectivity, had already been articulated in legal circles by 1972. It was Christopher Stone's, publication "Should Trees Have Standing: Towards Legal Rights for Natural Objects" in the University of Southern California Law Review, that provided the necessary technicalities to make the more abstract concepts elaborated by Thomas Berry pragmatically applicable. The reception and relevance of Stone's publication to the current discursive production of Earth Jurisprudence can be attested to through not only the recent republishing of his work into a full-length book, for a wider audience, but also the host of direct citational references from academic literature, to Western ENGO's documents, to Western media reports.

In this seminal piece, Stone begins by providing the (moral) historical trend of law to recognize an ever-expanding definition for the subject of rights (e.g. once the law didn't recognize particular humans as rights bearing and now it even recognizes corporations). Yet from there, he lays out the necessary operational specificities including what being a legal rights holder consists of, how rights of the environment vary in contrast to human rights, what guardianship entails, how an injury to nature is defined, and what it means for the environment to be a beneficiary in its own right. Furthermore, he juridically supports his proposal with what was then a recent legal citation by US Supreme Court Justice William O. Douglas, who stated "natural objects should have standing to sue for their protection" in his statement of dissent in the case of *Sierra Club v. Morton*, 405 U.S. 727 (1972).²⁷

Following this line of reason, Stone argues, when one who self defines as a "friend," perceives a natural object to be endangered, whether on public or private land, they can apply for guardianship through the court (1972, 17-18). This leads one to inquire into whom exactly these people are that define themselves as friends and thus potential guardians, given that this mediated capacity to act is both the necessary, yet concealed mechanism through which nature speaks for itself. This process through which one becomes able to represent particular constituencies is for Schillmoller and Pelizzon, per Latour, of primary concern, particularly the way questions of confidence and trust in said representatives are determined (2013, 12-14). For Stone, however, this question is unproblematically addressed through the plethora of organizations that "have manifested unflagging dedication to the environment and which become increasingly

²⁷ This case study is also used in courses and seminars (see especially syllabus for center for earth jurisprudence) as an early precedent, obviously particularly in the context of the US.

capable of marshaling the requisite technical experts and lawyers,” such as “The Sierra Club, Environmental Defense Fund, Friends of Earth, Natural Resources Defense Counsel, [and] the Izaak Walton League” (Stone 1972, 19). Yet, some may wonder to what degree such organizations are constituted by particular structures, ideas, and actors, that qualify the way in which they can universally represent all ‘natural objects’ or in some instances ‘life itself.’ However, Stone does not find that overly disconcerting, since he argues “we make decisions on behalf of, and in the purported interests of, others every day; these ‘others’ are often creatures whose wants are far less verifiable, and even far more metaphysical in conception, than the wants of rivers, trees, and land” (Ibid 24). And in such case of a conflict of interests, he explains, court procedures would be in place to terminate the guardianship through the removal and substitution of the guardian (Ibid, 20). In a continuation of this mode of rationality, he also proposes non-human life receive an electoral apportionment to represent their rights (Ibid 40).

Stone then goes to contrast this guardianship approach with the ways in which existing standing requirements are already being liberalized, and then problematizes the latter approach for its limitations to public lands protected by federal acts and dependency on either the will of the Department of the Interior, or the ability of environmentally dedicated groups to demonstrate standing through the recreational and aesthetic interests of its members. In turn, he proposes the guardianship approach would better serve the “court economy,” since it provides,

The endangered natural object with what a trustee in bankruptcy provides the endangered corporation: a continuous supervision over a period of time, with a consequent deeper understanding of a broad range of the ward’s problems, not just the problems present in one particular piece of litigation. It would thus assure the courts that the plaintiff has the expertise and genuine adversity in

pressing a claim which are the prerequisites of a true 'case [over] controversy' (Stone 1972, 23-24).

Furthermore, the guardian's function would consist of "rights of inspection (or visitation) to determine and bring to the court's attention a fuller finding on the land's condition" including duties and authorities such as "monitoring effluents (and/or monitoring the monitors), and representing their 'wards' at legislative and administrative hearings on such matters as the setting of state water standards" (Ibid 19). While Stone systematically lays out these pragmatics, this only represents what one scholar, though well cited, theoretically proposes as the workings of 'Rights for Nature' and the role of standing and guardians. Additionally, we can examine policies adopted subsequent to Stone's article to further unpack the workings of standing and guardianship (legal authority) in other discursive sites, and the ways in which Stone's work gestures towards the significance of legal actors in understanding how nature would have rights across geographic contexts.

Three of the most referenced US municipal ordinances, including Tamaqua (2006), Pittsburgh (2010, 618.023 b), and Santa Monica (2013, 4.75.040 b), each bestow all of their "residents" with the power of standing and to effectuate rights on behalf of the environment. However, the Tamaqua ordinance, which was the first to be drafted and adopted in the US, additionally recognizes the "Borough of Tamaqua" to have the power of standing, and qualifies that standing holds "regardless of the relation of those natural communities and ecosystems to Borough residents or the Borough itself" (2006, 7.6). Similarly, the Ecuadorean constitution that was adopted in 2008, which remember was drafted with the assistance of the same organization, CELDF, that provides training and templates for US communities implementing local ordinances (including all three

listed above), grants “all persons, communities, peoples, and nations²⁸” the ability to “call upon public authorities to enforce the rights of nature” while also extending the role of the State to structurally incentivize “natural persons, legal entities and communities to protect nature” (Legislative and Oversight Committee of the National Assembly 2008, Article 71). While the lack of the explicit language of standing or guardianship muddies the ability to determine to whom and through which authorities duties are being granted, it seems the State ultimately has the authority to decide on other’s request to enforce nature’s rights, while all the other entities would ultimately be obliged by the duty of protection. Through citations that tie back to the same legal precedents, the work of Christopher Stone is also overtly referenced as influencing the theoretical and empirical investigation Fundacion Pachamama carried out in lobbying the Constituent Assembly of Ecuador to adopt legal personhood for nature (Melo 2013, 34). For the case of the Ganga Rights Act, they do not cite Stone explicitly, yet, in a similar vein, it seems that while it appears that all the “people, communities, civil society, and governments” are to be equally or mutually “empowered,” the mechanisms available to defend the basin’s rights would all be established and monitored through governmental offices (National Ganga Rights Movement 2012).

In contrast, the citizens initiative being proposed in the EU obscures this expanded role of the State by pretending there is no State and bestowing on “human communities and individuals” the authority to secure the “the rights of the natural world” (European Citizens Initiative 2014). While, the UDRME and Peoples Sustainability Treaty do not detail specifics on guardianship, the latter does propose the

²⁸ In this context, *nations* refers to the domestically recognized indigenous nations within the internationally recognized nation-state of Ecuador, not to nations exogenous to the country.

particular establishment of an Ombudsman position or “High Commissioner for Future Generations,” that will serve as representative for future “human and non-human beings, including ecosystems and species” (“People’s Sustainability Treaty” 2012, UN and Member States Commitments). Unsurprisingly, Bolivia’s Law of Mother Earth (2010) also established an ombudsman, both for future generations and Mother Earth in general. A similar appointment has also been made in Hungary. In the case of the Whanganui River, the appointment for the role of guardian is very clear. There will be two guardians, one will be appointed by the Crown and the other “will be appointed collectively by all Iwi with interests in the Whanganui” (2012, Section 2). The guardians functions will be to:

Protect the health and wellbeing of Te Awa Tupua; uphold the status and Values of Te Awa Tupua; act and speak on behalf of Te Awa tupua; carry out the ‘landowner’ functions over those parts of the (formally) Crown owned parts of the bed of the Whanganui River held under the Land Act 1948; and carry out any other relevant functions on behalf of Te Awa Tupua (for example participate in statutory or non-statutory processes and hold property or funds in name of Te Awa Tupua) (2012, Section 2.21)

However, in another section, it claims to preserve the role and final decision-making functions of local government.

While examining these various sites complicates the role of the guardian as laid out by Stone, the only common thread, despite the amalgam of actors that are rhetorically empowered by these policies, may be the need for lawyers. Moreover, in the report convened by Global Exchange on the Rights of Nature and the Economics of the Biosphere, the chapter on the Whanganui River by Brendan Kennedy, a native to the (Aotearoa) region in New Zealand and currently studying Indigenous People’s Law and Policy at University of Arizona, explicitly cites the sentiments of Stone in relation to the

logic of guardianship developed in the agreement between the Crown and the Iwi (Kennedy 2013, 32). Yet, beyond noting the mere existence of a juridical lineage, one might want to know why? What needs are served in relation to the particular interests of lawyers for non-human nature to have legal standing? One could speculate about how ‘Rights for Nature’ is a response to the need by environmental lawyers for shared and transferable legal instruments in efforts to address the issue fragmentation and multi-jurisdictional nature of climate change. For this project, however, I am less interested in answering why, versus illustrating, that the compromise between indigenous cosmologies and Western holistic environmentalism didn’t just happen to emerge through the (common) language of law, but that such a translation is the particular effect of an additional, explicitly juridical lineage. Although such a claim may seem obvious, too obvious, it is also strikingly missing in those citing the emergence of ‘Rights for Nature’, yet perhaps that is precisely due to most of those providing accounts (and justifications) of its emergence, are themselves, lawyers.

In summary, these three sections explored, first, how positioning the emergence of nature as a rights-bearing subject as a bottom up challenge (i.e. from indigenous peoples and the environment “herself”) to dominant norms of development is an effect of statements/events only made possible through the exact (north-south) relations of power it purports to overcome. Secondly, I discussed how despite on the one hand, nature is authenticated through appeals to indigenous epistemologies, on the other hand, it is only through the way concepts of nature have been constituted and transformed within Western environmentalism (a mode of authority produced at the intersection of where science meets ethics) that the former, as a means for verification, has been

incorporated and legitimized. Lastly, I explained how the marshaling of indigenous epistemologies from within environmentalist epistemologies of nature strategically depend upon a rights-based translation that not only reinscribes the legibility of nature within truth (science) and justice (ethics), but also reinscribes the truth and justice of law. Furthermore, as this translation expands the authority of particular actors and utterances to the exclusion of others it was also notably those same relations of juridical authority that are most implicated in the production, dissemination, and consumption of such a translation. Given the specificity of the relation between the speaking subject as the author of the statements, their respective authorities and institutional affiliations, and the resulting modes of enunciation, as what types of utterances occurred, can occur, and what would never be said, it becomes clear that the standardization of these particular ideas only emerge through a process of self-referential circulations that then claims to represent a globally converging truth.

Chapter 5: Thematic Premises

Holism, Indigeneity, Sovereign Acts

Given the network of power relations through which particular norms crystalize as truths and moral goods, the necessary conceptual strategies for making the contradictions in the narrative itself seem universally sensible and coherent, are far from self-evident inevitabilities, but are mobilized from toolboxes particular to the distinct enunciative modes (as the conditions through which statements as a possibility come into material existence, including the conditions for which types of subjects are doing the speaking/writing). In this last chapter, I tie together the first two chapters through delineating and unpacking the functions of holistic models of life, ideas of indigeneity, and the role of sovereign acts as three key entangled conceptual (epistemological) tools. In unpacking how these premises function in the service of making the discourse sensible, and thus also in the favor of those whom benefit by such a sensibility being accepted, I first argue that the amorphous range enrolled under the umbrella of life itself depends on a holistic presumption that (more than exploring the limits of dualism) effectively collapses differences into themselves, through the singularly repeating, yet infinitely differentiating dynamic between the parts and its whole. This analysis builds off the work of Foucault (2003) and Lemke (2011). Next in this chapter, I argue that in addition to holistic models of life, the concept of indigeneity serves as the necessary

epistemological tool for inscribing the ‘real’ human subject within a natural(ized) subjectivity. Lastly, I argue that the dependence on law as the mode through which nature becomes a subject, relocates the role of sovereign acts (as conceptualized by Butler 2004 qua Foucault 1991) away from groups of people with particularly vested social status and onto nature itself.

HOLISTIC MODELS OF LIFE

I *argue* that the breadth of ambiguity captured under the category of life itself depends on a holistic presumption that collapses differences in themselves, into a relation between parts and its whole. First, I show this through contentions of life (as differentiated) and the environmental conditions for its reproduction (life as undifferentiated) as not only having the potentiality and thus as an element of its essence, a mutually beneficial relationship, but also, a level of interrelatedness that renders existence and its milieu, ontologically indistinguishable. Additionally, the conditions for life itself (as the undifferentiated whole) as both the basis of existence for all (differentiated parts) forms of life and the object of maintenance for each of its parts, suggests all of the differentiated parts benefit as it serves the undifferentiated whole (Foucault 1980; Foucault 2006; Lemke 2011). Given this assumed relation between the parts and the whole, policing individual bodies that fail to appropriately accord (in their differentiated roles) to the collective body ultimately benefits *both* the collective and individual body (Foucault 2003). Third, I show how this also extends to the division between the material and the discursive, through which

thought/knowledge/consciousness (intelligence/will) is placed in the same plane as any other natural praxis that is both the cause and effect of the pluripotent differentiation of life. The implications of such include ultimately suggesting that both Western science AND law are seen as “natural” as well. Lastly, I will show how this conceptual tool is taken up in the deployment of the various terms *ecological integrity*, the *Earth community*, the *Eozoic era*, *Pachamama*, *Mother Earth*, and *Gaia*.

DIFFERENCE IS SAMENESS SINCE WE ALL WIN, WHEN THE WHOLE WINS...

Life itself and the environmental conditions for its reproduction not only have, as a potentiality and thus as an element of its essence, a mutually beneficial relationship, but also, the level of interrelatedness between existence and its milieu are *rendered ontologically indistinguishable*, through which any whole becomes a part of another whole, which becomes the parts of another whole, until the infinite whole of the universe. To sum this up with an overarching example, Cullinan explains what Berry called the cosmogenetic principle, “which postulates that the evolution of all parts and dimensions of the universe will be characterized by three qualities or themes: *differentiation*, *autopoiesis* (meaning literally self-making), and *communion*²⁹” (Cullinan 2011, 79). From this example, it is clear how difference becomes a process of differentiation, though which everything is not only connected, but interconnected

²⁹ While noting the difficulty in pinning down a fixed and precise definition, Cullinan, defines his use of “‘differentiation’ as referring to an inherent tendency toward diversity, variation, and complexity; ‘autopoiesis’ as an inherent ability to self-organize and to be self-aware, and ‘communion’ as referring to the interconnectivity of all aspects of the universe” (2011, 79).

through a feedback loop that corrects any threat to the ability to maintain such an order of relations (as the process of preserving the ability to self organize/order through self awareness). However, this not only applies to conventional notions of individuals and the larger (social and environmental) system in which it is a part, but all and “any self-regulating community or ecosystem [as a] part of a larger system, which itself is part of a larger system, and so on. Accordingly, in in the process of evaluating and designing governance systems according to ‘whole maintaining’ criteria, we are also ordering and structuring integrated communities. In this sense, applying the whole-maintaining principle means restoring integrity” (Cullinan 2011, 83).

Note how when existence and milieu collapse into the infinitely interchangeable repetition of the parts and whole, it is only through *prioritizing the whole that both the whole and the parts can be maintained*. Conversely, in a premise where the *parts benefit as it serves the whole, the suggestion is that policing individual bodies that fail to appropriately accord (in their differentiated roles) to the collective body ultimately benefits both the collective and individual body*. However, the latter implication is more difficult to illustrate empirically from the statements themselves because the discourse is on self-policing/regulating, yet as not only a biopolitical but also a legal discourse, which even engages criminal –see ecocide – in addition to civil law, the enforcement mechanisms for an external (not self) policing are not only made possible, but necessary, even if implicit.

In the case of Whanganui River Treaty, it is because of the “intrinsic interconnection between the Whanganui River and the people of the River (both Iwi and the community generally)” that prioritizing and ensuring the integrity of the “integrated

whole” results in the mutual realization of both “the Crown” of New Zealand and “the Whanganui Iwi” interests (“New Zealand Whanganui River and Iwi Agreement” 2012). This illustrates how it is only through an orientation that privileges the abstract whole that the parts (partners/stakeholders), in addition to the collective whole, benefit. For an example of the inverse relations, other statements express how in the midst of centuries of developing “sophisticated ways of governing themselves to maintain this order,” the humans that have failed to regulate (self police) themselves in accordance with “the greater order of Nature” have not only “destroyed their ecosystem” but also “disappeared” (Hosken 2011, 26). In contrast to the parts and whole both benefiting through foregrounding the whole, this depiction of the reciprocal implications suggests that as certain parts failed to accord to a larger order of which humans are merely a part (instead of the entire show), they have not only come to serve as lessons for environmental degradation but also societal collapse.

However, beyond a solely empirical analysis, the lack of explicit references to external policing by the statements themselves correspond quite neatly with how power is articulated in critical theoretical literature on (neo)liberalism. While thinking about the significance of processes and effects of neoliberalism (as a new wave of liberalism) reveals how enforcement/control/power is concealed through a self-disciplining that internalizes the always looming possibility of state/external enforcement, thinking about holistic models of life through liberalism reveals – makes visible - the always existing State that is necessary to secure the sovereignty of the people (Rose et al. 2006; Foucault 2008). In tracing early 20th century developments in liberalism, Lemke uses the work of Rudolf Kjellén and others, to demarcate a shift in which the basis of State power

becomes articulated through holistic models of life (2011). In engaging these retrospective interpretations on the emergence of the State through an “organicist concept,” the performance of sovereign power as free will or unmediated acts that give rise to the appearance of both autonomous individuals and autonomous collectives are not seen as the particularly contingent effect of a juridical apparatus that also presupposes itself, and thus tautological, but rather “an original form of life” that biologically grounds the concepts of State and citizen (Lemke 2011, 10). From this perspective, the seemingly contingent “social, political, and legal bonds” are assumed to be derivative, not of the needs of the State, but of the “living whole, which embodies the genuine and the eternal, the healthy, and the valuable” (Ibid). The implications of this assumption is that the self-preservation of authority through alliances, incorporation, abandonment, exclusion, and even murder not only come to *be presupposed by*, but also *legitimized, or made effective, through* justifications commensurate with “biological laws” (Ibid). Yet, these justifications depend on a form of knowledge that must also presuppose that truths are “visible, ascertainable, and measurable” and thus only respond to “laws similar to those, which register the order of the world” (Foucault 1977, 204). It is through this circular affirmation of truth that holistic models of life are a historical product of Western modalities of knowing, while appearing as a transcendently applicable realization of the nature of nature.

Moreover, there are also ways to make sense of this (i.e. the always implicit suggestion of external force even when not made explicit) beyond the biopolitical developments in the conceptualization of liberalism. These ways of articulating (holistic) life decidedly through the specificity of law, illuminates another layer in which

the logic of enforcement (in its multiple forms) is ever present in a part/whole relation animated in the name of extending rights to nature (or the legal incorporation of natural subjects). For Foucault, what characterizes the emergence of a judicial order (also symbolized through the court itself) is not only its positioning as a third, neutral element of society, outside both the masses and the bourgeoisie, and its authority to rule through appealing to abstract notions of universal justice (including the preservation of public order – peace), but moreover its concomitant power of enforcement (Foucault 1980, 11). In light of such a characterization, the relation between the court (as the external power of enforcement) and universal justice (as truth and morality) become internally irreconcilable through the vested status of that third, supposedly neutral element of society. Accordingly, Foucault notes it is no wonder “why acts of justice which are really popular tend to flee from the court and why, on the other hand each time that the bourgeoisie has wished to subject a popular uprising to the constraint of a state apparatus a court has been set up” (Foucault 1980, 7). This sentiment, particularly on the necessary relation between force and the juridical-legal order is one commented on by many others as well. For Derrida, it is in the analytic structure of the concept law that exposes the inability for it to exist without asserting (or implying in itself) the always already existing “possibility of being ‘enforced’, applied by force” (Derrida 1990, 927). He assures that this does not suggest that all laws are equally enforced, but rather “there is no law without enforceability, and no applicability of enforceability of the law without force, whether this force be direct or indirect, physical or symbolic, exterior or interior,

brutal or subtly discursive and hermeneutic, coercive or regulative, and so forth"
(Ibid).³⁰

While the becoming human/becoming nature paradox I analyzed from the narrative itself can be purportedly explained away through a process of differentiation that reveals its unity in becoming different, when pushed to its logical implications, the idea of a part/whole relation that allows for a mutually enhancing relationship falls apart once again. The point here is that this particular dynamic between the parts and the whole that animates holistic models of life are not only biopolitical in terms of representing life as the both the subject and object of politics, but moreover, in the way the universality of life itself functions to give the perception of different but equal, while depending on a hierarchical relation between individual (particular) and collective (abstract) bodies in ways that justify acts of force (including death) as always already folded into life. The significance of exploring the logical implication is to think through the range of possibilities such a 'way of knowing' can be strategically mobilized, as justifications for what, to what effect, and for whose gains and losses.

DESIGNING INTELLIGENCE FOR INTELLIGENT DESIGN (INTELLIGENCE THAT SELF-DESIGNS)

Furthermore, this premise also crucially extends to the division between the material and the discursive, through which thought/knowledge/consciousness (intelligence/will) is placed in the same plane as any other natural praxis in being both

³⁰ This can be further expanded through the point made by Marx that has been taken up by numerous others, which states "between equal rights force decides" (Marx 1906, 259).

the cause and effect of the pluripotent differentiation of life. In so doing, both Western science and law are ultimately seen as “natural” as well. Consciousness, as an attribute of mind, is also always “something that matter is inherently capable of” at the same time as “the very properties of ‘matter are invoked by its interaction with mind” (Cullinan 2011, 47). In conceptualizing the time for Wild Law and the marshaling in of an Ecozoic era as the present unfolding of truth, history becomes teleological and naturalized. Since the innermost social structure of culture is a function of the geo/eco/biological (the natural), then this suggested socionatural shift *is just a part of evolution*. Although, according to the Wild Law Manifesto, the formative conditions for Wild Law have existed dispersed throughout the world for some time, it is only as this community has come to realize itself as a collective that “shares a cultural DNA of common values and aspiration” that the potentiality for existence became actualized (Cullinan 2011, 180). In this telling, it is made to seem as though there had always been a shared reality and that once information exchange (as consciousness!) became ‘globalized,’ it was just natural that these dispersed points would orient as a collective, and thus come into recognizable existence.

This analogizing of the function of space-time in the social to its functioning in the biological is explicitly unpacked by Stephan Harding, who uses human imagination as the mirror through which “Gaia’s long and complex evolutionary trajectory” is recreated (Harding 2014). Yet, what for Harding is the vague concept of imagination, Schillmoller and Pelizzon suggest to be the “complex movement of nature, culture, and thought,” and thus the unfolding towards a “planetary era” is revealed through the “relational and multidimensional processes of influence that link biological materiality

to the incorporeal whole” (Schillmoller and Pelizzon 2013, 15)³¹. While Lemke also illustrates similar sentiments, such cases are for the purpose of a critical discussion on the relation between the formative practices of biopolitics and the logic of ecological holism. In his historical explication of biopolitics, it is at the nexus of ecology and religion where holistic models of life emerge as an object of politics and therefore suggest a temporal unfolding that parallels the teleological logic present in the discourse on Earth Jurisprudence (Lemke 2011). Yet, in Lemke’s discursive references to Kenneth Cauthen, the “fundamental change in consciousness” that characterizes this “planetary society” results once the “biological frontiers of Earth are exceeded,” at which point “cosmic nature” and “human history” align to form “a biospiritual unity” (Lemke 2011 citing Cauthen 1971, 11-12).

Through whatever mechanism time unfolds, in the outcome of this evolutionary, yet teleological development through which human thought converges in its undifferentiated potentiality, there is double movement that aligns the biological and divine, and thus further dissolves all difference into universal essences. This convergence can be found in not just the way the “Wild Law Report: Is there any existing evidence of Earth Jurisprudence?” (2009) and other key texts articulate Earth Jurisprudence through the two merging, yet distinct forms of studying the Earth (ecological sciences & indigenous cosmology), but also through the concept of a New Science through which physics and metaphysics are elaborated within a singular truth (see Teilhard de Chardin, Brian Swimme, Brian Goodwin, Fritjof Capra, etc). One of the clearest references to human thought as the force behind the convergence of humans

³¹ This argument was based on the work of Edgar Morin

within a universal collective, is characterized by Teilhard de Chardin in the book The Phenomenon of Man, where he proclaims:

From man onwards, thanks to the universal framework or support provided by thought, free rein is given to the forces of confluence. At the heart of this new milieu, the branches themselves of one and the same group succeed in uniting, or rather they become welded together even before they have managed to separate off (de Chardin 1959, 242).

In this confluence, there is both a singular holistic universe and one that already has the infinite potentiality of differentiation and division. Shortly after this statement, he points us to our end of history, our omega point, where the truth of humans on earth, at once biological and divine, will take the form of something in between “a common power and act of knowing and doing” and “an organic superaggregation of souls” (de Chardin 1959, 248). However, it is the figure of the indigenous body that serves as the necessary concept to corporally ground the articulation of the biological within the metaphysical (elaborated further in next section of this chapter).

THE VARIOUS SHADES OF THE SAME CONCEPTUAL TOOL

Lastly, to illustrate how holism as a conceptual tool is taken up in the deployment of various terms, I will discuss the ways *ecological integrity*, the *Earth community*, the *Eozoic era*, *Pachamama*, *Mother Earth*, and *Gaia*, are mobilized and incorporated into the discourse on Earth Jurisprudence. While retaining their own specificity, commonalities can also be seen, in which all parts exist within a whole, thus constructing the whole as both the basis of existence for all of the parts and the object of maintenance for each of its parts. In the last part of this section, I will discuss how this

premise extends to the metaphysical level as well. As the validity of the undivided whole is considered a universal truth, in the very literal sense that it is an attribute of the undifferentiated universe, it then becomes mirrored in all of its various realizations.

Ecological Integrity and resilience

Firstly, the idea of resilience and ecological integrity as a premise for situating causality for the multiple and interlinking social and environmental crisis in a culturally misinformed view of human exceptionalism is referenced in a variety of instances, from Resolution #33 of the 7th World Wilderness Congress in South Africa during 2001, to the Sustainable Rights of Nature Ordinance drafted in 2013 for Boulder, Colorado. The concept is at once ontological and normative through signifying both the already existing interdependence between the structure, the function, and the composition of an ecosystem and the reproduction of those relations as the most indicative measure of good health.³² Furthermore, it is the durability of these interrelations in the face of limitations or barriers, mostly based on the levels of diversity and flexibility, which is labeled as resilience. In alignment with such a definition, the African Biodiversity Network (ABN) supposedly defines resilience as “the ability of a community to withstand negative internal and external pressures and threats” (Elfstrand et al. 2011, 32; Doornbos et al. 2013, 11)³³. In the European Citizens Initiative, ‘resilience’ is used to

³² See Burdon 2013, page 828, for his aggregated (multi-pronged) definition of ecological integrity.

³³ I found this quote in two separate documents however both were produced through or in affiliation with the Dutch international development organization Hivos and the Oxfam chapter that is based in Netherlands. Even though one of the documents even states that this quote can be found at the ABN website (Elfstrand 2011, 32), I could not locate such a conceptualization in any ABN produced media.

interchangeably signify the same concepts as the terms ‘balance’ and ‘harmony’ (2014). Integrity seems to signify the nexus of harmony (as mutual interdependence) and flexible durability (as resilience). In examining where and when these concepts first emerge, I do know the concern for ‘integrity’ can already be found by the drafting of the World Charter for Nature in 1982, which is cited by Thomas Berry in the *Airlie Principles*, as the primary precursor to the emergence of Earth Jurisprudence (2001)³⁴.

Earth Community

The Airlie principles were also the first text to evoke the Earth Community as one of the most utilized conceptual tools to signify the premise of indistinctiveness between “alive and dead matter” (Burdon 2013, 821), and the lack of human separation from the relations and matter that sustain it. Despite the terms most frequent association with Thomas Berry, it also seems to derive from a broader ‘community concept’, which was first introduced by Aldo Leopold in the *Sand County Almanac* as a characteristic of the land ethic (1949). While the term community connotes an affect of belonging and intimacy³⁵ it also suggests a structural relation in which securing the welfare of the whole perpetuates the existence (i.e. nature’s most essential interest) of its members, in turn tying individual membership to the function of fulfilling one’s collective role. Conversely, given that other species besides humans, inorganic matter, and general

³⁴ One of the principles declares that, "At the present time the World Charter for Nature of the UN may be our best formal statement of our human relation with the planet" (2001).

³⁵ For Berry, this concept of belonging and intimacy is also accompanied by a sense of the sacred. He claims, “nothing on earth [is] a mere “thing”. Everything [has] it’s own divine, numinous subjectivity, it’s self, it’s center, it’s unique identity. Every being [is] a presence to every other being.” (Berry 1990, 15) – From (Burdon 2013, 821)

biophysical and biochemical processes all contribute to reproducing the functioning of the Earth as a whole, recognition of membership and kinship ought to be extended accordingly. However, Leopold veers away from a homogenization of the relations amongst the Earth's members and the complete collapse of difference, through explaining the nature of this structure as a "pyramid", in which there is a "tangle of chains so complex as to seem disorderly, yet the stability of the system proves it to be a highly organized structure...[and] its functioning depends on the co-operation and competition of its diverse parts" (Leopold 1949, 252-253). For me, such a definition of pyramid seems to more strongly resonate with the image of a web or a network, which despite looking chaotic follows dispersed, yet particular patterns or rules, while not being necessarily hierarchical.

The ambiguity in regard to an ontological hierarchy continues through slippages between the web image and the pyramid in various usages of the term 'Earth Community.' While the "Valley of 1000 Hills Declaration" points to these interdependent relations as a mutually enhancing web (2002), the "10 Principles of Earth Jurisprudence" distilled from Thomas Berry's Evening Thoughts: Reflecting on Earth as Sacred Community, qualifies that embedded within all these immediate and more distanced relations is the predator-prey relation (2006). Yet, despite whether planet Earth is conceptualized as a networked or ranked community, across all references this expanded community is addressed as both the source and the objective of existence ("The Valley of 1000 Hills Declaration" 2002; Berry 2006; Thiong'o 2007; Brennan 2011; Burdon 2013; Schillmoller and Pelizzon 2013), which according to Burdon are also the necessary "conditions under which ...the pillars of civilization...liberty,

equality, and justice...thrive” (Burdon 2013, 831). The language of the Earth Community also does work as the label for the network of intercultural “learning centers” established in 2003 by the founders of the Gaia Foundation, which includes facilities in Kenya (Lang’ata Centre), Brazil (Rincão Gaia), India (Bija Vidyapeeth), and the UK (Schumacher College)³⁶. While reflecting on the ethics of nature and ideas of community that have been mobilized from early Western environmentalism, unlike the more exacting continuity and stability of the concept ecological integrity, Earth community also represents a discontinuity that can be associated with the work of Thomas Berry and the particularities of Earth Jurisprudence as a distinct discourse.

Gaia

While the ‘Earth community’ derives from thought within Western philosophy on environmental ethics, the concept Gaia emerges from particular lineages of thought within the life sciences³⁷. Also in contrast to any ambiguity in the image that captures the relations of interdependence, the web image comes through quite clearly as the essential structure of Gaia, which is defined as “a complex entity involving the Earth’s biosphere, atmosphere, oceans, and soil; the totality constituting a feedback of cybernetic systems which seeks an optimal physical and chemical environment for life on this planet” (Lovelock 1979, 11). In turn, Gaia reflects the idea of the Earth as a single super-organism, at the same time as organic life is redefined as a cybernetic

³⁶ See <http://www.earthcommunitynetwork.org/>

³⁷ Although the name itself is from Greek Mythology

system that circulates information. This end goal of providing information for optimization results in an essentially singularized function for all parts from viruses, to whales, to oaks, to algae, to humans, to rocks, to water, to the atmosphere (a comment also made by Fuchs 2006). The work done by deeming the planet a superorganism is to recognize it as not only having agency, but an ultimate agency that serves as the organizational force of the Earth's ontological order.

The concept "Gaia" functions within the 'Rights for Nature' apparatus through the establishment of homage organizations such as the Gaia Foundation that operate as leading actors in the mobilization for and implementation of nature's rights (which also include Gaia Amazonas in Colombia or Fundacao Gaia in Brazil). Moreover, the concept plays a role in Earth Jurisprudence educational material for both academic and popular audiences, such as in the book Exploring Wild Law: The Philosophy of Earth Jurisprudence (2011), the academic article *Mapping the Terrain of Earth Jurisprudence: Landscapes, Thresholds, and Horizons* (2013), and the documentary film "Animate Earth: Science, Intuition, and Gaia" (2006).

Ecozoic Era

Although there exists intersections and connections, the Ecozoic era carries slightly different connotations from the prior terms. While, there are commonalities between "ecozoic" and "anthropocene," which has become the privileged term amongst (the scientific community but also increasingly amongst social scientists as well), they represent two different human-nature relations. Anthropocene represents the

contemporary rupture from the Holocene epoch, which demarcates the period of geological time that extended from 10,000 years ago until the present. The Ecozoic represents what *will* supersede the Cenozoic era, which has occupied a duration of the past 65 million years. The concept of the Anthropocene has emerged from natural scientists to temporally denote the Human Species becoming a geological force that has power over other organic and inorganic matter (Monastersky 2015). In contrast, the concept, the Ecozoic era, was coined by Thomas Berry in 1994 during a discussion of his upcoming book, The Universe Story, in which he was attempting to describe the geological era “when humans live in a mutually enhancing relationship with Earth and the Earth Community” (Kiplinger 2010). This shift will occur on the heels of the Cenozoic era, as it is “terminated by the western-style industrialized human community in the late 19th, 20th, and early 21st century” (Kiplinger 2010). Although far from a pervasive perspective, some actually credit Berry for having developed the concept of the Anthropocene back in 1988, before the idea even came to be labeled as such, through his articulation of an “anthropogenic shock” occurring at an order of magnitude that superseded human history and culture in extending to the geological, biological, and chemical order of the Earth itself (Carolina Seminars of the University of North Carolina 2014).

Although I have not found others putting these two terms into conversation with each other, I would argue that (although corresponding to different timescales) *the period of transition* in which the Cenozoic, that largely “took place entirely apart from any human intervention,” becomes the Ecozoic, where all is “accepted, protected, and fostered by the human,” loosely corresponds to the idea of the Anthropocene as this

liminal phase where stepping into ones future fate requires human action to correct the current predicament in which “our positive power of creativity in the natural life systems is minimal, while our power of negating is immense (Berry 1998, point 5). Accordingly, Burdon’s reference to the Anthropocene as “a juncture ...where human choices will determine which life forms and natural systems survive and which are destroyed” at the moment in which human beings “have become a macrophase power” with only a “microphase sense of responsibility and ethical judgment” (2013, 822), suggests a conceptualization of the Anthropocene similar to the one I am constructing in placing the term in relation to the Ecozoic. Taken even further, some then argue, that the failure to realize the Ecozoic era would result in “a Technozoic Age” as the “mindless application of technology in pursuit of a wonder-world” (Bell 2001).

This necessary requisite of abrupt human action for the successful realization of the transition into the Ecozoic is argued for in Thomas Berry’s frequently cited book The Great Work, which even explicitly references this arduous yet moral labor in the title. The transformation he explains is one “from a period of human devastation of the Earth to a period when humans would be present to the planet in a mutually beneficial manner” (Berry 1999, 3). In referencing this quote in the article *The Earth Community and Ecological Governance*, Burdon points out, that Berry is “under no illusion concerning the immensity of this task, nor its urgency” (Burdon 2013, 832), yet still insists “the most ‘valuable heritage’ we can provide for future generations, is some indication of how this work can be fulfilled in an effective manner” (Burdon 2013, 832) and that in fact “[t]he nobility of our lives...depends upon the manner in which we come to understand and fulfill our assigned role (1999, p. 7)”. This prompts the practical

questions: how such great work will be achieved? which approach will be suggested as most effective and by who? and what are our supposed assigned roles that we are meant to be fulfilling, and how will they be enforced? Hints to these answers can be found by going back to Berry's 13-point list on "Determining Features of the Ecozoic Era". In point number seven, it indicates that science and technology will play a crucial part:

A new role exists for both science and technology in the Ecozoic period. Science must provide a more integral understanding of the functioning of Earth, and how human activity and Earth Activity can be mutually enhancing. Our biological sciences especially need to develop a "feel for the organism", a greater sense of the ultimate subjectivities present in the various living beings of Earth. Our human technologies must become more coherent with the technologies of the natural world (Berry, 1998, point 7).

The Ecozoic concept is put to work not only through the text of Thomas Berry, but also through online newsletters such as the Ecozoic Times, and institutions such as the Center for Ecozoic Studies at University of North Carolina and the Center for the Study of the Ecozoic and Society at Shenyang University of Technology, in China.

Mother Earth and Pachamama

Lastly, the concept of Mother Earth, which represents not only the exploited victim and the reproduction of life as gendered but also as a particularly indigenous society-nature relation, became popularly deployed during the rise of feminist, spirituality, and environmentalist movements (McCredden 1998). Yet, feminists have varied in their acceptance of the metaphor. In the paper, *Historicizing the Metaphor of Mother Earth*, Lyn McCredden uses Susan Griffin (1978) to illustrate examples of those feminists who affirmatively evoke Mother Earth to express "a lament for the passing of

the mother's body- in fact her murder- and any action of mourning” in which “the body is constructed in terms of revenge, and the instincts of the hunt, rather than in any traditional political terms” (McCredden 1998). Moreover Vandana Shiva can be noted as speaking for the intersection between those within the feminist tradition that mobilize the term Mother Earth as an empowering contestation to a patriarchal logic and those that identify as an explicit advocate of ‘Rights for Nature’. However, the use of such a trope to signify both the struggles of “pre-modernity and post-modernity” is also challenged by other feminists, such as Jane Jacobs and Kay Schaffer, who critique the metaphor for its “imperialist and patriarchal mindsets” (McCredden 1998, 127). These critiques are leveled in response to both “discursively construct[ing] the land as feminine” (127) and rendering “indigenous identities within a nonexistent pre-modern identity” (129)³⁸. Yet what this shows in terms of the essentialist assumptions made about indigenous people and the meaning of indigeness will be further discussed in the next section of this chapter, as another one of the complementary premises that underpins the formation of such a paradoxical narrative.

As the term has contemporarily resurfaced through the ‘Rights for Nature’ discourse, the particular variant that has gained traction accentuates associations to the pre-modern and the indigenous worldview. In contrast to the more historically gendered emphasis and implications of the term Mother Earth, the term Pachamama more specifically serves as the indigenous label (from the Andes). The concept, Pachamama, supposedly signifies the *original* term that ‘Mother Earth’ then becomes a translation of, and in so doing does cultural work in not only places like the constitution of Ecuador but

³⁸ The last quote is McCredden quoting Jane Jacobs from page 190 of her book *Earth Honouring: Western Desires and Indigenous Knowledges*

also the branding of US environmental NGO's, such as the San Francisco based Pachamama Foundation.

While Mother Earth is considered by many to be an inappropriate translation of Pachamama (see Gudynas 2011; Blaser 2014), both indigenous and non-indigenous proponents have come to deploy the term with a significant degree of substitutability, but without policing the borders of who does and doesn't count as indigenous (or claiming to have examined texts outside those written or translated into English), such substitutions are notably more pervasive amongst the non-indigenous actors. In the case of the article *Mapping the Terrain of Earth Jurisprudence*, the authors simply put Mother Earth in parentheses immediately after using the word Pachamama, signifying a direct and unproblematic translation (Schillmoller & Pelizzon 2013, footnote 64). The Ecuadorean Constitution begins Article 71 with "Nature, or Pacha Mama" and then follows with a definition that mirrors how the UDRME defines Mother Earth (Legislative and Oversight Committee of the National Assembly 2008).

According to this not just well-cited declaration, but the statements cited as *the* template for implementation and symbol of global rallying and mobilization, Mother Earth represents the "indivisible, self-regulating community of interrelated beings that sustains, contains, and reproduces [the common destiny of] all beings" ("UDRME" 2010, preamble and article 1, also repeated by "The People's Sustainability Treaty" 2012). At this 2010 Peoples World Conference on Climate Change and Rights of Mother Earth, the language of Mother Earth was taken up by leaders of indigenous peasant movements, such as Itelvina Masioli, to promote a project that, opposed to the current one of death, is a project that defends life (Masioli 2010). That same year, Bolivia, under

the world's first indigenous president Evo Morales, adopted the "Law of Mother Earth," which claims that Mother Earth is "a collective subject of public interest" (Marinez Callahuanca 2010) since she is said to be "sacred, fertile and the source of life that feeds and cares for all living beings in her womb...." in permanent balance, harmony and communication with the cosmos" and "comprised of all ecosystems and living beings, and their self-organisation" (Vidal 2011). This description clearly highlights the spiritual and divine dimension of the term and although still a clearly gendered term, the emphasis is more notably on the relation to indigeneity. This focus can be seen throughout the work of Northern NGO executive director, Liz Hosken, who interestingly brings 'Mother Earth' into play in the context of "pieces of wisdom" from "indigenous shamans" (Hosken 2011, 33), consequentially, linking the word directly to indigenous voices. Yet in 2009, both ALBA and United Nations Permanent Forum on Indigenous Issues also made statements that explicitly reference concern for nature, as an indivisible whole and source of all life, through their use of the term Mother Earth.

In addition to clear associations with indigeneity and the global south, including even certain forms of endogenous support, the deployment of Mother Earth also emerges in international contexts as a universally relevant and applicable concept. In 2013, the UN passed Resolution 68/216 that establishes April 22, (which is the same day that was nationally declared as Earth Day in the US under Richard Nixon in 1970) as a *global Earth Day*, known as *International Mother Earth Day*. In zooming into the various lexical tools deployed for ontologically declaring and normatively proscribing holistic models of life, the specificities of their historical, cultural, and political differences dissipate/dissolves through the network of statements that streamlines their

mobilization in the name of justifying (as both truth and justice) that the/a whole need (and ought to) be both the basis of existence for all of the parts and the object of maintenance for each of its parts.

Metaphysical Foundation - The Cosmos

Yet, all these concepts, while earthly in nature, can also be expanded in scale, even to the largest scale, or the point where scale becomes absolute. On the metaphysical level, the validity of the undivided whole is considered a universal truth, in the very literal sense, in that it is an attribute of the undifferentiated universe, which is mirrored in all of its various realizations. While the majority of references particularly in policy point to earthly natures, many texts that take on the philosophical elements situate all lively matters within the broadest of scales, the cosmos. One of the most frequently quoted lines associated with the justification of the planet Earth and all of its constituent components as part and parcel of life itself, by proactive advocates, onlookers, and critics alike, is that the “universe is not a collection of objects, but a communion of subjects.” While this aphorism was first uttered by Thomas Berry, it has since been cited by many others including Cullinan, (2011), Burdon (2011, 2013), Brennan (2011), Lenferna (2012), etc. Furthermore, this suggests the universe is not only a communion of subjects, but the ultimate “commons” (Berry 2003).

In tandem to the logic of planet Earth, the universe as a cosmological whole serves as both the source of life and the objective of life. This is not a coincidence, but rather an extension of the logic that “the Universe is self-referent in its being and self-

normative in its actions. It is also the primary referent in the being and the activities of all derivative modes of being” (Berry 2001). This section can be elaborated on by turning to the work of Pierre Teilhard de Chardin, who served as a significant inspiration for Berry, and whose most popularized book, The Phenomenon of Man, locates the milieu of Mankind at the scale of the Universe through consciousness. In reference to Teilhard and the function of interior subjectivity in relation to external (temporal) scalar relations, Burdon states “thus, because there is consciousness in human beings and because we have evolved from the Earth, then from the beginning [of the Universe] some form of consciousness or interiority has been present in the process of evolution” (Burdon 2013, 822). Thinking through how this discourse applies to the most abstract of scales also helps me identify how it is a divine notion that holds together and produces existence and being as biological/natural.

It is these deployments of holistic premises that underwrite how removing the cultural barrier of ‘knowing’ (perceiving and interpreting) the human species as separate and superior to nature could allow the earth and all “her” communities to actualize their mutually enhancing relationship – including making humans more human.

INDIGENEITY:

The ability to presuppose a holistic model of all life as the true relation between human societies and non-human nature, I *argue*, requires another premise, concerning ideas of indigeneity that function to locate the ‘real’ human subject within a natural subjectivity. First, I show how the new science that understands life as a complex,

adaptive emergent system, without boundaries between subjects and objects, and thus purportedly reflects human knowledge converging on the universal truth (of holism), depends on an indigenous figure that, outside the temporal effects of modernity, simultaneously embodies *the pre-modern original genesis of the human species and the future image of human survival on Earth*. Second, I will show how being outside the effects of modernity that separate mind-body/matter, nature and culture, also depends on the notion of a *divine transcendence of contemporary social relations*. Lastly, I show how a supposed cultural continuity and resilience functions as historical proof for not only the natural inevitability of Earth Jurisprudence, but also scripts indigenous peoples as the bioculturally normative figure due to their supposed always already *self-policed adherence to holistic models of life and their innately embodied environmental knowledge*.

First, the new science that understands life as a complex, adaptive emergent system, without boundaries between subjects and objects, and thus purportedly reflects human knowledge converging on the universal truth (of holism), depends on an indigenous figure that, outside the temporal effects of modernity, simultaneously embodies *the pre-modern original genesis of the human species and the future image of human survival on Earth*. The idea is that indigenous people represent an accumulation of cultural knowledge that brings them both, *back in time* with its deep ancestral roots, and *external* to ‘modern’ influence with its pre-social intimacy to nature. For example, in Thiong’o’s chapter, “Earth Jurisprudence in the African Context” in Exploring Wild Law, he justifies the relevance of learning from “the existing remaining indigenous communities” on the basis that “they have had their knowledge for generations” which

furthermore has “not been too severely influenced by other knowledge systems” (2007, 176). In the same vein, “Does Nature Have Rights: Transforming Grassroots Organizing” argues that the “modern movement for the rights of Mother Earth” has only emerged through the “ancient roots” maintained by the “many Indigenous peoples throughout the world” (2010, introduction).

This idea of deep roots which stretch indigenous bodies back to the genesis of human evolution, is further entertained by Cullinan, who, in presenting justifications against those skeptical of the pertinence of indigenous knowledge for human governance, argues that if the human “relationship with Earth is as old as humanity itself...we would be foolish indeed not to consult the fantastic library of different techniques of human governance that have succeeded over thousands of years” (Cullinan 2011, 89). All of which has supposedly been lost or forgotten by Western society through its development towards accumulating ever-new technological forms of knowledges (Brenan 2011).

Since this translation of indigeneity resonates with this relational constitution of an ultimate order, indigenous people are thus deemed “the source of a worldview and cosmology that can provide powerful guidance and teaching for achieving our vision [of] a thriving, just and sustainable world” (Pachamama Alliance 2015b). However the way in which indigenous peoples serve as the link for translating remembrance of our roots into the salvation of our future, must be actively facilitated (by organizations such as the Gaia Foundation) through “inter-cultural exchanges” that “help stimulate the indigenous memory both within the southern and in the northern hemisphere” (Hosken 2011, 33). These ‘intercultural dialogues’ are also the aim of the Ancestral Knowledge

Working Group led by Tom Goldtooth, as the platform the Global Alliance for the Rights of Nature established for indigenous voices to take the lead in sharing the “the meaning, the implications and the correct implementation of the Rights of Nature” (T. B. K. Goldtooth 2015). The Global Alliance for the Rights of Nature claims “lessons from indigenous wisdom are to be shared among all cultures if the implementation of the rights of nature is to be truly global” therefore they (the Alliance) believes “that it is time to stop teaching and preaching” and “begin learning again” through “emphasizing the importance of Indigenous wisdom in guiding this learning process” (T. B. K. Goldtooth 2015).

While most juridical and philosophical precursors make little reference of indigenous people or knowledge, the most immediate, formative statements on ‘Rights for Nature’ are intimately folded into representations of the non-modern, environmentally-oriented indigenous subject. The rupture that demarcates this present wave can be associated with the distillation of the Airlie Principles in 2001, in which achievement of a “viable mode of human presence on the planet” is especially dependent upon the central guiding reference of “various indigenous peoples and remaining wilderness areas” (Berry 2001b). In this interesting claim, indigenous people are not only equated with wilderness, as some pure state of nature, vacated of both social relations and the human subject, but then also serve as both the potential and model for human survival. While Berry has served as the ‘central guiding reference’ for constructing the origin story for Earth Jurisprudence, the Wild Law Manifesto takes great lengths to illustrate the degree to which Berry’s perspective is a product of being influenced by indigenous ‘cosmology’ (Cullinan 2011). Moreover, the most dominant

narration of the emergence of Wild Law continuously highlights the Ecuadorean Constitution as the cornerstone precedent for the national ‘scaling-up’ of ‘local’ indigenous cosmologies, such as *Sumak Kwasay* (Gudynas 2011). However, the particular bodies governed through the abstract figure of the indigenous subject become caught in the temporal tension of being both stuck in the past and as the ideal template for the future.

Secondly, being outside the effects of modernity that separate mind-body/matter, nature and culture, also depend on the notion of a *divine transcendence of contemporary social relations*. The notion of relations to divinity is evident by the proposed way “governance system[s] of indigenous communities do not come from [the] individual interests of their leaders” but from “experiencing one’s embeddedness in a larger Universe, beyond the self” (Hosken 2011, 28). This more “expansive and generous consciousness” is only connected to “our present reality” through a “deep sense of connectivity with our evolutionary journey” which asserts not merely a biological trajectory, but a transcendental unfolding of time (Hosken, 2011, 27). This is contrasted with modern social relations that bifurcate mind and matter, knowledge and decision-making, and ascribe individuals with free will “to follow or not to follow the laws” (Bell 2001). However, the transcendently natural and divine human subject cannot disentangle thinking, being, and doing; the “very act of knowing” enrolls the body in alignment with the law (Bell 2001).

Therefore, to escape the present “prison of consciousness,” we must turn to those whom retained “our memory” over the “millennia” that we as humans “have been co-evolving with other species” (Hosken 2011, 26). Crucial to this logic is that indigenous

people are not just outside of change through time, but also the correlative idea of being outside Western/modern spaces and ways of knowing. This clearly produced boundary used to demarcate “cosmologies and worldviews...[as] from another paradigm” than that which exists in the “homosphere,” also codes the latter “stifling, virtual monoculture” with death while infusing the former with the “possibility...to re-frame our thinking and broaden our horizons,” and thus as the potential for life (Cullinan 2011, 89).

Lastly, a supposed cultural continuity and resilience functions as historical proof for not only the natural inevitability of Earth Jurisprudence, but also scripts indigenous people as the bioculturally normative figure through their supposed already *self-policed adherence to holistic models of life and their innately embodied environmental knowledge*. Supposedly crucial to Ecuadorean and Bolivian institutionalization of the embodied worldview, labeled *Sumak Kwasay*, is the particular Andean concept of Pachamama discussed in the prior section, which was taken up by global discourses to promulgate the idea that indigenous people recognize all of nature as intimately interconnected and thus infused with agency and subjectivity (see Esteva 2010; Escobar 2010; Escobar 2011; Gudynas 2011). This emphasis on *those people* that understand life as a collective whole that underpins the inseparable connectivity of all the parts, and thus unavoidably embody and foster a community oriented and environmental (earth-centered) ethics, can be found throughout the range of statements. For example, the UN Resolution on Harmony with Nature predicates its request to be adopted by the general assembly on the recognition “that many ancient civilizations, indigenous peoples and indigenous cultures have a rich history of understanding the symbiotic connection

between human beings and nature that fosters a mutually beneficial relationship" (General Assembly resolution 68/216 2013, 2). Similarly, the agreement between the New Zealand state and the indigenous populations of Aotearoa on the management of the Whanganui River depends upon the supposition that "to Whanganui Iwi the Whanganui River [is] a single and indivisible entity, inclusive of the water and all those things that gave the River its essential life" ("New Zealand Whanganui River and Iwi Agreement" 2012, 1.6.1).

But it is not just the notion that indigenous people have a worldview that treat humans and nature holistically and non-dualistically, and have passed down knowledge from some 'original' generation, and have remained uninfluenced by modern ways, but they have also endured, existed, and survived, attesting to not just a cultural continuity but an essence of resilience. In further explaining the role indigenous voices must play in the learning process, Tom Goldtooth, explains despite "radical changes in environmental conditions", they have not only "survived" but also "thrived" (T. B. K. Goldtooth 2015). Moreover, this is because, as "the global alliance acknowledges ... Indigenous peoples across the planet have already lived in accordance with the principles encapsulated by the Rights of Mother Earth for millennia" (T. B. K. Goldtooth 2015). This image of the indigenous subject as the essential link for a "harmonious and sustainable relationship" with "the natural world" (Martin and Muir 2001, Resolution #33, point 4), emerges not only through this idea of survival (as resilience and cultural continuity) itself but also techniques of "regulating human conduct" in ways that effectively manage (or protect) their conditions of reproduction (Cullinan 2011, 89).

According to Hosken, this form of regulating conduct, in operating beyond the interests of individuals, builds in accountability to “past, present, and future generations” that in turn produces a self-sacrificing communal orientation, which effectively “contain[s] the excess of human ego” (2011, 34). Moreover, Hosken asserts “that this is a self-discipline that begins from childhood, where children are taught to feel the consequences of breaking this law, for themselves, for Nature and for future generations” (Ibid). However, this concept of the human ego being a social ill and an error of human nature can also be found back in the work of Teilhard de Chardin, who stated: “The egocentric ideal of a future reserved for those who have managed to attain egoistically the extremity of ‘everyone for himself’ is false and against nature” (1959, 244). Indigeneity as a model of resilience and durability produced through the harmonization of the parts and the whole, function as evidence for the application of ideas like ‘ecological integrity’ to also include humans.

Given that indigenous people are then considered to have *always already* been existing and functioning in ways that accord to and defend the rights of Mother Earth (“UDRME” 2010, “The People’s Sustainability Treaty” 2012), identifying these practices becomes a way to illustrate that earth-centered jurisprudence is already a real and embodied way in which human laws function in alignment with natural laws, as well as a way to locate places where it can be further enhanced or developed (Filgueira and Mason 2009). In providing the most systematic and comprehensive survey of existing practices, this report (explained further in prior sections) serves as the “necessary first step in the process of identifying common principles that might be of use in drafting more effective environmental laws and interpreting existing laws in more

sympathetic ways”, or at least as is stated by the authors of the report (2009, 2). In spite of these actors concerns that governments and global leaders won’t take Earth Jurisprudence seriously, the internationally recognized validity of indigenous rights serves as a correlative, a referential metaphor, a stepping-stone, and thus a necessary strategy to make practical and material steps in the advancement of Wild Law. In this way, ‘Rights for Nature’ becomes conflated with indigenous rights, in ways that reinscribe the latter as the ideal and natural (noble) human subject, the one that self-polices in the name of the whole.

Interestingly, some academics, such as Schillmoller and Pelizzon, recognize that perhaps in implementing the philosophy of Earth Jurisprudence into a system of Wild Law there will be unavoidable anthropocentrism. Yet, if the primary cause of the entire series of interlocking crises can be traced to anthropocentrism, how is being implicated in reproducing the self-proclaimed root of the problem rationalized? Schillmoller and Pelizzon suggest despite “a sensibility which extends ethical responsibility from the human centre to a multiplicity of ontologically marginalized other” in the realm of the imaginary, the “pragmatic imperatives of normative juridical interventions” may “compel us ‘to think the mountain’ like a human” (2013, 31). In making the social and the natural part of an aligned and harmonious order, legal personhood not only brings nature into socially specific juridical-political-economic systems, but also naturalizes such social systems in masking the particular interests served through using indigeneity to represent the universal. While overall it may be a slightly simplified generalization to conclude that key in this strategy is the indigenous figure that mediates the relation between the human subject and the juridical subject, between life and rights, nature and

society, and through which emerges the juridical socionatural subject, it is clearly to the discursive effect that the regime of 'Rights for Nature' redefines the borders of not just 'nature' and 'life', but also the juridico-political, further extending the frontiers of the existing liberal capitalist order into the ontological.

ROLE OF SOVEREIGN ACTS

Making legible a universal socionatural subject strategically depends on law as the common language for recognizing life's eternal and transcendental suspension between the physical (the biological) and the metaphysical (the divine). This specifically juridical orientation makes sovereign acts necessary in securing the enforcement of an ambiguously universal subject of life that paradoxically, is simultaneously an anti-essentialist force of differentiation. While separating out liberal perceptions of sovereignty as that which secures individual liberty, justice, and equality, in the name of the collective, I am using the using the work of Butler (qua Foucault) to think through critical conceptualizations of sovereign acts. By this I mean, acts that "posit... its own power" in the tautological effort to maintain "authoritative and effective" (Butler 2004, 93). From this perspective, analyzing the liberal perception of power as that which no longer appears as control over oneself and others for the sake of control itself, but rather as self-reflexive appeals to supposedly commonly shared ideas of truths and morality, paradoxically performs "nothing other than the submission to sovereignty" (Butler 2004, 93 citing Foucault 1991, 95). It is as an extension of these conceptualizations that I *argue* creating a universal platform through the common language of rights and value

situates/locates the necessary role of sovereign acts in between nature and god, and in so doing masks the sovereign acts of human judges, lawyers, & other proper(tied) authorities. Moreover, it is this through this tactic of masking that sovereign acts of authority can reassert their role as authorities. Butler, also comments to this effect, in respect to how the (re)production of the State ironically occurs through the “act of withdrawal, a law that is no law, a court that is no court, a process that is no process” (2004, 62), and thus similarly naturalizes the all too social constructions of rights and value that constitute acts of power. I show this through first explaining how the necessary sovereign acts that adjudicate recognition and enforcement of such rules and their respective rights and responsibilities are displaced from the decisions of elite authorities by justifications that conceptualize an *unmediated relationship between life and law*. Secondly, I show how vacating the relation between life and law of socially constituted and historically specific power dynamics *naturalizes the role/source/site of sovereignty through liberal rule*. Lastly, I show how it is from within the pillars of Western society – liberty, equality, justice, – that notions of *rights and value are positioned as tools for articulating truth (and ethical goods)* instead of as acts of power.

LIFE AND LAW IS A NATURAL TRUTH

First, the necessary sovereign acts that adjudicate recognition and enforcement of such rules and their respective rights and responsibilities are displaced from human decisions through justifications that conceptualize an *unmediated relationship between life and law*. While the indigenous figure serves as the visible embodiment of this

conjunction, through an accumulation of ancestral knowledge that connects them to both the natural origins of the human species and an animate cosmology that foreshadows the necessary fate for human survival, it is *law that is represented as the common language* for making universally legible a socionatural subject in eternal suspension between the physical (the biological) and the metaphysical (the divine). In the Wild Law manifesto, Cullinan lays out clearly the need for the “the *common language* of the earth community” to reconcile the “multicultural ideologies and religious minefields,” that “bedevil attempts to formulate common values and approaches,” with the corporeal materiality of the “Earth's precondition for well-being” (Cullinan 2011, 180 emphasis added). This, he claims, will be the “the greatest contribution of earth jurisprudence” (Cullinan 2011, 180). The law as an authoritative body, for Cullinan, is only secondary to its projection of society's relationship to itself and to the earth's systems. This follows from the logic laid out in the 13-point list on “Determining Features of the Ecozoic Era,” which conceptualizes the “natural world as the primary manifestation of the divine” (Berry 1998). Accordingly, this logic through which ‘nature,’ as always already ‘divine nature,’ circumscribes the potentiality of the human being, produces a particular essentialized form of life, in that existence necessarily adheres to this omnibenevolent, omniscient, and omnipotent order, where these set of laws are the truth and these sets of truths are the law.

This understanding of life that accords to law allows for statements, such as those by Cullinan, that claim, “as indigenous people know, it is our ‘laws’ and practices that make us who we are, as societies and as individuals” (Cullinan 2011, 175), and therefore mask the necessary sovereign power that adjudicates recognition and

enforcement of such rules and their respective rights and responsibilities. The birth of modern law is subsumed by the idea that “humans cannot make law” but must become aware of it as they are already born “into a lawful and ordered Universe” (Hosken 2011, 27). Even those few who acknowledge that jurisprudence comes from the Latin words “law” and “skill” (Bell 2001) note that everyone together (even the unskilled) “finds completion in a spiritual renovation of the earth” despite the necessary “influence of a few elite” (de Chardin 1959, 245). However, most don’t suggest any difference between those who are the skilled actors and those who realize the effects because it is just the self-management of a single whole, the home of life, the “oikos” that extends from ecology to economy (Shiva 2012).

A parallel connection in the relation between life and rights is the relation between the ontological and the normative, which emanates from the whole body of Thomas Berry’s work (see “Origin, Differentiation, and the Role of Rights” 2001; “Ten Principles of Earth Jurisprudence” in Evening Thoughts: Reflecting on a Sacred Community 2006), all the way through to the “Universal Declaration for the Rights of Mother” (“UDRME” 2010, Article 1.4). Across these statements it is repeated verbatim, “rights originate where existence originates” and therefore there is a perfectly isomorphic relation between the incorporeal discursive world of rights and the embodied materiality of existence, through which “that which determines existence determines rights” and rights are merely “defined as giving every being its due.” For Berry, this completely commonsensical totality, in which rights and existence are merely the corporeal and the discursive complement of one another, tautologically operates through the self-referential nature of the cosmos:

Since...the universe is self-referent in its being and self-normative in its activities...The natural world on the planet Earth gets its rights from the same source that humans get their rights: from the universe that brought them into being (Berry 2006, point 2 & 4).

However, given that this monistic totality between rights and existence only coheres tautologically, it is not only posited as an ontological axiom but must also be simultaneously deemed a normative necessity.

While using the nature of nature to justify rights, it then follows that the law *must* recognize the rights of nature, a syllogism similarly concluded in the European Citizens Initiative on “Being Nature.” The initiative deduces that, “If law governs human relationships, it must recognise all of the relationships that we have – including our most fundamental relationship – the relationship from which our very existence in human form derives - our inter-existence with the natural world (European Citizens Initiative 2014). In this normative project of law as the reproduction of ontological life,

Our governance systems must become sophisticated enough to be sensitive to how we do things and conscious of the need to express the purpose of adapting ourselves to play our role within the Earth Community...This means enquiring into the extent to which [law is] something that is capable of being integrated into a way of life (Cullinan 2011, 174).

In a counterintuitive reversal, this ultimately suggests that in the midst of the constant effort of making law more like life, law and governance become the entire objective of life, to live is to obey the law. In the conclusion of Peter Burdon’s recent article titled, *The Earth Community and Ecological Jurisprudence*, he takes up this normative dimension through the ethical imperative of “a task [that] we have [not] chosen for ourselves,” and yet he reminds us, as I also quoted earlier, that “Berry maintains the “nobility of our lives...depends upon the manner in which we come to understand and

fulfill our assigned role” (1999, p. 7)” (Burdon 2013, 832).

NATURAL LAW AND LIBERAL RULE

Secondly, I show how vacating the relation between life and law of (human) power dynamics *naturalizes the role/source/site of sovereignty through liberal rule*. Although, this is nothing new, such dynamics nonetheless become reinscribed through the discourse on Earth Jurisprudence. According to Burdon, in his article *Earth Rights: The Theory* (2011), Earth rights are conceptualized first and foremost as not legal, or even proto-legal, but an ethical demand, which is explicitly noted by Roderick Nash to be the same as the way rights are conceptualized in natural law. Moreover, in further citing the work of Nash, Burdon grounds *all* modern rights discourses within the foundation of the natural law tradition (Burdon 2011). As Burdon further explains, the human rights (or Rights of Man) used to justify the American and French Revolution (1765-1783, 1787-1799) were constituted on the basis of the “the laws of nature and of nature’s God,”³⁹ through which the “self-evident truth” that all men are equal in their inalienable rights to life, liberty, and happiness, revealed itself (Burdon 2011, 3).

While at that time in history juridical legitimacy or recognition only extended to human subjects, Burdon is quick to point out that “the tendency of natural rights to take on expanded meaning has become “one of the most exciting characteristics of the liberal tradition” (Burdon 2011, 3-4 quoting Nash 1989). In providing his account of this historical unfolding of liberalism, he begins with Jeremy Bentham (1948), as the first to

³⁹ He is citing Nash’s quote from Thomas Jefferson.

expand the moral argument of utilitarian ethics by proposing that the ethical-and-thus-legal “question” he noted, “is not, can they reason? nor can they talk? but can they suffer?”⁴⁰ (Burdon 2011, 4 quoting Bentham). Burdon bestows the next incitement to expand the subject of natural rights upon Aldo Leopold’s concept of the Land Ethic, which in recognizing “the individual [as] a member of a community of interdependent parts” proposes “a body of self-imposed limitations on freedom” in order to “change the role of Homo Sapiens from conqueror of the land-community to plain member and citizen of it” (Burdon 2011, 4 quoting Leopold)⁴¹. Burdon’s narrative all culminates with Thomas Berry (1999, 2006), who solidified and codified the concepts of Wild Law and Earth Jurisprudence, *as an extension of natural law*. Accordingly, Berry supposedly determines his three rights (as elaborated on in the solution section of the narrative chapter⁴²) universally applies to every “component of the Earth community, both living and nonliving” alike, in response to contemporary disciplines (from physics to philosophy to the cosmology of the non-western other) converging on the premise that the “universe is a communion of subjects” (Burdon 2011, 5 quoting Berry). In so doing,

⁴⁰ Nonhuman animal rights project interestingly, neither cites, or is cited by, rights for nature actors and statements, instead of Cullinan, the main actor is Steven Wise, and instead of Berry and Leopold, the influences are Peter Singer, etc. Yet not coincidentally, they both cite Bentham as a precursor for the development of an ethics towards nonhuman nature: “Even some in the animal rights community have criticized Wise for the anthropocentrism of stressing his clients’ similarity to us rather than that basic Benthamic barometer of “can they suffer?” For Wise, though, “can they suffer?” is still the defining arbiter. It’s simply one that has been lent a whole new meaning and level of urgency by something obviously unavailable to a 19th-century British philosopher: the ever-growing body of scientific evidence pushing us into the increasingly discomfiting corner of knowing that, in the end, it isn’t really his clients’ likeness to us but their distinctly different and yet compellingly parallel complexity that now may command not just a philosophical regard but a legal one as well” (Siebert 2014).

⁴¹ “a body of self-imposed limitations on freedom” was Burdon’s own words, summarizing Leopold’s, while the other quotes are from Leopold directly (I also use this quote in Chapter 4 on the section on Western Environmentalism).

⁴² As a reminder, these include: the right to be, the right to habitat or a place to be, and the right to fulfill its role in the ever-renewing processes of the Earth community (Berry 2001a, Berry 2006)

he thus reinscribes the role of sovereign acts within the newest articulation of the liberal expansion of rights.

Although other vocal proponents contributing to the discursive regime of ‘Rights for Nature’ contest the lineage and even relevance of the modern law tradition (including the natural and positivist division), on the basis of there being “only temporary habits of nature” versus a *transcendental nature* that always already implies the possibility of something being *not nature* (Schillmoller and Pelizzon 2013, 24 quoting Whitehead 1938). However, such arguments fall short of recognizing what Burdon so exhaustively points to concerning the nature of law in the laws of nature, in that they are “not fixed and static” and never were (Burdon 2013, 832). In explaining this dynamism in the conclusion of *Earth Community and Ecological Jurisprudence*, Burdon zooms out further in time, to historically situate Earth Jurisprudence as the only law essential in nature for securing the freedom for nature as de-essential to proliferate differentially. He states:

Thus, the Greeks understood law with reference to a universal logos; the Christians viewed the eternal law of God as the highest source of law and secular liberalism championed human beings as the highest source of authority. What Earth Jurisprudence requires is for the concept of law to shift once more to reflect the interconnectedness and mutual dependence of the entire Earth community – that the protection of this community is a prerequisite for human existence and should inform the law in much the same way as liberty, equality and justice. Indeed, if these principles are considered to be the three pillars of civilisation, the concept of Earth community provides their foundation and supports the conditions under which they thrive (Burdon 2013, 832).

Governing human-nature relationships through Earth Jurisprudence (in the name of securing the betterment of living beings) produces both a subject that is politically constituted as seemingly sovereign and yet simultaneously made of the infinitely and

intimately interconnected stuff of life. However, upon scrutiny it becomes clear that subjectivities are not equally distributed amongst bodies, despite claims that “wild laws are laws that regulate humans in a manner that creates the *freedom for all the members of the Earth Community*” (Cullinan 2011, 30 emphasis added). The catch is that freedom is qualified by how well such supposed *freedoms* adhere to ones “role in the continuing co-evolution of the planet” (Ibid).

While the capacity for life to live (freely and happily) requires sovereign acts to secure these rights and responsibilities, the source of such sovereignty is paradoxically dispersed and concentrated, unitary and striated, in ways that make it forever elusive and obscured. In the US cases, the members of the community are regarded as the ultimate source of sovereignty. Despite recognition of the practical necessity for the municipal or city (or other level of) government to be the overseers of such sovereign power, they are said to be merely acting as an extension of the authority and the freedom of the local communities or life itself (see Borough of Tamaqua, PA 2006, Section 14; City of Pittsburgh, PA 2010, 618.023 d, City of Santa Monica, CA 2013, 4.75.040 c). Yet, in case of the Ecuadorian Constitution (2008), the Bolivian Law of Mother Earth (2010), and the ALBA endorsement (2010), the State is recognized as a constitutive source of sovereign power, an authority outside of life itself.

Moreover, this slippery locus of authority extends its reach to the criminal enforcement of what would otherwise constitute civil violations, through the ‘international’ effort to implement Ecocide as a crime against peace (war crime). Under this drafted act, used for a mock trial in the UK Supreme Court in 2011, the guilty party would be sentenced to either imprisonment or, in an interesting twist, may “exercise the

option of entering into a restorative justice process” (Higgins 2011, section 9). However, the qualification of “aiding and abetting, counseling or procuring the offence of ecocide” (Ibid) preserves the potential for guilty parties to include “any member of government, president, prime minister or minister...director, partner or any other person in a position of superior responsibility” whose actions resulted in Ecocide “regardless of his knowledge or intent” (Higgins 2011, section 14.1-14.2). At the same time, such a preemptive doctrine in the international legal context, that conflates peacetime and wartime regimes, only produces a wider scope for sanctioning the interests – and de facto impunity -- of globally hegemonic actors, in ways that parallel other international humanitarian legal regimes (such as R2P).

RIGHTS & VALUE AS THE MEASUREMENT TOOL

Lastly, it is only from within the pillars of Western society – liberty, equality, and justice – that notions of *rights and value become tools for articulating truth* instead of acts of power. In the modality of rationalizing truth through justice and justice through truth, fair and accurate judgments only occur through the question of value and rights. A framework that rationalizes inalienable rights with claims of intrinsic value, in order to challenge objectification produced by instrumental valuations, still implicates the same mode of power in the displacement of (biopoliticized yet) sovereign acts of human (elite) decisions onto acts of divine nature. Furthermore, in capitalist modes of social relations, evaluations that can only be standardized through an abstracted

exchange value render the difference between instrumental and intrinsic value meaningless, through capitalizing on the proliferation of both forms of value.

While labeling nonhuman nature intrinsically valuable challenges the instrumental valuation that market-oriented environmentalism is predicated on, positing intrinsic valuation as an alternative simultaneously depends on the deployment of an instrumental rationalization. For some the instrumental value ascribed to nature is made directly apparent through statements that point to a human-centered starting point and then suggest recognizing non-humans as subjects in their own right to be the logical derivative necessary to sustain the former aim. In an online magazine on permaculture, a blog post offers language to such effect in suggesting that Wild Law on one hand is necessarily “earth-centered,” as it takes stalk of the multiplicity of species that comprise the earth community, while on the other hand such an orientation is necessary because humans are dependent on the earth for “our life support system and source of well-being” (Brenan 2011). Ultimately suggesting “the legal protection offered comes from this human-centered starting point” (Ibid). Similarly, the ordinance adopted in Santa Monica rationalizes its commitment “to protecting, preserving and restoring the natural environment” through noting that “like all other communities, Santa Monica’s welfare is inextricably bound to the welfare of the natural environment” (2013, 4.75.020). Beyond examples from the North, the 2010 gathering of the Bolivarian Alliance for the Americas in La Paz, for the Treaty of Commerce of the People, also resulted in an endorsement for the Universal Declaration of the Rights of Mother Earth. In the endorsement, the attending states (Bolivia, Ecuador, Cuba, Venezuela, Nicaragua) proclaimed that although nature “does not have a price and is not for sale” it has

“infinite value” because it “is our home and is the system of which we form a part” (ALBA 2010) Moreover, the argument follows that human rights “can only be guaranteed through the recognition and defense of the rights of mother earth” (Ibid).

Yet, others would object such outright human geared rationalizations. For example, Berry emphasizes *each* member (of the planet) is dependent on all other members given the intricately bound network of direct and indirect relations (See “Origin, Differentiation, and the Role of Rights”). Therefore, the mode of such relations is instrumental, while the existence of this modality is intrinsic to Earth. Hence, what is deemed intrinsic is instrumentalism. This precise dynamic between ‘the intrinsic’ and ‘the instrumental’ similarly corresponds to the language of the Whanganui River Treaty (2012, 1.8.1-1.8.2).

Other cases, such as in the Newfield ordinance (2009, section 2, preamble and purpose) ‘the intrinsic’ and ‘the instrumental’ are complementary, in where you need life to make more life. Securing life in general is the objective, while selecting which specific life is to be valued (and which disposed) for such an end, is the means (Biermann and Mansfield 2014). On one hand, valuing nature is to be recognized as an end in itself, but on the other hand this is because of the utility in nature’s mere existence, which provides the necessary sustenance for reproducing all life. In so doing, this also differentially instrumentalizes the particular forms (parts) of life. Thus, a state of ambivalence emerges with statements such as “nature has interests ‘in being,’” where intrinsic and instrumental valuations collapse into a level of indeterminacy (such statements can be found in Berry 1978; Koons 2008; Schillmoller and Pelizzon 2013). This inability to escape the entanglement of intrinsic and instrumental value can be

illustrated even in less explicit cases as well, such as in the Ganga Rights Act. In explaining the “natural cycle of life,” the Act suggests the conversion of rights from the discursive to the material is only intrinsically maintained when there are no instrumental interferences to the “balance of the system upon which we [all] depend” (National Ganga Rights Movement 2012).

Interestingly, according to the most legally technical and extensive literature to date, the violations of nature’s rights or interests “in being” are conceptualized through analogy to copyright law. By configuring the violations as a form of ‘piracy,’ costs can be abstractly determined in ways that parallel an “invasion of property interest” (Stone 1972, 29). While Stone then lays out the plethora of complications in reducing the value of damage into calculable monetary terms, he maintains that the idea is still feasible since,

We have increasingly taken (human) pain and suffering into account in reckoning damages, not because we think we can ascertain them as objective “facts” about the universe, but because even in view of all the room for disagreement, we come up with a better society by making rude estimates of them than by ignoring them (Ibid, 31).

Given such a conceptualization of “interests in being,” the violation of nature’s rights becomes translated into monetized reparations that would enter into a trust fund, administered by a guardian, and thus also cover respective legal fees, etc, as well as go toward preserving the “natural object as close as possible to its condition at the time the environment was made a rights-holder” (Stone 1972, 33).

While the UDRME does not provide any specific detailing on how violations and liability function, it is recognized that the consequence at least consists of “full and prompt restoration,” although restoration to what state or level remains unclear

(“UDRME” 2010, Article 2, j). The case of the Ganga Rights Act states perfectly clear that violations of the basin’s rights are to result in monetary compensation “for the purpose of, and in the amount necessary to, restore the ecosystems to its pre-damaged state” (National Ganga Rights Movement 2012). However, the ambiguity of the term ‘pre-damaged’ still elicits several questions and spaces for contestation. Four years earlier, the newly adopted Ecuadorean Constitution recognized the requirement of restoration and in so doing conferred/authorized upon the State new rights to establish “the most effective mechanisms to achieve the restoration” including “adequate measures to eliminate or mitigate harmful environmental consequences” in addition to whatever compensation was obliged to “individuals and communities that depend on affected natural systems” (Legislative and Oversight Committee of the National Assembly 2008).

While some statements, such as the Ecocide Act, make clear that it is humans who hold responsibility, such a claim is an area of interesting variation within the rights of nature discourse. Can nature also have responsibilities, if it is granted rights? Or are humans the only bearers of responsibility and thus the only possible guilty and liable parties? Stone suggests, in contrast to others, that nature in accordance with having rights would also bear responsibilities, and so “where trust funds had been established, they could be available for the satisfaction of judgments against the environment, making it bear the costs of some harms it imposes on other right holders” (Stone 1972, 34). Although Burdon uses Stone in certain instances to explain the “theory” of “earth rights,” he presents a different conclusion on whether nature is (or ought to be) a legally responsible entity. Drawing on Hohfeld, he argues that technically what nature is being

granted is a “claim right,” which situates rights “correlative to other persons duties,” and thus suggests only humans have the capacity to be held legally responsible (Burdon 2011, 7). He then turns to Kant, in order to develop an evaluative framework that determines the level of duty humans are differentially obliged to based on either their direct or indirect relation to the violation.

The use of ‘Rights for Nature’ to justify solely human responsibility seems to be the more prominent line of thinking taken up in current policies and reports. The 2009 report surveying the degree to which particular existing laws resemble the core elements of Earth Jurisprudence, states that “rights for the natural world” are to be used as a tool to define “responsibilities of human beings towards nature” and to secure “the restraint on human behaviour necessary to re-establish and maintain a mutually enhancing relationship” (Filgueira and Mason 2009, 4). This sentiment is further reinforced by the UDRME, which clarifies that the intention of rights for nature is to protect nature from violations “caused by human activities” (2010, Article 2, j).

Across an abundance of policy statements, such as the Newfield, PA Ordinance (2009, section 5.1), the Ganga Rights Act (2012), and the Santa Monica, CA City Ordinance (2013, 4.75.040 b), and others, the limited range of discursive variability can for the most part be reduced to the principle laid out in a single sentence of the “Valley of 1000 Hills Declaration”: “*Local communities have the inalienable right and responsibility to nurture, manage, exchange and further improve the biodiversity on which their livelihoods are based - for the benefit of themselves, ecosystems and of future generations*” (2002, emphasis added). Although remember local communities, as Earth communities, are formed by its other-than-human members as well. Yet these non-

human natures, while having rights (which are vocalized through humans) that require protection cannot be held responsible. Responsibility is reserved for humans. So while all members of the Earth community have the conditions necessary for their reproduction and well being secured through rights, if the human elements do not fulfill their assigned role through upholding their responsibilities, they are undermining and going against life itself.

In the context of policies adopted within US municipalities, particularly those of Tamaqua (2006, 12.1) and Newfield (2009, 7.1), those potentially responsible parties would include, “Any person under the authority of a permit issued by the Department of Environmental Protection, any corporation operating under a State charter, or any director officer, owner, or manager of a corporation operating under a State charter.” Given any violations to the rights laid out in the rest of the ordinance, such parties would “be responsible for payment of compensatory and punitive damages” to be paid “to Tamaqua Borough for restoration of those natural communities and ecosystem” and “all costs of litigation, including without limitation, expert and attorney’s fees.” Although this is from the Tamaqua ordinance, the exact phrasing is also used in the Newfield ordinance, except the Town of Newfield instead of the Borough of Tamaqua would be the recipient of restoration funds.

In summary, while the analysis of the narrative suggests a paradoxical logic, it is only through situating the unity of statements as dispersed events made possible through quite specific bodies of authority that the conceptual tools necessary for such a narrative to even come into (discursive) existence can be unpacked as those which strategically validate the particular bodies that deploy them (as a mode of validation). I illustrated this

through discussing how holistic models of life function to naturalize difference within a transcendental truth that connects all the parts (individuals) through their relation to the whole (collective), while cultivating an essence of not just relational/relative difference but the possibility for infinite differentiation. I then discussed how ideas of indigeneity are deployed to not only symbolize the transcendental relation between the individual and the collective but also the ways in which all forms of difference (even the juxtaposed non-western other) can ultimately be reconciled within Western ideas of nature. Lastly, I take up how this idea of life mimics the logic of law, whereby the intimate entanglement between both law and life is reinscribed as both a continuation of liberal rule through biopolitics (the naturalization of truth, liberty, and equality) and a discontinuous iteration (the incorporation of nature itself). The point here is how the articulation of these themes poses rights as themselves natural (i.e. rights—sovereignty--emerge from indigenous cosmologies and ecological holism); and therefore hides it's relation to Western liberalism. At the same time this particular articulation also allows for Western liberalism to be posited as itself natural, and while it has produced a rift between the social and the natural, it is the natural realization of the rift itself that leads to its own suturing (through rights). It is through this self-healing that the rift (as the ill/err of modernity's human-nature dualism) can be just a part of the natural evolution of nature.

Conclusion

In summary, out of the various lineages that the argument ‘Rights for Nature’ emerged from, it is the embodied and situated set of juridical interests and actors that position rights in relation to indigeneity and life itself for overcoming modern dualism, as the source of contemporary crises. However, it is exactly the seeming invisibility of the juridical influences that masks the paradox at the argument’s core, which makes humans more fully human by becoming more like nature (with the pre-social indigenous figure), while simultaneously making nature exist as something identifiably ‘natural’ by becoming more like humans (with legal personhood). Making sense of the contradictory yet seemingly universal logic requires situating an analysis within the bodies and practices that create and maintain it. The particular voices (of elite, scientists or lawyers) can only articulate such logic as universal (or abstracted and disembodied), through displacing the voice of the self and replacing it with the voices of the other (indigenous people, non-human nature, god). Thus, without such grounding of the loci of enunciation, unpacking the contradictions of the logic on its own, may evoke responses for conceptual corrections or ‘fixes’ to the logic that once again miss the relations of power that knowledge (forms of reason, epistemes) is both situated within, but also reproduces. In light of my analyses, I argue that the juridical conceptualization, the making nature a subject through law, emerges not only through the logic of the

argument itself but also through the historically and geographically specific connections of actors and interests that contingently create and maintain the mobility of such contradictory ideas.

Some may read this critique of ‘Rights for Nature’ as potentially doing negative political work for indigenous politics and States in the global south that are taking on US imperialist politics, such as Ecuador and Bolivia. Yet, my arguments should also be noted for offering interpretations to the contrary. In centering the interest of juridical actors, the focus on blaming Ecuador and Bolivia is actually decentered. Earth laws may provide a new means for disciplining States critical of US hegemony, but it’s only through situating the emergence of the discourse beyond those countries themselves, that one can see how Bolivia and Ecuador are transnationally remade within the global geopolitical imaginary as a new form of criminal.

REFERENCES:

- 10th World Wilderness Congress. 2013. "Resolution #6: Advancing Nature Rights Worldwide." http://resolutions.wild10.org/wp-content/uploads/2013/10/res6_rights-of-nature_final-doc.pdf.
- "2014 Global Rights of Nature Summit Outcomes: Rights of Nature Ethics Tribunal in Quito, Ecuador." 2014. *Global Alliance for the Rights of Nature*. <http://therightsofnature.org/ron-summit-outcomes/>.
- "About Us: Mission Statement." 2015. *The Community Environmental Legal Defense Fund*. Accessed June 1. <http://www.celdf.org/mission-statement>.
- Adams, William M. 2001. *Green Development: Environment and Sustainability in the Third World*. 2nd ed. New York: Routledge.
- ALBA. 2010. "ALBA Nations Declare: Nature Has No Price!" *Climate & Capitalism*. November 15. <http://climateandcapitalism.com/2010/11/15/alba-nations-declare-nature-has-no-price/>.
- Bakker, Karen. 2005. "Neoliberalizing Nature? Market Environmentalism in Water Supply in England Wales." *Annals of the Association of American Geographers* 95 (3): 542–65.
- . 2008. "The 'Commons' Versus the 'Commodity': Alter-Globalization, Anti-Privatization and the Human Right to Water in the Global South." In *Privatization: Property and the Remaking of Nature-Society Relations*, edited by Becky Mansfield, 38–63. Malden, MA: Blackwell.
- Bebbington, A., and D.H. Bebbington. 2011. "An Andean Avatar: Post-Neoliberal and Neoliberal Strategies for Securing the Unobtainable." *New Political Economy* 16: 131–45.
- Bell, Mike. 2001. "Thomas Berry and Earth Jurisprudence." Inukshuk Management Consultants. <http://www.rainforestinfo.org.au/deep-eco/earth%20jurisprudence/Earth%20Justice.htm>.

- Bennet, Jane. 2010. *Vibrant Matter: A Political Ecology of Things*. Durham, NC: Duke University Press.
- Bernstein, Steven. 2001. *The Compromise of Liberal Environmentalism*. New York: Columbia University Press.
- Berry, Thomas. 1978. *The New Story: Comments on the Origin, Identification, and Transmission of Values*. The American Teilhard Association for the Future of Man.
- . 1994. *The Universe Story: From the Primordial Flaring Forth to the Ecozoic Era*. New York: HarperCollins Publishers.
- . 1998. “The Determining Features of the Ecozoic Era.” Library of Santa Sabina Conference Center in San Rafael, CA. <http://ecozoictimes.com/what-is-the-ecozoic/determining-features-of-the-ecozoic-era/>.
- . 1999. *The Great Work: Our Way Into the Future*. New York: Bell Tower Press.
- . 2001a. “The Origin, Differentiation, and Role of Rights.”
- . 2001b. “Airlie Principles.” 1st Earth Jurisprudence meeting at Airlie House in Washington.
<http://www.gaiafoundation.org/sites/default/files/documents/Thomas%20Berry%20Airlie%20Principles%202001.pdf>.
- . 2003. “Every Being Has Rights.” presented at the Twenty-Third Annual E.F. Schumacher Lectures, Stockbridge, Massachusetts, October.
<http://www.gaiafoundation.org/sites/default/files/documents/Berry%20-%20Every%20Being%20has%20Rights.pdf>.
- . 2006. *Evening Thoughts: Reflecting on Earth as Sacred Community*. San Francisco: Sierra Club Books.
- Biermann, Christine, and Becky Mansfield. 2014. “Biodiversity, Purity, and Death: Conservation Biology as Biopolitics.” *Environment and Planning D: Society and Space* 32 (2): 257–73.
- Biggs, Shannon, and Mari Margil. 2010. “A New Paradigm for Nature - Turning Our Values into Law.” In *Does Nature Have Rights: Transforming Grassroots Organizing*, 16–19. Cancun, Mexico (COP16): Global Exchange, Fundacion Pachamama, Council of Canadians.
- Blaser, Mario. 2014. “Ontology and Indigeneity: On the Political Ontology of Heterogeneous Assemblages.” *Cultural Geographies* 21 (1): 49–58.

- Boulder, CO. 2013. "Sustainable Rights of Nature Ordinance (Draft)." http://boulderrightsofnature.org/wp-content/uploads/RON_Ordinance_4-25-13_Without_Per_Se_Violations.pdf.
- Braun, Bruce, and Sarah Whatmore, eds. 2010. *Political Matter: Technoscience, Democracy and Public Life*. Minneapolis: University of Minnesota Press.
- Brenan, Tom. 2011. "Wild Law: Recognising the Rights of Nature." *Permaculture: Practical Solutions for Self-Reliance*. October 5. <http://www.permaculture.co.uk/articles/wild-law-recognising-rights-nature>.
- Brown, Peter. 2012. "Ethics for Economics in the Anthropocene." *Teilhard Studies* 65 (Fall).
- Brown, Wendy, and Janet Halley, eds. 2002. *Left Legalism/Left Critique*. Durham, NC: Duke University Press.
- Bryant, Levi. 2011. "The Ontic Principle: Outline of an Object-Oriented Ontology." In *The Speculative Turn: Continental Materialism and Realism*, edited by Levi Bryant, Nick Srnicek, and Graham Harman. Anamnesis. Melbourne, Australia: re-press.
- Burdon, Peter. 2010. "Wild Law: The Philosophy of Earth Jurisprudence." *Alternative Law Journal* 35 (2): 2011–009.
- . 2011. "Earth Rights: The Theory." *IUCN Academy of Environmental Law. E-Journal*. 1: 1–12.
- . 2013. "The Earth Community and Ecological Jurisprudence." *Onati Socio-Legal Series, Human Rights and the Environment: In Search of a New Relationship*, 3 (5): 815–37.
- Butler, Judith. 2004. *Precarious Life: The Powers of Mourning and Violence*. New York: Verso.
- Carolina Seminars of the University of North Carolina. 2014. "Call For Paper's and Participation." In . Chapel Hill, NC: Center for Ecozoic Societies. http://fore.yale.edu/files/Thomas_Berry_Colloquium2013-12-20.pdf.
- Castree, Noel, Catherine Nash, Neil Badmington, Bruce Braun, Jonathan Murdoch, and Sarah Whatmore. 2004. "Mapping Posthumanism: An Exchange." *Environment and Planning A* 36 (8): 1341–63.
- City of Pittsburgh, PA. 2010. "Legislation Text: File #2010-0909."

- City of Santa Monica, CA. 2013. "City Council Series Ordinance 2421: Establishing Sustainability Rights."
- Cope, M. 2010. "Coding Transcripts and Diaries." In *Key Methods in Geography*, edited by N. Clifford, S. French, and S. Valentine, 2nd ed., 440–52. London: SAGE.
- Cresswell, Tim. 2012. "Value, Gleaning, and the Archive at Maxwell Street, Chicago." *Transactions of the Institute of British Geographers* 37 (1): 164–76.
- Cullinan, Cormac. 2011. *Wild Law: A Manifesto of Earth Justice*. 2nd ed. White River Junction, Vermont: Chelsea Green Publishing.
- . 2014. "EnAct International - Governance for a Sustainable Future." Accessed July 7. <http://www.enact-international.com/>.
- Cullinan, Cormac, Maude Barlow, Vandana Shiva, Desmond Tutu, Edwardo Galleano, Nimmo Bassey, Thomas Goldtooth, and Shannon Biggs. 2011. *The Rights of Nature: The Case for the Universal Declaration on the Rights of Mother Earth*. New York and San Francisco: Global Exchange, Fundacion Pachamama, Council of Canadians.
- Daly, E. 2012. "The Ecuadorian Exemplar: The First Ever Vindications of Constitutional Rights of Nature." *Review of European Community & International Environmental Law* 21 (1): 63–66.
- De Chardin, Teilhard. 1959. *The Phenomenon of Man*. New York: Harper & Row, Publishers, Incorporated.
- De La Cadena, M. 2010. "Indigenous Cosmopolitics in the Andes: Conceptual Reflections beyond 'Politics.'" *Cultural Anthropology* 25 (2): 334–70.
- Derrida, Jacques. 1990. "Force of Law: The 'Mystical Foundation of Authority.'" *Cardozo Law Review* 11 (919): 920–1044.
- Devall, Bill, and George Sessions. 1985. *Deep Ecology: Living as If Nature Mattered*. Salt Lake City, UT: Peregrine Smith.
- Dixon, D.P. 2010. "Analyzing Meaning." In *Research Methods in Geography*, edited by B. Gomez and J.P. Jones III, 392–407. UK: Wiley-Blackwell.
- Doornbos, Sarah, Willy Douma, and Gine Zwart. 2013. "Agricultural Biodiversity for Resilient Farming Systems: What Knowledge Is Needed to Release Potential and Overcome Constraints?" Synthesis Report. The Hague, Netherlands: Hivos and Oxfam Novib.

- Dove, Michael. 2006. "Indigenous People and Environmental Politics." *Annual Review of Anthropology* 35: 191–208.
- Elfstrand, Sara, Pernilla Malmer, and Britta Skagerfält. 2011. "Strengthening Agricultural Biodiversity for Smallholder Livelihoods." Background document for the development of a Knowledge Programme. Stockholm Resilience Center: Stockholm Environment Institute and The Beijer Institute of Ecological Economics.
http://www.stockholmresilience.org/download/18.3186f824143d05551ad354c/1394190438854/Strengthening+agricultural+biodiversity_Final+Mapping+Report.pdf.
- Ellen, Gilmer. 2015. "Speaking for the Trees, Lawyer Pushes Unconventional Doctrine." *EnergyWire*, January 7. <http://www.eenews.net/stories/1060011209>.
- Escobar, Arturo. 2010. "Latin America at a Crossroads." *Cultural Studies* 24: 1–65.
- . 2011. "Sustainability: Design for the Pluriverse." *Development* 54 (2): 137–40.
- Esteva, Gustavo. 2010. "From the Bottom-up: New Institutional Arrangements in Latin America." *Development* 53 (1): 64–69.
- European Citizens Initiative. 2014. "Being Nature - Recognizing and Respecting the Inherent Rights of Nature." International Centre for Wholistic Law.
http://therightsofnature.org/wp-content/uploads/pdfs/Ito_EuropeanCitizensInitiative%20Project%20Summary.pdf.
- "Executive Committee." 2015. *Global Alliance for the Rights of Nature*.
<http://therightsofnature.org/executive-committee/>.
- Fairhead, James, Melissa Leach, and Ian Scoones. 2012. "Green Grabbing: A New Appropriation of Nature?" *The Journal of Peasant Studies* 39 (2): 237–61.
- Falk, Richard. 1973. "Environmental Warfare and Ecocide-Facts, Appraisal, and Proposals." *Security Dialogue* 4 (1): 80–96.
- Filgueira, Begonia, and Ian Mason. 2009. "Wild Law: Is There Any Evidence of Earth Jurisprudence in Existing Law and Practice?" An International Research Project. London: UK Environmental Law Association and The Gaia Foundation.
- Foucault, Michel. 1972a. "The Formation of Enunciative Modalities." In *The Archaeology of Knowledge*, 50–55. New York: Random House, Inc.

- . 1972b. “The Unities of Discourse.” In *Archaeology of Knowledge*, 21–30. New York: Random House, Inc.
- . 1977. “History of Systems of Thought.” In *Language, Counter-Memory, Practice: Selected Essays and Interviews by Michel Foucault*, edited by Donald F. Bouchard, 199–204. New York: Cornell University Press.
- . 1980. *Power/Knowledge*. New York: Random House, Inc.
- . 1991. “Governmentality.” In *The Foucault Effect: Studies in Governmentality*, edited by Graham Burchell, Collin Gordon, and Peter Miller, 87–104. Chicago: University of Chicago.
- . 2003. *Society Must Be Defended: Lectures at the Collège de France, 1975-1976*. Translated by François Ewald. Macmillan.
- . 2006. *History of Madness*. Oxford: Blackwell.
- . 2008. *The Birth of Biopolitics: Lectures at the College de France, 1978-1979*. Translated by Graham Burchell. New York: Palgrave Macmillan.
- “Founding the Global Alliance.” 2015. *Global Alliance for the Rights of Nature*. <http://therightsofnature.org/>.
- Fuchs, Christian. 2006. “The Dialectic of the Nature-Society System.” *Cognition Communication Co-Operatio* 4 (1): 1–39.
- United Nations. 2013. Harmony with Nature. General Assembly resolution 68/216. 20 December. http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/68/216. (last accessed 4 May 2015).
- Global Exchange. 2012. “Rights of Nature: Planting Seeds of Real Change.”
- Global Exchange, Council of Canadians, and Fundacion Pachamama. 2010. “Does Nature Have Rights? Transforming Grassroots Organizing to Protect People and the Planet.” Cancun, Mexico (COP16). <http://www.globalexchange.org/sites/default/files/RON%20REPORT.pdf>.
- Goldman, Michael. 2005. *Imperial Nature: The World Bank and Struggles for Social Justice in the Age of Globalization*. Yale Agrarian Studies Series. New Haven: Yale University Press.

- Goldtooth, Tom B.K. 2015. "Indigenous Peoples: Ancestral Knowledge." *Global Alliance for the Rights of Nature*. <http://therightsofnature.org/ancestral-knowledge/>.
- Goodman, Amy. 2011. *Earth Day Special: Vandana Shiva and Maude Barlow on the Rights of Mother Earth*. New York: Democracy Now.
http://www.democracynow.org/2011/4/22/earth_day_special_vandana_shiva_and.
- Grugel, J., and P. Riggirozzi. 2012. "Post-Neoliberalism in Latin America: Rebuilding and Reclaiming the State." *Development and Change* 43: 1–21.
- Gudynas, Eduardo. 2011. "Buen Vivir: Today's Tomorrow." *Development* 54 (4): 441–47.
- Harding, Stephan. 2006. *Animate Earth: Science, Intuition, and Gaia*. White River Junction, Vermont: Chelsea Green Publishing.
- . 2014. "Educating for Gaia." *Alliance for Wild Ethics*. Accessed May 12.
<http://www.wildethics.org/essays/educating-for-gaia.html>.
- Harris, Cole. 2001. "Archival Fieldwork." *Geographical Review* 91 (1): 328–34.
- Higgins, Polly. 2011. "Ecocide Act." *Eradicating Ecocide*.
<http://eradicatingecocide.com/overview/ecocide-act/>.
- . 2012. *Earth Is Our Business: Changing the Rules of the Game*. London: Shephard-Walwyn.
- Higgins, Polly, Anja Gauger, Mai Pouye Rabatel-Fernel, Louise Kulbicki, and Damien Short. 2012. "'Ecocide Is the Missing 5th Crime Against Peace.'" University of London: Human Rights Consortium, School of Advanced Study.
<http://www.sas.ac.uk/hrc/projects/ecocide-project>.
- Higgins, Polly, D. Short, and N. South. 2013. "Protecting the Planet: A Proposal for a Law of Ecocide." *Crime Law and Social Change* 59 (3): 251–56.
- Hosken, Liz. 2011. "Reflections on an Inter-Cultural Journey into Earth Jurisprudence." In *Exploring Wild Law: The Philosophy of Earth Jurisprudence*, edited by Peter Burdon, 24–34. Kent Town, South Australia: Wakefield Press.
- Howard-Malverde, Rosaleen. 1995. "'Pachamama Is a Spanish Word:' Linguistic Tension between Aymara, Quechua, and Spanish in Northern Potosi (Bolivia)." *Anthropological Linguistics* 37 (2): 141–68.

- Huddle, Norie. 2013. "World's First Successful 'Rights of Nature' Lawsuit." *Kosmos Journal: The Journal for Global Citizens Creating the New Civilization* fall/winter: 15–19.
- Ignatieff, Michael. 2001. *Human Rights as Politics and Idolatry*. Edited by Amy Gutman. Princeton, NJ: Princeton University Press.
- Juan San, Martin M. 2002. "Ritual Conflict (Tinku) and Vindication of Indigenous Rights in Bolivia." *Mountain Research and Development* 22 (4): 394–98.
- Kennedy, Brendan. 2013. "I Am the River and the River Is Me – The Implications of a River as an Indigenous Legal Person." In *Rights of Nature and the Economics of the Biosphere*, 29–33. Woodside, California: Stillheart Institute.
- Kiplinger, Allysyn. 2010. "What Does Ecozoic Mean?" *The Ecozoic Times*. <http://ecozoictimes.com/what-is-the-ecozoic/what-does-ecozoic-mean/>.
- Koons, Judith. 2008. "Earth Jurisprudence: The Moral Value of Nature." *Pace Environmental Law Review* 25 (2): 263–339.
- Latta, Alex. 2013. "Locating Nature's Citizen: Latin America Ecologies of Political Space." *Citizenship Studies* 17 (5): 566–80.
- Legislative and Oversight Committee of the National Assembly. 2008. "Constitution of the Republic of Ecuador." Political Database of the Americas. <http://pdba.georgetown.edu/Constitutions/Ecuador/english08.html>.
- Lemke, Thomas. 2011. *Biopolitics: An Advanced Introduction*. Translated by Eric Frederick Trump. Medicine, Technoscience, and Health in the 21st Century. New York: New York University Press.
- Lenferna, G.A. 2012. "The Universal Declaration's Problematic Rights Justification." *South African Journal of Philosophy* 31 (2): 314–27.
- Leopold, Aldo. 1949. *A Sand County Almanac, and Sketches Here and There*. New York: Oxford University Press.
- Linda Sheehan (USA), Earth Law Center, Shannon Biggs (USA), Global Exchange, Cormac Cullinan (South Africa), Global Alliance for Rights of Nature, Karen Redhawk Dallett (USA/Turtle Island), Tom Goldtooth (USA/Turtle Island), Indigenous Environmental Network, Natalia Greene (Ecuador), Global Alliance for Rights of Nature, Randy Hayes (USA), Foundation Earth, et al. 2012. "The People's Sustainability Treaty (Rio 20+)." In . Rio De Janeiro, Brazil. <http://therightsofnature.org/>.

- Li, Tania Murray. 2007. *The Will to Improve: Governmentality, Development, and the Practice of Politics*. Durham: Duke University Press.
- Lohmann, Larry. 1993. "Resisting Green Globalism." In *Global Ecology: A New Arena of Political Conflict*, edited by Wolfgang Sachs, 157–67. New Jersey: Fernwood Publishing.
- Lorimer, Hayden. 2010. "Caught in the Nick of Time: Archives and Fieldwork." In *The SAGE Handbook of Qualitative Geography*, edited by D. DeLyser, S. Herbert, S. Aitken, M. Crang, and L. McDowell, 248–73. Los Angeles, CA: SAGE.
- Lorna, Siggins. 2015. "An Irishwoman's Diary on Martin von Hildebrand, a Hero of the Amazon." Newspaper. *The Irish Times*. May 26.
<http://www.irishtimes.com/opinion/an-irishwoman-s-diary-on-martin-von-hildebrand-a-hero-of-the-amazon-1.2225516>.
- Lovelock, James. 1979. *Gaia: A New Look at Life on Earth*. Oxford: Oxford University Press.
- Lovelock, James, and Lynn Margulis. 1974. "Atmospheric Homeostasis by and for the Biosphere: The Gaia Hypothesis." *Tellus* 26 (1-2): 2–10.
- Magdoff, Fred, and John Bellamy Foster. 2011. *What Every Environmentalist Needs to Know about Capitalism: A Citizen's Guide to Capitalism and the Environment*. New York: NYU Press.
- Maloney, Michele, and Nicole Rogers. 2014. "Wild Law Judgment Project." *Earth Laws Network*. <http://www.earthlaws.org.au/events/wild-law-judgment-project/>.
- Mansfield, Becky. 2004. "Neoliberalism in the Oceans: 'Rationalization,' Property Rights, and the Commons Question." *Geoforum* 35: 313–26.
- . 2005. "Beyond Rescaling: Reintegrating the 'National' as a Dimension of Scalar Relations." *Progress in Human Geography* 29 (4): 458–73.
- Margil, Mari. 2013. *Who Speaks for the Trees? Driving Nature's Rights into Law*. Bioneers Media: Videos, Voices, & Words Inspiring Global Citizens.
<http://media.bioneers.org/listing/who-speaks-for-the-trees-driving-natures-rights-into-law-mari-margil/>.
- Marinez Callahuanca, Sen. Rene Oscar. 2010. "Law of the Rights of Mother Earth." Chamber of Senators, The Plurinational State of Bolivia.
<http://www.worldfuturefund.org/Projects/Indicators/motherearthbolivia.html>.

- Martin, Vance G., and Andrew Muir, eds. 2001. "Wilderness and Human Communities: The Spirit of the 21st Century." Proceedings from the 7th World Wilderness Congress; Port Elizabeth, South Africa.
http://2c51122nkz5b1rm4dq34135cuuq.wpengine.netdna-cdn.com/wp-content/uploads/2010/02/WILDERNESS-AND-HUMAN-COMMUNITIES-THE-SPIRIT-OF-THE-21ST-CENTURY-2_web.pdf.
- Marx, Karl. 1906. *Capital: A Critique of Political Economy*. Edited by Frederick Engels. Translated by Samuel Moore and Edward Aveling. 3rd ed. 3 vols. New York: Random House, Inc.
- Masioli, Itelvina. 2010. "La Via Campesina Participates in the Inauguration of the Peoples' Climate Conference." *Climate Justice Now!*. April 20.
<http://www.climate-justice-now.org/la-via-campesina-participates-in-the-inauguration-of-the-peoples-climate-conference/>.
- McAfee, Kathleen. 2003. "Neoliberalism on the Molecular Scale: Economic and Genetic Reductionism in Biotechnology Battles." *Geoforum* 34: 203–19.
- McCarthy, James. 2005. "Commons as Counter-Hegemonic Projects." *Capitalism, Nature, Socialism* 16 (1): 9–24.
- McCarthy, J, and Scott Prudham. 2004. "Neoliberal Natures and the Nature of Neoliberalism." *Geoforum* 35: 275–83.
- McCredden, Lyn. 1998. "Historicizing the Metaphor of Mother Earth." In *Land and Identity Proceedings*, 126–30. The University of New England, Armidale.
- Mehta, L. 2001. "Water, Difference, and Power: Unpacking Notions of Water 'Users' in Kutch, India." *International Journal of Water* 1: 3–4.
- Mehta, L., Melissa Leach, and Ian Scoones. 2001. "Editorial: Environmental Governance in an Uncertain World." *IDS Bulletin* 32 (4).
- Melo, Dr. Mario. 2013. "How the Recognition of the Rights of Nature Became a Part of the Ecuadorian Constitution." In *Rights of Nature and the Economics of the Biosphere*, 34–36. Woodside, California: Stillheart Institute.
<http://www.globalexchange.org/sites/default/files/RON-SummitReader.pdf>.
- "Mission and Vision." 2014. *African Biodiversity Network*.
<http://africanbiodiversity.org/mission-and-vision/>.
- Monastersky, Richard. 2015. "Anthropocene: The Human Age." *Nature* 519 (7542): 144–47. doi:10.1038/519144a.

- Mutua, Makau. 2002. *Human Rights: A Political and Cultural Critique*. Philadelphia: University of Pennsylvania Press.
- Nash, Roderick Frazier. 1989. *The Rights of Nature: A History of Environmental Ethics*. Madison: University of Wisconsin Press.
- National Ganga Rights Movement. 2012. "The Ganga Rights Act." <http://www.gangarights.org/ganga-right-act/>. (last accessed 7 May 2015).
- "New Zealand Wanganui River and Iwi Agreement." 2012. <http://www.harmonywithnatureun.org/content/documents/193Wanganui%20River-Agreement--.pdf>.
- Pachamama Alliance. 2014. "Mission & Vision: Origin Story." *Pachamama Alliance*. Accessed July 7. <http://www.pachamama.org/about/origin-story>. (last accessed 2 May 2015).
- . 2015b. "Our Mission & Vision." *Pachamama Alliance*. <http://www.pachamama.org/about/mission>.
- Peck, J., N. Theodore, and N. Brenner. 2010. "Postneoliberalism and Its Malcontents." *Antipode* 41: 94–116.
- Peet, Richard, and Michael Watts, eds. 1996. *Liberation Ecologies: Environment, Development, Social Movements*. New York: Routledge.
- Radcliffe, Sarah. 2012. "Development for a Postneoliberal Era? Sumak Kawsay, Living Well and the Limits to Decolonialisation in Ecuador." *Geoforum* 43: 240–49.
- Radhakrishnan, K.S., and Chandramauli Kr. Prasad. 2012. "T.N. Godavaman Thirumulpad vs Union Of India." Supreme Court of India. <http://indiankanoon.org/doc/187293069/>.
- Rangan, Haripriya. 1995. "Contested Boundaries: State Policies, Forest Classifications, and Deforestation in the Garhwal Himalayas." *Antipode* 27 (4): 343–62.
- Rivers, Elizabeth. 2007. "A Wild Law Wild Weekend - 10 Principles of Earth Jurisprudence Learning and Networking." *Environmental Law & Management* 20: 81–83.
- Robbins, Paul. 2004. *Political Ecology: A Critical Introduction*. Malden, MA: Blackwell.
- Rose, G. 1997. "Situated Knowledges: Positionalities, Reflexivities, and Other Tactics." *Progress in Human Geography* 21 (3): 305–20.

- Rose, Nikolas, Pat O'Malley, and Mariana Valverde. 2006. "Governmentality." *Annual Review of Law and Social Science* 2: 83–104.
- Sagas, Ernesto. 2015. "Defending Pachahama: The Rights of Nature in Ecuador." *World Affairs Council of Western Colorado*. Accessed January 9. <http://www.kjct8.com/templates/respSubCommunityEventPopup?c=y&ep=/community&eid=287336791>.
- Salomi, Vithika. 2015. "Eco Activist for 'rights to Nature.'" *The Times of India*, February 10. <http://timesofindia.indiatimes.com/city/patna/Eco-activist-for-rights-to-nature/articleshow/46192235.cms>.
- Schillmoller, Anne, and Alessandro Pelizzon. 2013. "Mapping the Terrain of Earth Jurisprudence: Landscapes, Thresholds, and Horizons." *Environmental and Earth Law Journal* 3: 1–32.
- School of Law & Justice. 2015. "Earth Laws Network: Objectives." *Southern Cross University*. Accessed June 1. <http://scu.edu.au/law-justice/index.php/39>.
- Sheehan, Linda. 2013. "Advancing the Rights of Whales and Dophins: 'Rewilding' the Law." presented at the 10th World Wilderness Congress (WILD10), Salamanca, Spain, October 8. http://earthlawcenter.org/static/uploads/documents/Marine_Wilderness_-_Whales_and_Dolphins_Salamanca.pdf.
- . 2014. *Nature's Rights in Practice: Rights of Rivers*. Yale Center for Environmental Policy and Law. <https://vimeo.com/113417655>.
- Shiva, Vandana. 1988. *Staying Alive: Women, Ecology, and Development*. Brooklyn, NY: South End Press.
- . 2005. *Earth Democracy: Justice, Sustainability and Peace*. Cambridge: South End Press.
- Siebert, Charles. 2014. "Should a Chimp Be Able to Sue Its Owner?" *The New York Times*, April 23. <http://www.nytimes.com/2014/04/27/magazine/the-rights-of-man-and-beast.html>.
- Solon, Pablo. 2012. "Between 'Green Economy' and the Rights of Nature." *Climate & Capitalism*. June 7. <http://climateandcapitalism.com/2012/06/07/pablo-solon-between-green-economy-and-the-rights-of-nature/>.
- Speer, Lindsay. 2012. "The Rights of Mother Earth." *Syracuse Peace Council: Educating, Agitating, Organizing for Peace and Social Justice since 1936*, May,

- Peace Newsletter #814 edition. <http://www.peacecouncil.net/pnl/may-2012-pnl-814/the-rights-of-mother-earth>.
- Stone, Christopher D. 1972. "Should Trees Have Standing: Toward Legal Rights for Natural Objects." *Southern California Law Review* 450: 3–54.
- "Story of Earth Jurisprudence." 2014. *Gaia Foundation*. Accessed June 2. <http://www.gaiafoundation.org/history-earth-law>.
- Suarez, Sofia. 2013. "Defending Nature: Challenges and Obstacles in Defending the Rights of Nature Case Study of the Vilcabamba River." Ecuadorian Environmental Law Center (CEDA).
- Sundberg, Juanita. 2003. "Strategies for Authenticity and Space in the Maya Biosphere." In *Political Ecology: An Integrative Approach to Geography and Environment-Development Studies*, 50–72. New York: The Guilford Press.
- Tamaqua Borough, Schuylkill County, Pennsylvania. 2006. "Ordinance No. 612."
- The Gaia Foundation. 2015. "Earth Law Precedents." *Earth Jurisprudence - Earth Law*. Accessed May 31. <http://www.gaiafoundation.org/earth-law-precedents>.
- "The Universal Declaration for the Rights of Mother Earth." 2010. World People's Conference on Climate Change and the Rights of Mother Earth. In . Cochabamba, Bolivia.
- "The Valley of 1000 Hills Declaration." 2002. *Motion Magazine*. <http://www.inmotionmagazine.com/global/hills.html>.
- Thiong'o, Ng'ang'a. 2007. "Earth Jurisprudence in the African Context." In *Exploring Wild Law: The Philosophy of Earth Jurisprudence*, edited by Peter Burdon, 173–82. Kent Town, South Australia: Wakefield Press.
- Town of Newfield, NJ. 2009. "Newfield Water Rights and Local Self-Government Ordinance 30-§ 3002(2)."
- Trapani, Tara C. 2014. "Thomas Berry Foundation." *Forum on Religion and Ecology at Yale*. Accessed June 4. <http://www.thomasberry.org/>.
- Troutman, Melissa. 2014. "Pennsylvania Ecosystem Fights Corporation For Rights In Landmark Fracking Lawsuit." *Public Herald*, December 10. http://www.publicherald.org/archives/19582/invisible_hand/.
- United Nations. 1992. "Rio Declaration on Environment and Development." In . Rio De Janeiro, Brazil.

<http://www.unep.org/Documents.Multilingual/Default.asp?documentid=78&articleid=1163>.

———. 2012. “The Future We Want (20+).” United Nations Conference on Sustainable Development (Rio De Janeiro).
<https://sustainabledevelopment.un.org/content/documents/733FutureWeWant.pdf>

Vidal, John. 2011. “Bolivia Enshrines Natural World’s Rights with Equal Status for Mother Earth.” *The Guardian*, April 10, sec. Environment.
<http://www.theguardian.com/environment/2011/apr/10/bolivia-enshrines-natural-worlds-rights>.

Whatmore, Sarah. 2006. “Materialist Returns: Practising Cultural Geography in and for a More-than-Human World.” *Cultural Geographies* 13 (4): 600–609.

Whitehead, Alfred North. 1938. *Modes of Thought*. Toronto: The Macmillan Company.

Yates, J.S., and K. Bakker. 2013. “Debating the ‘Post-Neoliberal Turn’ in Latin America.” *Progress in Human Geography* 38 (1): 62–90.

Zimmer, Karl, and Thomas Bassett, eds. 2003. *Political Ecology: An Integrative Approach to Geography and Environment-Development Studies*. New York: The Guilford Press.