

**Naturally Right: A Western understanding of why the rights of nature are salient in
Ecuador, Bolivia, and New Zealand**

by

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Abstract

Rights of nature is a discourse which proposes that, like humans, the natural world should be afforded a set of legal rights; rights which, being nominally inviolable, temper our worst excesses. Although not as ubiquitous as the conceptual framework of global capitalism, this idea enjoys salience in select areas, notably Ecuador, Bolivia, and New Zealand. The reason that alternative paradigms like rights of nature are select, however, is because the monolithic conceptual framework that is the contemporary political economy – that is to say, neoliberalism – tends to absorb or neutralizes such challenging ideas. Such instances are in abundance, for example, in the commodification of environmental sentiments such as ‘sustainability.’ I argue that despite this, rights of nature has survived challenges to its existence in the form of indigenous cosmologies and social philosophies of these countries. This thesis seeks to explain why this is so, arguing that common cultural denominators across all account for this salience. These commonalities include indigenous cosmologies and cultures that express a reverence for nature; histories of exogenous colonial exploitation of land and people; strong feminist traditions at the individual level; and robust legal protections of nature at the state level. In the broader context of global environmental politics, these factors are important because they provide an alternative paradigm which is otherwise obfuscated by the monochromatism of the contemporary world order, which equates the commodification of nature and material wealth with success. Unveiling it may allow social, economic, and natural relations to be wholly reconceived.

Lay Summary

The appeal of giving nature rights that protect both nature itself and humans is becoming greater as Earth becomes increasingly endangered. If humans have rights, after all, there seems to be sense in protecting that which sustains us. However, the required level of protection for nature is uncommon. This is because doing so would require an overhaul of our societies' behaviors. It also entails a rethinking of what capitalism is or should be and the human relationship with nature. Despite this, rights of nature are strong in certain areas in the form of indigenous cosmologies, social philosophies, and legal documents of countries like Ecuador, Bolivia, and New Zealand. Because of these countries' cultures and histories, nature's importance has been asserted in legal parlance, court decisions, and even state constitutions. This thesis tries to understand why these cultures and histories make rights of nature more prevalent in our case studies.

Preface

This thesis is the original, unpublished work of the author, Luke FitzGerald.

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As I write this thesis, I remember my late grandfather, Peter Sommerville Roberts, a man of both science and nature. I thank him for his continued influence.

Dedication

To Noemi.

Section 1: Introduction

“It was the last that remained of a past whose annihilation had not taken place because it was still in a process of annihilation, consuming itself from within, ending at every moment but never ending its ending.”

– *Gabriel Garcia Marquez, One Hundred Years of Solitude*

1.1 The Need for New

Inspiration for this thesis is derived from existential anxiety that modern consumption patterns have created an unsustainable artifice between humans and nature – one that is in increasing danger of becoming irreconcilable. Perhaps this is symptomatic of what one might call the Capitalocene (the age of capital), or the Anthropocene (the age of humans), which has inculcated in us the uncompromising notion that progress is expressed by profligate accumulation and growth. And yet, our escalating failure to protect Earth’s integrity is not, in general, consciously malignant at the individual level; most people, after all, see ‘saving the planet’ as a wholly agreeable proposition. No, for all our individual shortcomings and hypocrisies, this failure to uphold the values of sustainability and ecological temperance is ultimately a systemic one, reflective of the insatiable neoliberal appetite for land and capital. Recognizing this, peoples and states in places like Ecuador, Bolivia, and New Zealand have posited an alternative conceptual framework whereby nature has rights. While many states and peoples have posited the right *to* nature – rights to clean air, water, recreation space, and so on – rights *of* nature assert that the human right to nature ends where nature’s own rights begin. These resulting rights can take many forms; in constitutions, in international discourse, in social relationships, and in community initiatives – determinants characteristic of these places’ cultures and histories. Fundamentally, though, these rights aim to halt Earth’s ecological decline by rehabilitating the human relationship with nature.

1.2 Defining the Argument

If giving rights to nature can halt environmental disintegration, the logical sequitur to consider is why such an approach is, with varying degrees of magnitude, more prevalent in the aforementioned countries than it is in others. In order for people (including myself) to understand *how* rights of nature can be applied on a macro scale, this thesis seeks to elucidate *why* they originated – and spread – in the first place. I identify several factors serving as catalysts for the diffusion and institution of rights of nature. Simply put, these are cultural or historical factors, ranging from ecocentric indigenous ontologies to strong feminist traditions to perceived colonial imperialism. These factors underwrite the logic for my case study selection, since my research made apparent that areas with the strongest rights of nature also have significant cultural and historical commonalities. By examining these, the reader will be presented with a comprehensive overview of the concept of rights of nature, focusing on each state and the indigenous peoples these political abstractions subsume.

The ontological histories of these nation's indigenous peoples will be the starting point of the thesis, showing that the ideas of giving nature rights are intrinsically derived from these cultures. This section is the least 'political' section of my argument; nonetheless, it forms a critical basis for an examination of the salience of rights of nature in the broader context of global environmental politics. I argue that, because indigenous cultures form such a fundamental part of these societies, their influence has far transcended their own locales. Per the logic of this argument, a clear path emerges. Indigenous cosmology instilled a respect for nature and people, which drew attention to their marginalization, and later coalesced as a concrete social movement with political potency. In other words, rights of nature ideas are most salient at their historical and cosmological origin point.

This foundation established, colonial history in Ecuador, Bolivia, and New Zealand in relation to rights of nature will be examined. Such a history, I argue, spurred the diffusion of the theory in our case studies as a response to the inequitable status quo. Following this, attention will be devoted to the concept of ecofeminism in relation to rights of nature theories, an avenue of discourse which, I believe, represents a novel opportunity to advance intersectional, if not synonymous, values. Further expounding on the theme of intersectionality, I contend that ideas of rights of nature are not geographically inert; rather, they are successful in multiple states and

cultures amongst dispersed and diverse people. Finally, before concluding, institutional-political renderings of rights of nature will demonstrate that giving nature rights is not only possible, but actively ongoing. By following such an approach, the hope is that the argument will be provocative for the reader by suggesting that rights of nature could be a viable conceptual alternative to business as usual.

Section 2: Ontological Origins

If the reader feels that the very concept of nature having legal rights is an alien one, they may seek solace in the knowledge that this is because – speaking from an Occidental perspective, of course – its fundamental origins are indeed so. Ecuador, Bolivia, and New Zealand, in contrast to the European ‘Old World’, have strong indigenous cultures underwriting their entire societies. And although it would be incorrect to bundle indigenous ontologies into one category (cultures are, after all, nuanced and varying), there is one observable similarity across all: a conceptualization of the Universe itself that is in sharp dichotomy to the monochromatic and linear tendencies of contemporary global society. Such ontologies tend to view everything within the Universe (and specifically, the point that *homo sapiens* occupy within it) as objectively unremarkable in a dimension in which there exists no point of central hegemony. Under such parameters, in which humans are not of any special significance beyond that which we ascribe to ourselves, it is logical that nature (that is to say, the Universe) itself is the entity of overriding importance; deserving of respect, if not rights.

2.1 Ecuador and Bolivia

In Ecuador and Bolivia, it is possible to trace the origins of rights of nature ideas to a cultural reverence for nature itself, which occupies a point of significance in indigenous creation stories that is unrivaled in the Western canon. Because indigenous ontologies in these states see the Universe itself as cyclical, there is little place for reductive linearism that tends to perceive reality as having defined start and end points. Such perceptions give rise to the logic that life proceeds until death, for example, or that consumption proceeds until exhaustion. Instead, given the circular conception of the whole, indigenous cultures within Ecuador and Bolivia place emphasis on its continuity and integrity across the temporal and spatial axes. As such, nature cannot be envisioned as some diminutive sphere that can be subdued and ultimately exhausted by humanity; rather it is *the* sphere in which all exists, of total and unavoidable scope, comprised of

a myriad of interrelated and interdependent parts.¹ In both countries, the sum of these parts is taken as an arbitrary yet nonetheless cohesive natural system² deserving of approbation. In acknowledgement of this, for instance, the Tungurahua people of Ecuador envision a relationship of harmony with and within nature, “rather than dominating nature or removing human presence.”³

To better comprehend how such a relationship is quite disparate to that of the current paradigm, Escobar has drawn attention to the notion of the forest as a metaphor for understanding the nature of the world.⁴ While a perception predicated on a materialistic understanding of nature would typically appropriate a forest as an exploitable, disparate resource, the indigenous South American conceptualization of the same understands the forest as the fabric of the Universe, or nature, itself.⁵ The logical extension here, then, is that to harm the forest is to harm all within. Consider briefly this metaphorical understanding of the forest in relation to the hierarchy of species. If one accepts the indigenous forest-universe/nature analogy, reflect upon how a person feels upon finding themselves hopelessly lost in a forest. Vulnerable, perhaps, feeling at the mercy of natural forces and the nonchalant hand of chance? Indistinct, maybe, unsure of where the forest begins and ends; lost amongst the opaque, interminable green and brown?

¹ Global Alliance for the Rights of Nature: Thomas Berry’s Ten Principles of Earth Jurisprudence. (n.d.). Accessed 27th April 2019. <http://therightsofnature.org/thomas-berrys-ten-principles-of-jurisprudence/>.

² Pablo Solon, *Systemic Alternatives*. (La Paz: Fundación Solón / Attac France / Focus on the Global South: 2017): 1. Accessed 3rd February 2019. <https://systemicalternatives.files.wordpress.com/2017/03/sa-final-ingles-pdf2.pdf>.

³ Craig Kauffman & Pamela Martin, “Constructing Rights of Nature Norms in the US, Ecuador, and New Zealand” *Global Environmental Politics*, 18(4) (2018): 40. Accessed 4th February 2019. <https://muse-jhu-edu.ezproxy.library.ubc.ca/article/709682/pdf>.

⁴ Arturo Escobar, (2016). “Thinking-feeling with the Earth: Territorial Struggles and the Ontological Dimension of the Epistemologies of the South” *AIBR, Revista De Antropología Iberoamericana*, 11(1), 11-32. Accessed 12th January 2019.

⁵ Cristina Inoue, “Worlding the Study of Global Environmental Politics in the Anthropocene: Indigenous Voices from the Amazon” *Global Environmental Politics*, 18(4) (2018) 25-42. Accessed 21st March 2019. <https://muse.jhu.edu/article/709681/pdf>.

Crucially, such feelings and questions posed by indigenous comprehensions of nature more accurately reflect the human place within reality, and explain why anthropocentrism is a seductive illusion, but an illusion at that. There is little sense, after all, in protecting one specific feature of the forest by giving it rights to exist if the forest itself will cease to exist. One reason rights of nature have particular relevance in Ecuador and Bolivia, therefore, is that such states have incorporated these indigenous epistemologies, thereby avoiding the logical fallacy of exclusive rights when nature itself, lacking its own, is left at the mercy of humanity's corrosive impulses.

2.2 New Zealand

Indigenous peoples in Ecuador and Bolivia, however, are far from the only sources of inspiration for rights of nature. Across the Pacific Ocean, indigenous Maori ontology and attitudes towards the natural world have also ensured that the state of New Zealand upholds a strong tradition of protecting nature through rights. Rooted in a cosmology that depicts time as a recurring spiral of events and an understanding of life as an endless biological web built from interacting and mutually supporting threads, it is perhaps unsurprising that the Maori articulate their relationship with nature in particularly intimate terms. Notably, such a comprehension is best evinced through the interrelated concepts of *whanaungatanga* (kinship) and *kaitiakitanga* (stewardship)⁶: kinship to people, stewardship to land.

Much as in South America, such concepts take on a deontic dimension; the wellbeing of nature as an abstraction in itself is not only considered, but also those of Maori “ancestral values and future generations”.⁷ As such, Maori values reflect an interaction with nature predicated on reciprocity and a sense that it is a sacred, overarching whole, entitled to “its own rights, and is part of a living community in which humans exist.”⁸ This attitude is reflected best, perhaps, by the

⁶ David Boyd, *The Rights of Nature: A Legal Revolution That Could Save The World* (Toronto: ECW Press, 2017): 133.

⁷ Abigail Hutchinson, “The Whanganui River as a Legal Person” *Alternative Law Journal*, 39(3) (2014) 179–182. Accessed 3rd November 2018. <https://doi.org/10.1177/1037969X1403900309>.

⁸ Kauffman & Martin, “Constructing Rights of Nature Norms in the US, Ecuador, and New Zealand”, 43-62.

axiomatic Maori phrase '*ko au te awa, ko te awa ko au*', translated as 'I am the river, and the river is me.'

Aside from being an intriguing philosophical rubric through which to contextualize oneself, the cosmological interpretation of the river suggests that cosmology plays an indispensable role in determining the salience of rights of nature discourse in the case studies. While the metaphors deployed are different, their essence is essentially the same. The river analogy bares striking ontological resemblances to that of the forest in Latin America; ergo, the river to the Maori represents a metaphysical, indivisible whole from which one cannot be extricated. Therefore, much in the same way that a fish will ail in poisoned waters or a bear will perish in a ravaged forest, damage to the ecosystem – i.e. the river – damages its codependents by proxy.

These cultural overlaps in cosmovisions are quite apparent, and it seems reasonable to venture that because they also possess an appreciation for the natural world, Maori invocations of river rights for personal and metaphysical reasons are abundant and, indeed, successful. I believe that these ontologically inspired attempts to safeguard nature ultimately allowed the idea of rights of natures to drift upwards from Maori tradition and manifest in the highest strata of the nation-state paradigm. However, rather than leveraging such framework to exert the right to subordinate the river for utilitarian use, the Maori approach to ecosystems exercises the right to be part of a mutually beneficial system that functions both in equilibrium and in perpetuity. Along with many in Ecuador and Bolivia, the perennial interpretation of existence espoused by the Maori demonstrate that protecting all of nature, including humanity, possesses a certain understated rationale.

Section 3: Rights of Nature and Resistance

3.1 Capitalism, Colonialism, and Nature

Of course, eons were to pass before any of the epistemologies that would serve as the progenitor for rights of nature were saliently articulated beyond their immediate locale. Indeed, rights of nature as a coherent legal theory at the state level was only to emerge in the twentieth century in response to and during the process of decolonization. However, centuries ago, at the dark dawn of the Age of Exploration, a butterfly effect of unimaginable magnitude meandered listlessly in the sails of European ships. The sight of imperial caravels and galleons on the horizon was probably, at the very least, a perplexing one for indigenous people; people of vast swathes of land ignominiously designated a ‘New World’ by and for the patriciate of Europe.

Unbeknownst to these native inhabitants of the Americas and Australasia, unfortunately, they were perceived as much a part of this world to be pilfered as the gold in the rocks or the eagles in the sky; in the *terra nullius*, after all, everything was fair game, and the game, as was *en vogue* at the time, was manifest destiny. In a twist of perverse irony, indigenous theories of an interdependent web were being realized, as humanity, spurred by a voracious thirst for capital and imperium, spread its tendrils across the globe in search of land upon which to encroach. Instead of harmony and equilibrium, however, the outcome was one of wrenching discord; a clash of cultures, an internecine one at that, borne of not only interpersonal animus but also of fundamental ideological – if not existential – differences. These tensions, underwritten by profound anti-imperial sentiment, endure to this day in our case studies and serve to explain why the rights of nature enjoy salience as a response to exploitation.

Framed in this context, neoliberal capitalism is a paradigm – regardless of contemporary refinement – that is inextricably steeped in a history of colonialism. Because colonialism is inherently a hegemonic structure, subordination of entities deemed disparate by man was inevitable from its incipency, given that it is and was predicated upon “a logic of domination of men against nature and among human beings”.⁹ The institution of such a logic happened with ease: since the ontological Western canon largely articulates a delineated and non-reciprocal human-

⁹ Boyd, *The Rights of Nature: A Legal Revolution That Could Save The World*, 191.

nature relationship¹⁰, industrialization meant that most modern societies divorced themselves from nature with a remarkable degree of insouciance. However, as historically colonized and non-industrial countries, Bolivia, Ecuador, and New Zealand remain apt examples of where people have preserved indigenous values that inspire palpable calls for rights of natures, even in the face of “the sword and the cross ...[which] punished the adoration of nature” and ultimately shattered “the communion between nature and people.”¹¹ Given that the land and peoples comprising Ecuador, Bolivia, and New Zealand were subject to the worst of this Cartesian rationale, these societies that defend nature are also opposing a paradigm predicated on “destructive cultural imperialism.”¹²

In contrast to these cultures, those that look instead through the colonial-capitalist lens have an inescapably anthropocentric viewpoint and, as such, conclude that human abstractions such as rights are to be reserved for humans. As Scott has noted, such perceptions are self-reinforcing and self-replicating, if not regressive¹³. Although this reality likely diminishes the potency of rights of nature in most countries, it inadvertently highlights (particularly for researchers) their salience in others. Normative analysis suggests, then, that societies that implicitly view nature as a disparate, inanimate resource stock would be less amenable to the concept of nature having rights; the corollary being that more holistic societies would perceive it as an indispensable life system that warrants protection. The correlation between perceptions of capitalism and attitudes towards nature observable in our case studies does not prove causation, of course; nonetheless, it is remarkably implicative.

¹⁰ Solon, *Systemic Alternatives*, 2.

¹¹ Rickard Lalander, “The Ecuadorian Resource Dilemma: Sumak Kawsay or Development?” *Critical Sociology*, 42(4-5) (2014) 623-642. Accessed 10th February.
<https://journals.sagepub.com/doi/pdf/10.1177/0896920514557959>.

¹² Cormac Cullinan, *Wild Law: A Manifesto for Earth Justice*. (2nd ed.). (Cambridge: Green Books, 2011): 191.

¹³ James Scott (1998). *Seeing Like a State* (New Haven and London: Yale University Press, 1998): 20.

3.2 Ecuador and Bolivia

Because the vacuous exploitation that occurred in the name of European imperialism so irrevocably altered the fortunes of the indigenous peoples of Bolivia and Ecuador, I assert that this fallout functions as a catalyst in the diffusion of rights of nature. In both countries, in which 55% and 71.9% of people respectively identify as being of indigenous descent¹⁴, the feeling that nature and people were enslaved and pillaged in synchrony by the cold logic of capitalism lingers, provoking criticism of the inescapable cosmopolitan contract. In particular, Bolivia has been less than subtle in its assessment of the dominant global paradigm seen as biologically oppressive.

Endorsing the rights of nature, the state inserted a scathing critique of modern capitalism into its commitment to uphold the obligations of the 2015 Paris Agreement, highlighting its proclivity to “seek profit without limits”, “exploit resources” and, worse still, “commodify life” itself.¹⁵ Similarly, though unsurprisingly in this light, the hortatory neoliberal model of world engagement has been deemed not instantaneously degradative, but progressively so; a realization that led one provincial Ecuadorian court to label historic exploitation levelled against people and nature as “generational injuries”¹⁶ that percolate through time, space, and life. Though undoubtedly harsh rhetoric, such critiques illuminate why a protected nature is a beneficial alternative, effectively drawing attention to the inequitable realities that the current incarnation of exploitation has unconsciously perpetrated *en masse* for centuries.

As a result, discourse surrounding rights of natures in Ecuador and Bolivia appears to be shaped not only by a distaste for the neoliberal model of engagement with the world, but also an acute suspicion of its propensity to subsume any others that are external or challenging. Indeed, as aptly observed by Wright and Nyberg, such wariness is not without merit: capitalism, they argue, presents itself as “the superior form” of world ordering that, at best, trivializes nature by lulling

¹⁴ World Population Review. Accessed 17th March 2019. <http://worldpopulationreview.com/>

¹⁵ Boyd, *The Rights of Nature: A Legal Revolution That Could Save The World*, 191.

¹⁶ *Idem*, 163.

societies into the belief that it is possible to “consume our way out of a crisis”.¹⁷ At worst, however, and profoundly more seriously, neoliberal capitalism renders the surrounding world as a series of differentiated and exploitable commodities – all the while quashing any notions of nature possessing a right to exist, thus sustaining a cycle of self-perpetuation. In this sense, capitalism’s one-sided interaction with nature reflects a flawed socioeconomic system that is a closed and insular loop.¹⁸ For both Ecuador and Bolivia, the unassailability of this loop represents a significant challenge to the ecocentric ideologies they espouse. In response to this anthropocentric outlook, ideals of rights of nature not only aim to protect nature; more specifically, it singles out this misleading paradigm as the singular reason that such protection is warranted in the first place.

In doing so, the capitalist-colonial critique emanating from Bolivia has rallied other like-minded people to the defense of nature’s rights. The salience of these rights is such that in 2010, Bolivia hosted a People’s World Conference on Climate Change and Mother Earth’s Rights. More than hosting, though, the country takes the lead in the defense of nature, heading the Bolivarian Alliance for the Peoples of our America, a coalition of countries that support adaptation of universal rights of natures, since 2009.¹⁹ Environmental lawyer Cormac Cullinan, who attended the 2010 conference, provides striking anecdotal evidence to suggest that attempts to ordain rights of natures were inspired by the past and present experiences of the Latin American hosts, who worked with “urgent necessity to defend [Nature] and to preserve the Andean glaciers on which their water supplies depend” and to halt internationally-sanctioned “systematic and intentional assaults on Earth and life”²⁰. These conferences and coalitions all occur in spite of – if not in opposition to – colonial exploitation spanning half a millennium. In a context where the natural

¹⁷ Christopher Wright & Daniel Nyberg, “Creative self-destruction: corporate responses to climate change as political myths, *Environmental Politics*, 23(2), 205-223. Accessed 3rd April 2019. <https://www.tandfonline-com.ezproxy.library.ubc.ca/doi/pdf/10.1080/09644016.2013.867175?needAccess=true>.

¹⁸ Karen J. Warren, *Ecofeminist Philosophy: A Western Perspective on What It Is and Why It Matters*. (Lanham: Rowman & Littlefield Publishers, Inc, 2000): 207.

¹⁹ Cullinan, *Wild Law: A Manifesto for Earth Justice*, 186.

²⁰ *Idem*, 187.

disposition for states like Bolivia is one of innate suspicion towards the conceptual framework that precipitated their problems, rights of nature have a strong, politically logical, appeal.

3.3 New Zealand

In New Zealand, too, colonial imposition had a diffusive effect on ideas of rights of nature, with resistance of reductive perspectives though rights of nature discourse commonplace. From the moment of their unwitting incorporation into a territory of the British Empire, the Maori people have come into conflict with the practices traditionally espoused by imperialism. Finding themselves, by virtue of cultural tradition and geographical association, as protectors of the land, the Maori remain among the most vocal proponents in the world for the rights of nature. In advancing the rights of the ecosystems within which they reside, they have adopted a less overt yet nonetheless vocal opprobrium of the violation of nature.

Their assertion, for instance, that property rights *to* nature can be reconceptualized as rights *of* nature is arguably revolutionary legal thinking in itself – convincing the British Crown that rights to own nature are counterbalanced by nature’s entitlement to be its own proprietor²¹ is no mean feat. Under the counter-colonial terms posed by the Maori, a human does not own nature any more than they own, say, another human, as she has the incontestable right to exist; a person, at least by virtue of nominally guaranteed universal human rights, owns themselves. The same applies to nature when its entitlement to exist is considered in equal terms. As will be explored later, the salience of this rationale was to such an extent that Maori articulations of rights of nature would elegantly intertwine with – and fundamentally alter – the conventional legal framework surrounding property rights and personhood.

Operating under the terms of this contract with the surrounding world, the Maori understanding of nature seems anchored in a desire to preserve the natural, but less so in the recurring and explicit accusations of neoimperialism so starkly observable in Latin America. This, as I perceive it, is an accurate reflection of the north-south, developed-undeveloped dichotomy; a historical idiosyncrasy of defining areas, essentially by the criteria of geography and culture, as resources bases. Consider, for example, that the colonization of the areas of Ecuador and Bolivia began with the arrival of the conquistadors in 1532, ushering in what Uruguayan writer Eduardo

²¹ Boyd, *The Rights of Nature: A Legal Revolution That Could Save The World*, 146.

Galeano eloquently decried as ‘Five Centuries of the Pillage of a Continent’. Consequently, people and nature there felt the first and full brunt of industrialized economics, weaponized in the name of the pursuit of the material and the subjugation of nature. In a sense, it represented the unspoken declaration of the human war on everything deemed ‘the other’ – which was, in the most literal sense, everything: rivers, forests, and all in between. New Zealand, however, was at comparatively lucky in the sense that it was (formally) colonized in 1840, by which time Europeans had experienced a self-declared era of enlightenment and were actively self-doubting the moral validity of some of the darkest manifestations of Western progress.

If one accepts Dershowitz’s theory that rights are an evolving set of ideas influenced by retrospective transgressions²², it seems plausible that New Zealand, (from a purely ecological standpoint) did not suffer the same extent of disintegration that our South American counterparts did. Rights of nature here are salient, too, but resulting from a nuance of capitalism specific to the country’s location on the axes of time and space. It seems more likely to see rights of nature discourse focused on a perfidious imperial past, but with a less anti-capitalist, modern critical flare that is more appropriate to Latin America. This distinction – between colonialism/imperialism and capitalism – is subtly significant. As a state of what the nomenclature of the global political economy terms ‘the developed world’, it is arguable that New Zealand is not subject to the same mechanics of the global economy still ongoing in Ecuador or Bolivia; the latter two countries being economically poorer, resource-rich, and more subject to the appetite of the industrial world.

Moreover, New Zealand is not economically dependent on the extractivist industry (it is not an oil-exporting economy, for instance) and so is not subject to the same master-slave dialectic of codependence that the capitalist framework has so successfully obtruded elsewhere. Not only does New Zealand have strong institutional structures that regulate industrial extractivism²³ (especially vis-à-vis Ecuador and Bolivia), it is almost unique in that it is a country located in the Southern Hemisphere with strong indigenous traditions that is also comparatively developed. An

²² Boyd, *The Rights of Nature: A Legal Revolution That Could Save The World*, xxxii.

²³ The Conversation: New Zealand’s environmental laws: best in the World? (2013). Accessed 27th April 2019. <https://theconversation.com/new-zealands-environmental-approvals-best-in-the-world-19434>.

OECD member, its living standards and GDP are among the highest in the world today²⁴ and, at least in the present era, New Zealand does not find itself at the whims of resource-hungry developed nations that flex economic and geopolitical muscles to indirectly control sovereign resources and nature. In sum, New Zealand, as a state considered part of ‘the Western world’, has often shared in the dividends of the global economy while also advancing articulations of rights of natures that are quite pioneering.

²⁴ OECD Better Life Index: New Zealand. Accessed 22nd April 2019.

<http://www.oecdbetterlifeindex.org/countries/new-zealand/>.

Section 4: Ecofeminism and the Rights of Nature

4.1 Natural Allies

Owing to the propensity of the global economy to marginalize vulnerable people along with nature, rights of nature are salient in Ecuador, Bolivia, and New Zealand because, like nature itself, the theory of rights of nature encompasses other social movements. Of interest is the feminist movement and the role of women in these countries, particularly in their indigenous communities. According to Warren, ecofeminism sits at the intersection between local/indigenous perspectives, natural and technological considerations, and feminist philosophy. A broad and novel concept, ecofeminism seamlessly weaves together the call for women's rights with those for nature and all within by associating with a common, overarching structure of marginalization. Both are repelled by a patriarchal paradigm of 'maldevelopment' that takes female and natural subjugation as necessary conditions for its success.²⁵

For ecofeminists, the patriarchy is a system just as neoliberal capitalism is: one of mutually reinforcing behaviors, institutions, and thinking processes predicated on a logic of domination.²⁶ Established in this historical context, industrial capitalism is a conceptual framework that universally enslaves humans by proxy of enslaving the very surroundings upon which their existence depends. Its structures, after all, are both dominant and dominated: a system that dominates people (of all genders) and nature, the power structures of which are male dominated. Given that the capitalist system was created long before the democratic or economic emancipation of women, arguments for rights of nature are inherently feminist arguments, with both philosophies critiquing that into which they have been absorbed and subordinated without consent and without rights.

Seeking to attain these rights, ecofeminism and rights of nature ideals are synonymous in their rejection of man's dominion over nature because it identifies this as essentially a pyrrhic "war against himself", symptomatic of his inability "to think of ourselves as only a tiny part of a vast

²⁵ Warren, *Ecofeminist Philosophy: A Western Perspective on What It Is and Why It Matters*, 27.

²⁶ *Idem*, 64.

and incredible universe.”²⁷ We have seen that this attitude is prevalent in states where nature and people are subjected. Since women are also marginalized in a conflict between man and nature, ecofeminism instead seeks a coalition-based consensus that is both holistic and practical. Thus, despite traditional criticisms of being essentialist or even esoteric, ecofeminism should not be viewed as such in the context of rights of nature: in fact, it forms a vital cog in the larger theory of rights of nature that exists in Ecuador, Bolivia, and New Zealand.

If anything, the fact that rights of nature takes on a feminist dimension in these places suggests that a) women and others are dominated by the same conceptual framework, that is to say, patriarchal capitalism; and b) it has a self-acknowledged conceptual bias towards women that has an illustrative function in so far as it draws attention to the androcentric bias upon which societal paradigms are predicated.²⁸ Its rejection of the patriarchal system is not a rejection of males themselves; rather, it is an invitation to reflect on the excesses of a select few throughout history who inherited a system of power created by other like-minded men. Ecofeminism is, therefore, a critique of the highly exploitative *system itself* that has been historically male-led, from world leaders to industrialists to CEOs, which unconsciously “gives patriarchy devastating power”.²⁹ It is precisely this unbridled power that rights of nature and feminist theories are trying to temper in the name of living in equilibrium with nature, economic growth, and human society. In the process it naturally allies with communities, philosophies, and ecosystems that have also been subsumed by conventional understandings of progress and development.

By challenging established norms, ecofeminism draws attention to the fact that nature is rarely thought as deserving of rights simply for the reason that it is not considered part of the realm of things capable of possessing rights. Indeed, this is an illustrative and understated microcosm of an overarching sociological pattern that has been flawlessly repeated, eon by eon, person to person, witting and unwitting. Any institutional reform or societal reorganization historically faces resistance from established arbiters of power with vested interests in the perpetuation of the status quo. Indeed, economic and societal collapse were routinely proffered prophecies of doom aimed

²⁷ Carson, Rachel Carson, *Silent Spring* (USA: Houghton Mifflin, 1962): 113.

²⁸ Warren, *Ecofeminist Philosophy: A Western Perspective on What It Is and Why It Matters*, 154.

²⁹ Solon, *Systemic Alternatives*, 104.

at delegitimizing various claims for rights. Observe, if you will, historical continuity at work: Athenian democrats denied rights to all but elite men. Whites told blacks they had as many as did their dogs. Men told women that only men get rights. And people told nature, through saws and drills, that only people get rights. These are anachronistic tropes which, at this point, have grown tired, most notably in Ecuador, Bolivia, and New Zealand, owing to their distinctly ecocentric and communitarian dispositions that are not historically entrenched in capitalism and patriarchy.

4.2 Ecuador, Bolivia, and New Zealand

We have established that, as part of a larger feminist, anti-capitalist discourse emanating from the southern hemisphere, ecofeminism has significant ideological overlaps with rights of nature theory. Indeed, in Ecuador and Bolivia, nature is presented as a sacred and gynocentric abstraction, with women, as the producers of life³⁰, being uniquely bound to the *Pacha Mama*, or Mother Earth. However, it would take the birth of the feminist movement before such articulations of the universe would manifest as a concrete political ideology in the 1970s.³¹ The zeitgeist at the time, by contemporary accounts, was characterized by a certain disenchantment that may have precipitated its arrival. The empires of old were in their twilight, and yet, still, other structures of domination seemed to fluidly to take their place: the shadow of ‘The Bomb’; the imperceptible yet inexorable ‘soft power’ of supranational power blocs; the zero-sum interaction between modern economics and nature. Dynasties had crumbled, millions had perished, and yet the fundamental makeup of the world system had not truly changed. Not only had the game of the status quo ante resumed in the post-war order, it had done so with little, if any, alterations to the rules; women could still not play the game, not least referee it. If anything, in fact, they were directed to their seats, further back in the stands than they had been before the Second World War. At the same time, the structures that allowed the socio-ecological exploitation of the Earth remained in place.

This one-sided systemic praxis reinforced, women in vulnerable areas only became more exposed to the intransient patriarchy that increasingly dictated their lives. I argue that this degree of sensitivity in part explains why ecofeminism functions as such a vibrant conduit for rights of

³⁰ Solon, *Systemic Alternatives*, 104.

³¹ *Idem*, 109.

nature discourse in our case studies. In a sense, the explanation is quite tragic. Consider the reality in which many marginalized women in these areas live: in poverty, in fear of dispossession, in confined socioeconomic gender roles, and so on. We have seen how women are frequently linked to nature in indigenous cosmologies. But the poverty that so often accompanies women and nature alike is not cosmological, nor is it natural. In fact, such divisions are the physical realizations of human abstractions, such as capitalism, that impose domination on select entities, such as women. There is no objective reason to suggest that, from a biologically determinist standpoint, women are ‘more of’ nature than anything else.³² Instead, it is the androcentric capitalist paradigm, as Warren has observed, that seizes on the notion of an intimate connection between women and nature by using it as an insidious legitimization of stereotypical gender roles³³. Women, being more ‘natural’, are bound to the domestic, pastoral setting, while men are expected to concern themselves with ‘industry’ more befitting their sex. The tension between man and nature thus becomes one between the genders also.

Excluded from the capitalist economic hierarchy, women and nature in marginalized communities in countries like Ecuador and Bolivia are essentially left together, practically and spiritually— and so formed a necessarily closer relationship. In these places, I argue, ecofeminism is as much a state of being as it is an explicit philosophy; in other words, one does not need to identify as an ecofeminist to act like one. As this ecofeminism exposes the logical and ethical fallacies of the existential contract posed by patriarchal capitalism, the global *modus operandi* became increasingly questioned in the twentieth-century feminist and broader social canon, especially in Latin America. Here, humanitarian women working in (often indigenous) communities witnessed suffering at the hands of systemic social and ecological dispossession of land and resources in unmediated terms. Such experiences inspired a reactive strand of discourse that critiqued the ethical and legal basis for land grabs, extractivist policy, and other exploitative, state-sanctioned behavior³⁴ - alongside indigenous groups, democratic socialists, and others. This ecofeminist thought condemned the marginalization that unavoidably “naturalizes the roles of

³² Warren, *Ecofeminist Philosophy: A Western Perspective on What It Is and Why It Matters*, 53.

³³ Idem, 50.

³⁴ Boyd, *The Rights of Nature: A Legal Revolution That Could Save The World*, 115.

women and poverty”³⁵, instead articulating a new set of social relations between all: woman, man, and – directly resultant – nature. In this sense, ecofeminism has functioned as a catalyst for rights of nature by simultaneously advancing female and rights of natures when resisting exploitation and marginalization.

Under the terms of this understanding, nature’s poverty is woman’s deprivation; its fertility, her vitality. The salience of women’s and rights of natures in tandem is best summarized by the Maori maxim "*He Wahine, He Whenua - E era ai te Iwi*" – ‘By Women and Land, People are sustained.’³⁶ The rationale is sound: as humanity is threatened by the irrevocably shifting forces of the Earth system it makes sense why, along with rights of natures, such discourse – one, in essence, of preservation – has been fomenting for some years and is now gaining more traction in a multitude of places, between a myriad of peoples. The fate of nature, clearly, cannot be disentangled from the destiny of humanity. It is a seemingly novel reflection, I suppose; a sort of revelation of the twenty-first century appropriate of an enlightened Mankind. But it was, in fact, women in countries such as Ecuador, Bolivia, and New Zealand who first posited the interrelation of people and nature and recognized its dystopian potential – and many years ago, at that.

³⁵ Solon, *Systemic Alternatives*, 114.

³⁶ Ripeka Evans "The negation of powerlessness: Maori feminism, a perspective." *Hecate* 20, no. 2: 53 (1994).

Accessed April 24, 2019.

<http://link.galegroup.com.ezproxy.library.ubc.ca/apps/doc/A16490395/LitRC?u=ubcolumbia&sid=LitRC&xid=d6e96d7b>.

Section 5: Communities, People, and Rights of Nature

5.1 Rights of Nature as a Transportable Philosophy

The conflation of social and ecological rights in the case studies is of significance, and not only in the context of women's rights. Consider the hypothetical: if rights of nature discourse is to gain traction as an idea of universal rights that supersede *and* guarantee human rights, the success of its diffusion (in notable contrast to the contemporary neoliberal paradigm) must rest on its ability to appeal to multiple ideologies – a sort of “epistemic alliance”.³⁷ As we have seen, for instance, ecofeminism – with its palpable degrees of influence and salience in Bolivia, Ecuador and New Zealand – suggests that such a change, however slow, may already be under way. Such harmonization of theories – as well as their remarkable geographical dispersion – illustrates that rights of nature is an inherently transportable framework. This is the beautiful simplicity of rights of nature, which explains why it has gained the traction it has in the case studies. It is a philosophy that abounds not only simply by virtue of ontological and political intersectionality, though, of course, such influences are of significance. In purely practical terms, however, the reason that rights of nature are prevalent in many countries and communities is because to apply them is good idea that brings much-needed social and ecological equity. When these rights are applied by pragmatic individuals and communities, it is empirically observable that tangible successes can result, regardless of values, politics, or location.

5.2 How State Structures and Individual Mindsets Advance the Rights of Nature

Because observing rights of natures demands social participation, the attitude of the individual and her cultural mindset towards nature plays an indispensable role in ensuring that they are salient in our case studies. Put simply: where we see people in communities with an overt respect for nature, we see a greater observation – unconsciously – of nature's rights, along with the acknowledgement that nature is a passive entity incapable of upholding its own rights. This

³⁷ Carolina Valladares & Rutger Boelens, “Extractivism and the rights of nature: governmentality, ‘convenient communities’ and epistemic pacts in Ecuador.” *Environmental Politics*, 26(6) (2017): 1015-1034.

individual recognition means that the successful propagation of rights of nature does not hinge upon the ability of politically abstract state structures. In sharp dichotomy with conventional capitalism, the onus rests upon the individual, through grassroots collective action³⁸, to impel the state to act, rather than the other way around.

In fact, when functioning in equilibrium with the principles of the philosophy, the state functions best from afar, acting as a regulator which restrains and guides economic activities according to the rights of nature and people, whilst empowering community structures and local actors to aid it in the process.³⁹ In this sense, the state merely serves to facilitate the spread of rights of nature by connecting communities, as opposed to operating as a purveyor which imposes the principles from the top-down. Some Latin American scholars go further, contending that, being a highly self-deterministic ideology, proponents of rights of nature ought to “analyze, debate, question, and develop public policies, and in many cases carry them out, without waiting for a green light from the state.”⁴⁰ A system in which individuals wield both power and responsibilities, I argue, encourages the diffusion of rights of nature at all strata of society. The following will attempt to demonstrate what this system can look like.

5.3 Community Salience in New Zealand

In New Zealand, water makes for an apt example of the salience of rights of nature at the societal level, where its preservation has been inspired by a desire to protect it for people and for itself. Communities here have successfully turned local values into a new safeguard against environmental degradation, and reaped corresponding benefits, as exemplified by the Atihaunui people’s claim to the Whanganui River, one which was achieved through an impressive cooptation and retooling of European colonial law. The motive to do so, however, was borne primarily out of a communitarian understanding that nature is not to be owned in the conventional sense; rather, it is owned only in so far as doing so is beneficial for its integrity. The articulation emanating from

³⁸ Pablo Solon, “Vivir Bien: Old Cosmovisions and New Paradigms” (2018): 1. Accessed 1st April 2019. <https://www.greattransition.org/images/Solon-Vivir-Bien.pdf>.

³⁹ Solon, *Systemic Alternatives*, 41.

⁴⁰ Solon, “Vivir Bien: Old Cosmovisions and New Paradigms”, 7.

communities such as the Atihaunui has resulted in the granting of personhood – and rights – to their waterways, meaning that they cannot be owned “in an absolute sense”.⁴¹ Instead, they are property of both themselves and the communities that they sustain.

Given the intimacy of connections with their rivers, it is understandable why the Atihaunui utilize an approach that, in the most literal and legal sense, gives rights to nature. Local ontology, as we have seen, conceptualizes the river as akin to an artery: that is to say, indispensable for life. “The river”, as one New Zealand government report asserted, is their “source of food, their single highway, their mentor.”⁴² As a transport route and food source, therefore, the relationship the Atihaunui has with the Whanganui River presupposes applied, economic use as much as it does the spiritual, cultural, and so on. As such, the Maori relationship with both nature and economics constructed by rights of nature ideas seems quite effective: although the river does possess rights, these rights are not imposing but rather harmonious, since they do not preclude the public interest or even preexisting claims to the river.⁴³

At the same time, the salience of rights of natures are such that everybody who interacts with the river, as a result of the assertion of Atihaunui people, is bound “by law to consider the environmental consequence of their operations.”⁴⁴ Notably, it has put the protectors of the Whanganui River at direct odds with the New Zealand state, which historically has envisioned the river as a resource to be utilized in the national, rather than local, interest.⁴⁵ Yet, despite such bulwarks, by articulating an “ethical relationship of people to rivers”,⁴⁶ the Atihaunui have demonstrated that rights of nature can be advanced with equitable results for people and nature alike – suggesting that such ideas possess a normative appeal worth propagating.

⁴¹ Hutchison, “The Whanganui River as a Legal Person”, 179.

⁴² The Whanganui Tribunal, “The Whanganui River Report” (GP Publishing: 1999): xiii. Accessed 22nd January 2019. [https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_68450539/Whanganui River Report 1999.pdf](https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_68450539/Whanganui_River_Report_1999.pdf).

⁴³ Hutchison, “The Whanganui River as a Legal Person”, 182.

⁴⁴ The Whanganui Tribunal, “The Whanganui River Report”, xvi.

⁴⁵ *Idem*, xv.

⁴⁶ *Idem*, xix.

5.4 Community Salience in Ecuador

By the same logic, the reason that we can observe such an emphasis on guaranteeing the integrity of nature in Latin America is that entire communities incorporate the cultural values and traditions we have discussed into their daily lives. In Ecuador and Bolivia alike, to do so is considered a lifestyle, or social philosophy, known as *Buen Vivir* in Spanish, or *Sumak Kawsay* in indigenous language - simply translated as ‘living well’. When people live well in this context, beyond the realm of the rhetorical, it is possible to achieve tangible social and economic compromise with nature. Crucial to understanding why practices inspired by rights of nature have seen such uptake: it is a compromise that benefits their communities to a much greater degree than previous socioeconomic models.

Exemplifying the salience of these rights of natures, the Ecuadorian province of Tungurahua has pioneered a form of public management by instituting the rights of nature through local community governance. Under the principles of ‘water, people, and work’ – known informally as the Water Parliament – regional watersheds can be utilized for economic use, but operating industries and communities invest heavily into their conservation. The result has been a synthesis of liberal market values with indigenous cultural ones that has allayed ecological concerns surrounding the commodification of nature.⁴⁷ Environmental restoration also occurs under this system of governance, with reforestation occurring that blends indigenous local knowledge of fauna with western methods of large-scale cropping.

Further in keeping with the circular philosophy espoused by rights of nature that investment brings yield and vice versa, this policy has also spawned a health program for local communities that cultivates native medicinal plants and utilizes them in conventional medical practice.⁴⁸ Such approaches not only reflect a respect for competing and sensitive considerations – they also exhibit a mindset of efficiency of which even the most ardent industrialist would be proud. In all, the process is equitable and democratically participatory, and has been so because of the extensive

⁴⁷ Craig Kauffman & Pamela Martin, “Scaling up *Buen Vivir*: Globalizing Local Environmental Governance from Ecuador” *Global Environmental Politics* 14(1), (2014): 40-58. Accessed January 28, 2019. <https://muse.jhu.edu/article/537047>.

⁴⁸ *Idem*, 51.

consultation of stakeholders at all levels of Ecuadorian society.⁴⁹ Ironically, though, if anything, the real winner in this compromise is actually the status quo, which found that environmental temperance is, contrary to prevailing belief, not a zero-sum game: it got itself yet another market-based solution to satisfy bureaucrats and investors alike.

⁴⁹ Craig Kauffman, “The evolution of water trust funds in Ecuador” *Sustainable Irrigation and Drainage IV*. (WIT Press: 2012): 12.

Section 6: Institutional Structures and the Legal Rights of Nature

6.1 The Ecuadorian Constitution

To a large extent, the degree of salience rights of natures enjoy in Ecuador is also thanks to the apparatus of the state itself. Most notably, the state has ensured their promulgation via enshrining them in its constitution. Crucially, the constitution of 2008 revolves around the presupposition that nature possesses a set of inviolable and inalienable rights. By instituting these rights at the societal level, the people of Ecuador have made a series of radical assertions. At their core, they elected to form a state within nature, as opposed to a state in which nature exists. “We decide,” proclaims the constitutional preamble, “to construct a new form of civil society, in diversity and harmony with nature to achieve el buen vivir, el sumac kawsay.”⁵⁰ In words, then, at the very least, Ecuador models itself as a biocentric, as opposed to an anthropocentric, state whose prevailing impetus is no longer driven by unsustainable and unequal practices such as multinational resource extraction.

The articles within the constitution illustrate that the prevalence of rights of nature in Ecuador is not confined to popular sentiment or political rhetoric, either; in fact, it has been imbued with institutional potency unprecedented in modern politics. Its significance as a state embodiment of rights of nature, therefore, cannot be understated. Article 33, for instance, which guarantees the right of life to a healthy environment for “present and future generations”, is directly bolstered by Article 34, which allows “any person... to take legal action in defense of environmental rights”.⁵¹ The constitution even established a pioneering Ombudsman for the Rights of Nature to better enforce these rights that are explicitly granted to nature as opposed to people. Moreover, nature itself has the right to its own health, to an “integral respect for its existence”⁵² (Article 71), and even restoration when it suffers anthropogenic degradation.⁵³ Thus, and crucially, the Ecuadorian constitution is reciprocal; that is to say, it imparts both rights and responsibilities.

⁵⁰ Kauffman & Martin, “Scaling up Buen Vivir: Globalizing Local Environmental Governance from Ecuador”, 41.

⁵¹ Lidia Cano Pecharroman, “Rights of Nature: Rivers That Can Stand in Court” *Resources*, 7(1), 13 (2018): 4. Accessed 1st February 2019. <https://www.mdpi.com/2079-9276/7/1/13>.

⁵² Boyd, *The Rights of Nature: A Legal Revolution That Could Save The World*, 174.

⁵³ Kauffman & Martin, “Scaling up Buen Vivir: Globalizing Local Environmental Governance from Ecuador”, 43.

Because rights of nature are so socially embedded, citizens of Ecuador are not only able to invoke rights in the defense of nature; in fact, they are legally required to do so in observation of those rights. Article 75, as an example, calls on Ecuadorians to “exercise their responsibilities in the context of interculturalism, respect for diversity and of harmonious coexistence with nature.”⁵⁴ At the same time, the state and its economic apparatus are bound by the same law, being obligated to promote “forms of production which will ensure the quality of life for the people and not threaten those rights or those of nature” through a “sustainable model of development, environmentally balanced and respectful of diversity, which protects biodiversity and the natural capacity of ecosystems to regenerate, to ensure the needs of present and future generations will be met”, according to Articles 277 and 319 respectively.⁵⁵ By observing these responsibilities at all levels, Ecuador demonstrates how the rights of all within nature and society alike can be upheld and why the equity they promise is appealing to the people living there.

6.2 The Bolivian State and the Law on the Rights of Mother Earth

Despite sometimes being “a profound challenge to conventional thinking”,⁵⁶ Bolivia also demonstrates that rights of nature can be highly salient in state law. Here, their institution reflects a changing zeitgeist that demands a new approach towards everything historically shaped by anthropocentrism: society, nature, and all in between. Since 2007, Bolivia has attempted to institute a democratically socialist state centered around the rights of nature, inspired by the logic, as astutely observed by President Evo Morales, that “human beings cannot live without Mother Earth, but the planet can live without humans.”⁵⁷ Buoyed by such rhetoric, the 2010 Law on the Rights of Mother Earth notably articulated and nominally guaranteed the rights of an integral nature, as well as the intersectional human rights implicit. Later that year, in an example that further elucidates the broader salience of the rights of nature, this declaration would form the basis of a new international norm: The Universal Declaration of the Rights of Mother Nature, which

⁵⁴ Kauffman & Martin, “Scaling up Buen Vivir: Globalizing Local Environmental Governance from Ecuador”, 43.

⁵⁵ Cullinan, *Wild Law: A Manifesto for Earth Justice*, 185.

⁵⁶ Boyd, *The Rights of Nature: A Legal Revolution That Could Save The World*, 210.

⁵⁷ *Idem*, 188.

asserts the rights of nature on a global scale. Thus, though not constitutionally embedded as in Ecuador, rights of natures in Bolivia represents a response to the challenges posed by modern practice through the recognition of nature's ecological and economic limitations, as well as the obligations that such a recognition entail.⁵⁸

6.3 Wrongs and Rights: New Zealand, Te Urewera, and the Rights of Nature

In contrast to Ecuador and Bolivia, New Zealand does not have a state that is explicitly centered around a nature that enjoys legal parity with humans. There have, however, been numerous instances within the state where the salience of rights of nature have been extended by virtue of the country's legal institutions. The Te Urewera Act of 2014 is perhaps the best example of an instance where a traditionally Western country with a history of natural appropriation becomes a pioneer of nature's rights. Nestled in the mountains of the south-east of the country, Te Urewera is a pristine, rugged wilderness and the ancestral home to the Tuhoe people. In 1954, however, under the auspices of the Crown, New Zealand designated this land a national park. In the context of a history shaped by colonial and ecological tension, the preservation of this land would appear to be a sensitive – if not respectful – approach to take towards both land and people. It is somewhat oxymoronic, therefore, that the designation of a national park – ostensibly a measure to protect the nature within it – could actually serve as a catalyst to spur the rights of nature. And yet, this was precisely the case in Te Urewera. Why would this be so?

In fact, deciding that Te Urewera was a national park had important, not least unwanted, implications for both people and place. On one hand, such a lofty title implied that the Maori Tuhoe's homeland was now simply part of an overarching state in the guise of a national park: a park filled with oddities to be observed at leisure; a park, now 'public property', to be enjoyed by everybody. Understandably, the presentation of their homeland as some sort of delineated recreational ground hardly ingratiated the Tuhoe, even though, from the Western perspective *du jour*, it probably seemed a rather good idea – much in the same way, perhaps, that confining the vestiges of ecosystems within zoos once seemed a reasonable and humane one. On the other, it

⁵⁸ Boyd, *The Rights of Nature: A Legal Revolution That Could Save The World*, 194.

was another example of life through the anthropocentric lens, in that the sacred landscape that the Tuhoe inhabit was capable of being ‘owned’ as a distinctly human abstraction.

Some six decades following the establishment of the national park, however, the legal response by the New Zealand courts in 2014 demonstrated the salience rights of nature now enjoy in the country. In keeping with Maori ontology, the Act ruled that, in fact, the national park was not so; rather, it was an entity in itself and, as such, could only be owned by itself – in perpetuity.⁵⁹ In recognizing that the landscape of Te Urewera was an indivisible, metaphysical entity with rights unto itself, the state applied a legal framework that represents “a profound alternative to the human presumption of sovereignty over the natural world.”⁶⁰ Rather than conforming to more traditional anthropocentric motives, such as economics or even recreation, the protection of the subjecthood of Te Urewera was instead “guided by Tuhoe principles”⁶¹ and legally represented by an independent board of trustees: a new form of public management that wholly reconceptualizes human rights and rights of natures as two sides of the same coin.

⁵⁹ New Zealand Government, Department of Conservation. *Te Urewera Act 2014*. (2014): 9. Accessed 29th April 2019.

<http://www.legislation.govt.nz/act/public/2014/0051/latest/whole.html#DLM6183610>.

⁶⁰ Boyd, *The Rights of Nature: A Legal Revolution That Could Save The World*, 154.

⁶¹ *Ibid.*

Section 7: Conclusion

“They said... that he was so devoted to Pure Science... that he would rather have people die by the right therapy than cured by the wrong.”

– Sinclair Lewis, *Arrowsmith*

7.1 Why Rights of Nature are Salient

When considering *why* rights of nature are salient in the countries of Ecuador, Bolivia, and New Zealand, it is apparent that ontological foundations and cultural values have been critical in forming a basis for the ideology. More specifically, though, this analysis makes clear that rights of nature enjoy salience in our case studies because they all share remarkable cultural similarities. Because all three have strong indigenous traditions that afford a high degree of respect for nature, they were most predisposed to adopting rights of nature from the outset – in contrast, as we have seen, to societies more divorced from nature. With such a cultural foundation, rights of nature could easily spread beyond their local origin points.

This diffusion was catalyzed by the one-sided practices of colonialism, which people in Ecuador, Bolivia, and New Zealand came to see as detrimental to themselves and their previously unspoiled natural surroundings. Rights of nature thus gained traction by virtue of a historical paradigm seen as socially inequitable, ecologically debasing, and worth resisting. Indigenous communities, again, played a pivotal role in extending this salience, as it was their communities that did and do suffer most acutely at the hands of a one-sided, neoliberal capitalist paradigm. Resisting this, communities in our case studies adopted rights of nature as a defensive response to colonial excesses, as in the case of the Tungurahua province in Ecuador or the Whanganui River rights in New Zealand.

As rights of nature has spread in these countries, it has coopted other social and political groups, who see rights of nature as socially equitable and ecologically restrained. This is the practical appeal of rights of nature to which I have been alluding throughout this thesis. Among the groups to first realize the epistemic similarities were women, many of whom already live in marginalized communities and identified patriarchy as synonymous with exploitation of the world around them. Because indigenous cosmology in Ecuador, Bolivia, and New Zealand also

articulated an intimate nature-female connection, it is plausible that this, compounded by the exclusionary nature of patriarchal capitalism, made the linkage between women, exploitation of nature/people, and ecofeminism all the more inevitable and prevalent. Women, nature, and other marginalized groups that were and are expected to participate in the neoliberal global economy without any dividends naturally coalesced.

They did so with ease because of their epistemological and ideological intersectionality – yet, ironically, I doubt that this intersectionality would or could have occurred save for the dominant elitist conceptual framework that sidelines entities perceived as trivial. However, it would take actual legal representation of rights of natures to demonstrate that the rights of nature as a cohesive ideology are salient. It therefore seems logical to conclude that the aforementioned factors – distinct ones such as cosmology, anti-imperialism, and ecofeminism – culminated as a coherent legal theory in the Ecuadorian constitution, the Law of the Rights of Mother Earth in Bolivia, the Te Urewera Act in New Zealand, and so on. At this level, enshrined in conventional laws that are nominally incontestable, rights of nature must be considered highly salient because of the institutional robustness they enjoy.

Owing to the traction that rights of nature has consequently enjoyed through such community initiatives and state laws, the result has been, in the case of Ecuador and Bolivia, a state modelled around a nature with rights or, as in New Zealand, one in which the state-colonial framework has evolved to allow areas and entities to wield those rights. Significantly, these countries appear to be building on this new paradigm to increase its prevalence, as exemplified by the continued expansion of rights in New Zealand and the criteria an entity must possess in order to enjoy those rights. At the same time, Bolivia has hosted international events relating to rights of natures, while also leading a coalition dedicated to the case. In the context of global environmental politics, the palpable salience of rights of nature in these countries are of importance in that they present a viable alternative through which social and ecological relationships can be reconceptualized. The scale of their institution at the state and legal level is the greatest testament to their salience.

7.2 Shopping for Choice

As an unconventional and embryonic paradigm, it is apparent also that rights of nature present an abstract philosophy. Along with its ideological malleability, this presents challenges to its successful diffusion in a world that demands the immediate and concrete: ideas, results, and ever more accumulation. And yet, the current structures of growth and development espoused by the short-sighted, linear growth paradigm of capitalism is fraught with inequitable contradictions—ones that we cannot even begin to observe and question if we have nothing else against which to compare. Imagine, somewhat contrary to the spirit of this thesis, when one goes shopping for a ‘good deal’. In the same way consumers need a choice of goods, we now require a choice of ideas; ones that are more conscientious and equitable than those proposed under the scenario of business as usual.

Countries like Ecuador, Bolivia, and New Zealand demonstrate that there is choice, however niche it may appear, and that that choice may actually be preferable for a myriad of anthropocentric *and* biocentric reasons. For this reason, even though I have dedicated it to understanding why rights of nature are salient in these places, I hope that the ultimate value of this argument is that it draws attention to the existence of another choice in the first place. I hope it inspires any readers to reflect on a new question: not if nature should hold rights, but when it should. And in reflecting upon the salience of these rights and the benefits of changing practices in the name of temperance and existence, I leave them to be the judge.

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