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DECONSTRUCTING CONCEPTS ABOUT NATURE: AN ALTERNATIVE PERSPECTIVE FOR ECOFEMINISM BASED ON THE RIGHTS OF NATURE¹

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INTRODUCTION

In the last few decades, several professionals involved in multiple environmental fields have been venturing on a quest to formulate new environmental perspectives with the intention of seeking out solutions that would help solve the current climate crisis. In the midst of this crusade, two perspectives have emerged: Ecofeminism and the Rights of Nature.

The Rights of Nature movement has only been around for a few decades, but it wasn't until Ecuador recognized the rights of Pachamama in its Constitution, that it gained momentum and started expanding and spreading to various countries. The notions it proposes about the world, however, date back to religious and philosophical traditions, as well indigenous worldviews. Ecofeminism has been around for a little longer. The movement at its core proposes that there are deep and essential connections between the domination of women and the domination of nature, which could be historical, cultural, symbolic, political, etc., and argues that, once acknowledged, they can help dismantle the practices that have been hurtful to both women and nature.

¹ For practical purposes, this paper will only address the general arguments used by most ecofeminism proponents; it will not take into consideration the new trends or variants that exist in the movement nowadays nor the concerns about its application in legal theory. The same goes to Rights of Nature, where it presents only the main ideas that are central to the movement without addressing its application in practice nor the related new doctrines that are currently emerging (e.g., Earth Law or Earth System Law, etc.).

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Both movements criticize the anthropocentric view of current environmental philosophies and legal systems. While Ecofeminists propose to reexamine the male-gender bias that is present in the world's treatment of nature, proponents of the Rights of Nature focus instead on moving to a more ecocentric point of view that sees the world in a more friendly and holistic way. Although, from this first glimpse they both, apparently, aim for a reconception of the current societal structures, when getting deeper into the structural ideas of these movements, one might find that their postulates seem very distant from one another.

This article will question these disparities and try to find common ground between both movements, starting by presenting a basic review of Ecofeminism followed by an introduction to the approaches in which the Rights of Nature is built upon. It later continues with an exploration of the similarities and discrepancies between the two with the intent of finding if there's a way both can benefit from each other. Finally, based on the findings of both movements, new ideas about the conception of nature will be presented with the aim of inspiring new notions of the world and a new valorization of nature that could help push towards an end of the domination of nature and women once and for all.

I. ECOFEMINISM AND THE DEFINING DICHOTOMIES OF NATURE

a. Nature as Female?

Ecofeminism is based on the theory that conceptual frameworks formed over the years have feminized nature and naturalized women, reinforcing a patriarchal-androcentric matrix that is based on a system of gender oppression that strengthens a logic of domination that has materialized not only in language forms but also in the totality of social ties.³ A conceptual framework, says Warren, "is a set of basic beliefs, values, attitudes, and assumptions which shape and reflect how one views oneself and one's world."⁴

For Ecofeminists, before the scientific and industrial revolution, the primary idea of nature was that of a designed hierarchical order between the cosmos and society that saw people as an organic component

³ Pablo Pereira & Laura Borsellino, *Ecofeminismo y derechos de la naturaleza. Cruces entre Ley, Estado y sensibilidades*, 11 *PAPELES DEL CENTRO DE INVESTIGACIONES DE LA SACULTAD DE CIENCIAS JURÍDICAS Y SOCIALES DE LA UNIL*. 59, 62-63 (2021) (Arg.).

⁴ Karen Warren, *The Power and the Promise of Ecological Feminism*, in *ENVIRONMENTAL ETHICS: READINGS IN THEORY AND APPLICATION* 398 (Cengage Learning, 7th ed. 2016).

of a higher existence.⁵ Nature encompassed not only humans, but also animals, and was connected by an inherent power that operated between material objects and phenomena.⁶

But the acceleration of commercial development and technological innovation prompted a change in human attitudes and behaviors towards nature—since, according to Merchant,⁷ the image of the earth as a living thing was a cultural restriction to their actions—and included a switch from a veneration of a nurturing bounteous, kind, life-giving mother who provided for the needs of mankind in an ordered, planned universe to a need for mastery and domination of this wild and uncontrollable female being.⁸ Such a change of perception instilled ideas that later shaped the cultural, social, and political values of power over nature and the desire for its conquest that have kept society moving in the modern world.⁹

Therefore, a new dichotomous thinking that creates pairs of antagonistic and sexualized concepts of nature was born, one that associates it with the feminized notions of emotion and subjectivity, in contrast to a masculine figure that represents culture, reason, objectivity, and the mind.¹⁰ This new framework, “separates as opposite aspects of reality that in fact are inseparable or complementary e.g., it opposes human to nonhuman, mind to body, self to other, reason to emotion,” Warren adds.¹¹

The immortal and transcendent conception of male, as opposed to a non cultural, mortal conception of female, became universal thanks to an androcentric bias in the evolution of thought.¹² This promoted its survival over the years,¹³ generating normative dualisms and legitimizing operations of subordination by reducing a complex, multivariate, and biodiverse reality to a binary and exclusive mindset where higher value or superiority is attributed to one side over the other.¹⁴

⁵ Carolyn Merchant, *THE DEATH OF NATURE: WOMEN, ECOLOGY, AND THE SCIENTIFIC REVOLUTION* 6 (Harper & Row 1983).

⁶ *Id.*

⁷ *Id.* at 3.

⁸ Michael E. Zimmerman, *Feminism, Deep Ecology, and Environmental Ethics*, 9 *Env't Ethics* 21, 37-38 (1987).

⁹ Merchant, *supra* note 5, at 2-4.

¹⁰ Pereira & Borsellino, *supra* note 3, at 63.

¹¹ Karen Warren, *Feminism and Ecology: Making Connections*, *ENV'T ETHICS* 3, 7 (1987).

¹² Janis Birkeland, *An Ecofeminist Critique of Mainstream Planning*, 8 *TRUMPETER* 72, 74 (1991).

¹³ Zimmerman, *supra* note 8, at 37-38.

¹⁴ Warren, *supra* note 11, at 6-7.

The now patriarchal value-hierarchical thinking centered on the logic of dualisms that perpetuates power and autonomy became the norm and instilled a rationale of domination where nature only existed to serve man's purpose, lacking inherent value in and of itself. Since nature was now linked to a woman figure, a subordination of the latter to man could therefore be justifiable.

b. Human-nature Relationship

Considering the structure of oppression as well as the interconnections that exist between the domination of women and of nature, Ecofeminism proposes a reconstruction of social interactions aimed at dismantling the patriarchal thinking that oppresses both.¹⁵ Ecological problems should be addressed, Ecofeminists argue, with the inclusion of feminist perspectives and—fundamentally—feminist values.

The main solution Ecofeminists suggest is to reinterpret the connections we have with organisms and nonhuman communities, and to conceptualize the world as a group of beings that build relationships based on a series of moral feelings to achieve binding agreements based on respect, responsibility, and consideration towards each other.¹⁶

Ecofeminism questions the central pillars of objectivist and neutral thought¹⁷ and suggests that relationships should follow an open-minded and attentive encounter established on sensitivities that will lead to an attitude of care or compassion.¹⁸ Warren, following Marilyn Frye's idea, calls this a "loving" perception, in which the way we perceive the other is an expression of love for one, and where the limits of such perception are determined by the ability to respond lovingly.¹⁹

At this point, it's important to acknowledge that even though the movement recognizes that biotic pluralism exists in nature, and we owe a moral duty to the elements in it, we are urged to respect the individuality of every component instead of trying to merge with them.²⁰ The distinction between the self and others, between human and nonhumans, must prevail over the identification of ourselves as a part

¹⁵ Lori Gruen, *Dismantling Oppression: An Analysis of the Connection between Women and Animals*, in *Ecofeminism: Women, Animals, Nature* 80 (Greta Gaard ed., 1993), <https://www.jstor.org/stable/j.ctt14bt5pf>

¹⁶ Rodrigo Ocampo, *La ética ambiental desde la visión de la Ecología Profunda y el Ecofeminismo*, 11 *PAPELES DEL CENTRO DE INVESTIGACIONES DE LA REVISTA CIENCIAS HUMANAS* 65, 75 (2014).

¹⁷ Pereira & Borsellino, *supra* note 3, at 65.

¹⁸ Freya Mathews, *Relating to Nature: Deep Ecology or Ecofeminism?*, in *FEMINIST ECOLOGIES* 35 (L. Stevens et. al., 2018).

¹⁹ Warren, *supra* note 4, at 138.

²⁰ Mathews, *supra* note 18, at 35.

of nature as a whole.²¹ “Nonhumans are independent, dissimilar, and different than humans,” Warren says,²² and neither of them ought to be identifiable with any kind of cosmos.²³

II. RECOGNIZING RIGHTS FOR NATURE

From Ecuador to New Zealand, to India and Bangladesh, and even some jurisdictions in the U.S., different countries and territories have now recognized that nature has rights²⁴. From a body of water to historical parks and even ecosystems, the movement has been flexible and has molded and evolved to suit the ideologies and needs of the people living in those lands, causing it to branch out into various subtopics and adopt different edges²⁵.

Formally speaking, the starting point of the Rights of Nature movement was the publication of Christopher Stone’s *Should trees have standing?* where he proposed to extend legal rights not only to natural objects (forest, ocean, rivers, etc.), but to the natural environment as a whole.²⁶ While he inspired many philosophers and jurists to propose new ideas that would later be integrated into real life and legal scenarios in multiple territories, even before his new theory gained momentum, ecologists such as Aldo Leopold were already questioning humans’ relationship with nature²⁷.

The concept of imagining nature as something other than just an object to take advantage of, however, was not first forged by these aforementioned American theorists²⁸. For some cultures, the notion of

²¹ Id. at 45.

²² Warren, *supra* note 4, at 137.

²³ Mathews, *supra* note 18, at 45.

²⁴ Until November 2023, 35 countries around the world (including, among others, the United States of America, New Zealand, Mexico, Bangladesh, Panama, etc.) had adopted the Rights of Nature theory, with 22 of them having effectively internalized it in their jurisdiction. See Osprey Orielle Lake, Shannon Biggs and Natalia Greene. RIGHTS OF NATURE. REDEFINING GLOBAL CLIMATE SOLUTIONS & ENVIRONMENTAL PROTECTION FOR SYSTEMIC CHANGE 5 (2023).

²⁵ For an analysis of the different schools of thought in the Rights of Nature and their respective lines of reasoning see Darpö, Jan. CAN NATURE GET IT RIGHT? A STUDY ON RIGHTS OF NATURE IN THE EUROPEAN CONTEXT (2021).

²⁶ Christopher Stone, *Should trees have standing? Towards legal rights for natural objects*, 45 S. CAL. L. REV. 450, 456 (1972).

²⁷ See Aldo Leopold, *A SAND COUNTY ALMANAC AND SKETCHES HERE AND THERE* (1949) (Leopold’s most notable work is *A Sand County Almanac: And Sketches Here And There*, where he describes his own perception of the land and the relationship people should have with it.)

²⁸ See U.N. ECOSOC, *Study on the need to recognize and respect the rights of Mother Earth*, at 8-14, U.N. Doc. E/C.19/2010/4 (2010) (Although the UN mentions non-indigenous cultures in its report, it can be inferred from their analysis of pre-

this entity having some kind of value or moral importance equal to—or even above—humans has long been rooted in their philosophies and beliefs since they began existing.²⁹ From indigenous views of the world to more Western concepts of rights, many ideas have cemented the rights of nature’s doctrine. This section will briefly address these two main viewpoints as well as the role they’ve played influencing the way the movement has been adapted in different jurisdictions.

a. Theoretical Approaches

i. Utilitarianism

The first theory—probably the most practical one—that has been adopted by activists to support the Rights of Nature movement is also one of the most used by proponents of environmental ethics, utilitarianism. Under this philosophy, the main argument for considering nature as a subject of rights is that by doing so, the level of legal protection to nature would “rise,” seeking to incorporate stronger safeguards that would make environmental protection policies effective.³⁰

This position assumes that environmental laws, thus far, have proven to be inefficient in stopping the destruction of the environment and insufficient in preserving the environment for future generations.³¹ If nature is not properly protected, an ecological crisis could lead to serious economic consequences. This could occur due to the expenses incurred from assuming the management of environmental impacts or the collapse of numerous productive chains if the natural resource base were to be lost.³² A new paradigm would then be a useful instrument not to protect a valuable asset in itself but to avoid the “unforeseeable consequences” of its destruction.³³

colonial Andean history that indigenous peoples’ respect and reverence for the Earth and its elements predates contemporary ideas about nature.)

²⁹ David R. Boyd, *The Rights Of Nature: A Legal Solution That Could Save The World*, xxix (2017).

³⁰ Farith Simon Campaña, *Los derechos de la naturaleza en la constitución ecuatoriana del 2008: alcance, fundamentos y relación con los derechos humanos*, 17 REVISTA ESMAT 231, 244 (2019).

³¹ Id.

³² Eduardo Gudynas, *Derechos de la Naturaleza y políticas ambientales*, in DERECHOS DE LA NATURALEZA. EL FUTURO ES AHORA 46 (Alberto Acosta & Esperanza Martínez eds., 2009).

³³ Farith Simon Campaña, *Derechos de la Naturaleza: ¿Innovación Transcendental, Retórica Jurídica o Proyecto Político?*, 13 IURIS DICTIO 9, 16 (2013).

ii. Biocentrism

In opposition, biocentric philosophies do not claim that all things within nature have the same inherent value; instead, only living beings have such value insofar as they constitute ecosystems, which are life systems that support each other, in which each thing plays an important role. Although for biocentrists, the main focus is on individuals, since they're living things that possess a good of their own, have their own ends and seek the means to achieve them,³⁴ making them worthy of respect, they argue that it is still the individual's goal to protect the continuity of life systems and life groups.³⁵

Under this logic, all individual beings have equal and inherent value and matter more than non-living ones, but that value becomes more meaningful when they become a part of their ecosystems and collectivities. It's the individual's moral obligation therefore to focus on safeguarding the living parts of nature over the nonliving parts since it is the good (well-being, welfare) of individual organisms that determines our moral relations with the Earth's wild communities of life.³⁶

iii. Holism

In opposition to biocentric philosophers that claim that individual living things have interests that ought to matter in moral decision making,³⁷ another environmental ethic that set up the Rights of Nature movement's premises was holism, which argues that ecological or articulate wholes (such as ecosystems, biomes, species, etc.) have intrinsic value of their own as well as properties that could grant them moral status.³⁸ The goal for holists is for everyone to go beyond class, gender, and species and find their deepest fulfillment in harmony with nature.³⁹

This doctrine bifurcates into the complementary ideologies of ecocentrism and deep ecology. Ecocentrism's first proponent was Aldo

³⁴ Amaranta Manrique et al., *ECOÉTICA Y AMBIENTE. ENSEÑANZA TRANSVERSAL EN BIOÉTICA Y BIODERECHO 9* (Universidad Nacional Autónoma de México. Instituto de Investigaciones Jurídicas 2019).

³⁵ Carlos Soria, *Entrevista a Alberto Acosta sobre los Derechos de la Naturaleza*, SERVINDI (Sept. 21, 2018), <https://www.servindi.org/actualidad-noticias/21/09/2018/entrevista-alberto-acosta-sobre-los-derechos-de-la-naturaleza>.

³⁶ Paul Taylor, *Biocentric Egalitarianism*, in *ENVIRONMENTAL ETHICS: READINGS IN THEORY AND APPLICATION* 177 (Cengage Learning, 7th ed. 2016).

³⁷ *Id.* at 216.

³⁸ Eric Nash, *The Philosophical And Legal Implications of Granting Ecosystems Legal Personhood*, 16 (May 2020) (Undergraduate Research Scholars Thesis, Texas A&M University) (on file with the Texas A&M University Library).

³⁹ Louis P. Pojman et al., *ENVIRONMENTAL ETHICS: READINGS IN THEORY AND APPLICATION* 216 (Cengage Learning, 7th ed. 2016).

Leopold⁴⁰ who introduced the idea of a “Land Ethic,” a perception of nature not merely as a resource for human beings, but rather as the center of value, aiming for a state of harmony and respect between men and land.⁴¹ He argues that something is right when it is aimed to preserve the integrity, stability, and beauty of the biotic community and is wrong when it tends otherwise.⁴² Consequently, as Zimmerman puts it, “ecocentrism calls for humans to respect all beings and the ecosystem in which they arise.”⁴³

Deep ecologists, on the other hand, are holists who do not argue for a sense of community, but rather for an identification of every component of nature as a part of a whole, composed not only by the sum of its parts—which are not limited to beings which can reciprocate—but by the interconnection between them.⁴⁴ The proponents of this theory argue that the universe is a network of relationships that are all components of a single natural system that exists thanks to the interdependency of its elements, and where individuals are not capable of surviving by themselves since they rely on others to exist.⁴⁵ For deep ecologists, humans are not separated from nature, since the world is not a collection of isolated objects, but are part of a network of phenomena that are interconnected and interdependent.⁴⁶

Interests of the whole, in consequence, surpass individual interests because the interests of these are, at root, the interests of wholes.⁴⁷ Self-realization is accomplished by the realization of the greater whole⁴⁸ in which all beings are just components of it and are equally valuable.⁴⁹ According to Næss,⁵⁰ its biggest proponent, all forms of nature, for instance, have intrinsic value, regardless of their usefulness or external evaluations that may be made by others (humans and nonhumans).

⁴⁰ Id. at 217.

⁴¹ Leopold, *supra* note 27, at 196.

⁴² Id. at 211.

⁴³ Michael E. Zimmerman, Deep Ecology, Eco-Activism, and Human Evolution, 13 REVISION 3, 122, 123 (1991).

⁴⁴ Arne Næss, *Ecosophy T: Deep Versus Shallow Ecology*, in ENVIRONMENTAL ETHICS: READINGS IN THEORY AND APPLICATION 225, 226 (7th ed. 2017).

⁴⁵ Mathews, *supra* note 18, at 37.

⁴⁶ Terry Hoy, TOWARD A NATURALISTIC POLITICAL THEORY. ARISTOTLE, HUME, DEWEY, EVOLUTIONARY BIOLOGY, AND DEEP ECOLOGY 94 (2000).

⁴⁷ Pojman, *supra* note 39, at 216.

⁴⁸ Colette Sciberras, Deep Ecology and Ecofeminism: The Self in Environmental Philosophy 12 (Sept. 2002) (M.A. thesis, Lancaster University) (on file with author).

⁴⁹ Pojman *supra* note 39, at 216.

⁵⁰ Næss, *supra* note 44, at 229.

b. Indigenous conceptions of nature

Although some of the philosophies mentioned above have been cited in extensive jurisprudence and used as the basis to issue legislation recognizing the Rights of Nature, they come from perspectives that do not necessarily portray the true origins of the movement. They have all been formulated from a Western point of view, where the starting point has been the anthropocentric philosophy as the ruling norm⁵¹, and the objective has been either to turn that centralism upside down⁵² or to turn the attention to other living beings besides humans. Nonetheless, the idea of nature as an entity that needs protection and recognition has not been historically limited to just those conceptions. Long before those theories were born, indigenous civilizations already had their own ways of viewing nature and humans' role on Earth.

One of the leading and highly influential cultures has been, without a doubt, the Andean Cosmovision,⁵³ a doctrine that played a fundamental role in advocates of nature's rights to push for its inclusion in the Ecuadorian Constitution⁵⁴ and their recognition in Bolivia's internal laws.⁵⁵ Andean Cosmovision philosophy dates back 5000 years and consists of a mix of different beliefs and people's customs that existed across the Andean region, which includes territories that are now part of Peru, Bolivia, Argentina, Chile, Ecuador, and Colombia. The philosophy was originally inculcated in indigenous societies by the Incas and Quechua people but, centuries after their fall, it still remains and survives in a latent form among these countries' populations.⁵⁶

Andean Cosmovision's combination of multiple religious and social dogmas is supported by the sacred bonds that bind human beings and the cosmos, heaven, and earth. Under these ideas, everything is alive, and everything is intertwined in it; every entity that composes it,

⁵¹ Erin O'Donnell et. al., *Stop Burying the Lede: The Essential Role of Indigenous Law(s) in Creating Rights of Nature*, 9 *TRANSNAT'L ENV'T L.* 403, 410 (2020).

⁵² Mihnea Tănăsescu, *Rights of Nature, Legal Personality, and Indigenous Philosophies*, 9 *TRANSNAT'L ENV'T L.* 429, 452 (2020).

⁵³ The first study that touched on the Harmony with Nature resolution issued by the United Nations in 2009 (A/RES/64/196) even focused heavily on this culture to exemplify how indigenous beliefs were influencing the recognition of the rights of nature. See U.N. ECOSOC, *supra* note 28.

⁵⁴ Andreas Gutmann, *Pachamama as a Legal Person? Rights of Nature and Indigenous Thought in Ecuador*, in *RIGHTS OF NATURE: A RE-EXAMINATION* 38-39 (Daniel P. Corrigan & Markku Oksanen eds., 2021).

⁵⁵ Boyd, *supra* note 29, at 189.

⁵⁶ Illona Suran, *La cosmovision andine comme fondement philosophique des droits de la nature*, *Notre Affaires à Tous* (May 7, 2021), <https://notreaffaireatous.org/la-cosmovision-andine-comme-fondement-philosophique-des-droits-de-la-nature/>.

through an omnipresent and positive energy called Pachamama, which circulates constantly within nature, is considered itself as a whole.⁵⁷ Pachamama, despite Western beliefs, doesn't just mean Mother Earth,⁵⁸ but instead, it is the result of a coexistence of peoples with the Living; it is the time and space⁵⁹ that represents all human and non-human beings.

Although Pachamama is portrayed as a female presence, this is mainly for efficiency reasons as indigenous communities often use adjectives like fertile and life-providing to describe it, mainly due to the benefits they believe it gives to humans to sustain their existence.⁶⁰ Pachamama, however, is not just nature; it is a universal, divine and mystical intelligence that gives rhythm to the spiritual beliefs of the ancestral societies.⁶¹ Its counterpart, Pachataita—roughly translated as Heavenly Father—is the masculine force with which it forms the fruitful Andean duality.⁶²

Since Andean Cosmovision considers the world as a natural collectivity that brings together living, diverse, and variable communities⁶³ where its members (including humans) can only exist within,⁶⁴ relationships and interdependencies are its primary focus. Individuality, then, doesn't have a place in this conception because every entity is meant to perform a specific role with specific tasks to sustain the totality.⁶⁵ These mutual interactions should be cultivated and taken care of to achieve a state of equilibrium and harmony, which is the primary objective of every activity.⁶⁶

This Andean Cosmovision based on relationships of harmony and balance has also transformed into a lifestyle known as *Allin* or most commonly known as *Sumak Kawsay*,⁶⁷ *Buen Vivir* in Spanish and *Good Living* or *Harmonious Coexistence* in English.⁶⁸ The principles behind

⁵⁷ *Id.* at 3-4.

⁵⁸ *See id.* at 4; Gutmann, *supra* note 54, at 40 (noting that, in fact, calling it Mother Earth is oversimplifying its significance and could be offensive as it ignores its real meaning and complexity that considers the knowledge and traditions of indigenous peoples.).

⁵⁹ Gutmann, *supra* note 54, at 40.

⁶⁰ Irene Silverblatt, *MOON, SUN, AND WITCHES: GENDER IDEOLOGIES AND CLASS IN INCA AND COLONIAL PERU* 20 (1987).

⁶¹ Suran, *supra* note 56, at 4.

⁶² *Id.*

⁶³ *Id.* at 5.

⁶⁴ Gutmann, *supra* note 54, at 40.

⁶⁵ *Id.*

⁶⁶ *Id.* at 40-41.

⁶⁷ Joel Bengtsson, *Sumak Kawsay and Clashing Ontologies in the Ecuadorian Struggle towards De-coloniality* (2019) (Master Thesis Dissertation, Södertörn University) (on file with author) (*Allin*: good, correct, positive; *Sumak*: beautiful, sublime, excellent, plenitude; *Kawsay*: live, coexist).

⁶⁸ *See* Nancy H. Hornberger & Serafin N. Coronel-Molina, *Quechua Language*

this paradigm are built on the complete opposite to the separation from nature that the West proclaims; The Andean Cosmovision is instead about the symbiosis of humans with nature and the space-time quality of life.⁶⁹

Regardless, not only Andean Cosmovision has influenced the movement. Other Amerindian philosophies—like the Māori in New Zealand—also portray nature as a superior yet interdependent entity and believe in the need to develop a deeper connection with it. As with the Pachamama notion, the primary beings of the world are not individuals but the relationship of harmony between all of them.⁷⁰

Lastly, in Indian traditional knowledge, biodiversity is also a relational category in which every element of nature acquires its values and characteristics depending on the relationships that they have with other elements,⁷¹ relationships that are rooted in a presumption of indivisibility. In these ideologies, the conservation of nature relies on the sacred meaning they attribute to this entity, seen as a whole, where invisible ecological biomass flows between its components, and that, through these linkages, ecological stability, sustainability, and productivity conditions are maintained.⁷² Some authors have called these conceptions, whose objective is to aim for the recognition of the rights of nature in general, the “cosmopolitan” approach of the movement.⁷³

In contrast, indigenous philosophies that have focused on particular species or natural entities that have ecological, economic, or cultural relevance have been called “domestic”⁷⁴ since they usually aspire for a recognition of the rights in a particular jurisdiction or for particular natural elements.⁷⁵ These approaches have been fundamental

Shift, Maintenance, and Revitalization in the Andes: The Case for Language Planning, 167 *INT’L J. SOC. LANGUAGE* 9 (2004) (This is not, however, an exact translation as the Quechua language is a contextual language where the meaning of the words depend on who’s been addressed, the situation in which they’re used, and the variation of the language that the speaker has adopted).

⁶⁹ ¿Qué es la Cosmovisión Andina?, RUMBOS (Jan. 8, 2020), <https://www.rumbosdelperu.com/cultura/08-01-2020/que-es-la-cosmovision-andina/>.

⁷⁰ O’Donnell, *supra* note 51, at 409-410.

⁷¹ Vandana Shiva, *Women’s Indigenous Knowledge and Biodiversity Conservation*, in *ECOFEMINISM* 168 (Maria Mies & Vandana Shiva 2014).

⁷² *Id.* at 171.

⁷³ *Human Rights & Rights of Nature*, in *RIGHTS OF NATURE: A RE-EXAMINATION* 102 (Daniel P. Corrigan & Markku Oksanen eds., 2021).

⁷⁴ *Id.*

⁷⁵ This has been the case, for example, of Colombia recognizing the right of the rivers and the Amazon (Colombian Constitutional Court, ruling T-622 from 2016; and Colombian Supreme Court, ruling 4360-2018); the White Earth Band of Ojibwe, forcing a tribal court of Minnesota to enforce the rights of wild rice (White Earth Tribal Court Case No. GC21-0428); the town of Barnstead, New Hampshire proclaiming the rights of the communities and ecosystem in their territory (Barnstead

in defining the way in which these rights have emerged and developed, which varies considerably from territory to territory.⁷⁶

Truth is, still, that in most nations that share indigenous roots where rights for nature have been upheld, these have not been given to a particular or individualized entity but rather to objects that form an ecosystem (like rivers or forests) or to nature itself as a whole,⁷⁷ as they have acknowledged that these things share some sort of relation of interdependence that cannot be denied and that entitle them to be recognized. This superior being (in any of its forms) is, in consequence, according to the movement, the appropriate right-holder.⁷⁸

III. ECOFEMINISM AND THE RIGHTS OF NATURE: INTERSECTIONS AND DISPARITIES

a. Do Ecofeminism and Rights of Nature have Things in Common?

i. Building on Relationships

As the reader might have noticed already, the most evident aspect that both Ecofeminism and the Rights of Nature movement share is their pursuit for a fundamental reconstruction of our conception of nature.⁷⁹ Both movements believe that the values society is based on nowadays are damaging to women as well as nature and that an urgent reconception of the world is needed to stop the abuse against them. They agree on the fact that nature has intrinsic value and must be protected. In that sense, they both seek for a restoration of the relationships between humans and nature⁸⁰ and propose a new way of organizing life where well-being and maintenance are placed at the center.⁸¹

Ecofeminists, for instance, acknowledge that people live in a community where relationships to others are the basis of our understanding of who they are⁸² because all lives and processes are

US Water Rights and Local Self-Government Ordinance), etc.

⁷⁶ *Rights of Nature: Exploring the territory*, in *RIGHTS OF NATURE: A RE-EXAMINATION 3* (Daniel P. Corrigan & Markku Oksanen eds., 2021).

⁷⁷ *Id.* at 6-7.

⁷⁸ Jingjing Wu, *Rights of Nature and Indigenous Cosmivision: A Legal Inquiry*, *OSSA CONF. ARCHIVE* (2020).

⁷⁹ Janis Birkeland, *An ecofeminist critique of manstream planning*, 8 *TRUMPETER J. OF ECOSOPHY* 72, 74 (1991).

⁸⁰ Eva Vásquez, *Los Derechos de la Naturaleza como herramienta ecofeminista para colectivizar/diversificar/proponer otras formas de reproducción social de la vida at the 1st Congreso Internacional de Comunalidad, Puebla, Mexico* (2015).

⁸¹ *Id.*

⁸² Warren, *supra* note 4, at 398.

somehow interconnected with each other⁸³ and therefore how a moral agent is in relationship to another becomes of central significance.⁸⁴ Power-based relationships must move towards an ethic of mutual respect that go beyond power, one with a more ecocentric view that considers the world as a sacred living being that sustains all forms of life⁸⁵ and where values of care, love, friendship, trust, and appropriate reciprocity are the maximum commands.⁸⁶

Similarly, Rights of Nature advocates also consider the world to be connected.⁸⁷ They presuppose that a myriad of relationships exists between not nature on one side and individuals on the other, but rather between worlds and peoples.⁸⁸ As seen in indigenous philosophies, relationships are based in terms of reciprocal exchanges and balance within the cosmic network⁸⁹ that are put in place with the purpose of establishing a harmonious and respectful balance between humans and other beings.⁹⁰

ii. Diversity and Inclusiveness

Another similarity found in both postures is their efforts to embrace diversity in all of its forms, that is, not only in relation to all manifestations of life (plants, animals, organisms, etc.), but within humans themselves.⁹¹ Indeed, one substantial principle for Ecofeminists is the recognition not only of a plurality of species but also a plurality of narratives, stories, experiences, and sociocultural contexts⁹² that ensures that all voices (notably those of less favored or—as they call it—oppressed persons) are given legitimacy.⁹³

In the same way, Rights of Nature proponents search for a dialogue between cultures that includes the subordinate and marginal groups that have been forgotten for so long, to restore legitimacy to their knowledge, their ethics, and their wisdom.⁹⁴

⁸³ Birkeland, *supra* note 79, at 74.

⁸⁴ Warren, *supra* note 4, at 399.

⁸⁵ Vandana Shiva, Diálogo sobre Ecofeminismo con Vandana Shiva at Instituto de Estudios Ecologistas del Tercer Mundo 1 (Nov. 26, 2012).

⁸⁶ Warren, *supra* note 4, at 398.

⁸⁷ Tănăsescu, *supra* note 52, at 450.

⁸⁸ *Id.* at 451.

⁸⁹ Giulia Sajeve, *Environmentally Conditioned Human Rights*, in RIGHTS OF NATURE: A RE-EXAMINATION (Daniel P. Corrigan & Markku Oksanen eds., 2021)

⁹⁰ Suran, *supra* note 56, at 8; Gutmann, *supra* note 51, at 45.

⁹¹ Shiva, *supra* note 85, at 3.

⁹² Ocampo, *supra* note 16, at 76.

⁹³ Warren, *supra* note 4, at 398.

⁹⁴ Suran, *supra* note 56, at 8.

iii. Contextual Ethics

A contextual ethic, according to Warren, “is one which sees ethical discourse and practice as emerging from the voices of people located in different historical circumstances.”⁹⁵ For her, Ecofeminism is a contextual ethic because, not only does it give central place to the voices of women⁹⁶ but also evaluates if something (human and nonhuman) is worthy of consideration based on the specific relationship it has with others.⁹⁷

Regarding the Rights of Nature, while I believe that it is not an ethic but rather a set of ethics that have things in common (like the aim for the respect of nature and its legal recognition in any form), the movement itself is still contextual since the limits for its legal applicability will depend on the notion people adapt regarding nature.⁹⁸ Some cultures, for example, would be more inclined to favor water bodies and forests rather than the entirety of the ecosystems in their lands, whereas others would opt to exempt people from proving standing and incorporate concepts such as guardianship or stewardship.

b. Can Ecofeminism and the Rights of Nature see eye to eye?

i. Western v. Indigenous Visions

Notwithstanding the similarities, Ecofeminist views and the rights of nature also differ in some ideas that draws an explicit, almost impenetrable line between the two. The biggest difference is the contrasting gender value that both movements attribute to nature and that constitute the pillars of their respective doctrines: the feminization of nature to perpetrate oppression versus a ubiquitous, nearly goddess-like representation.

Ecofeminism is based on the idea that historically conceiving nature as a female has played a crucial role in perpetuating its subordination to man, thus maintaining a logic of domination.⁹⁹ This idea, as we have seen, however, is based on Western views that have been in the making since the industrial revolution but does not account for the current—still alive—indigenous conceptions that do not adjust to modern beliefs. While some Ecofeminists explain that, precisely, the movement is a critique of Western societies and not indigenous ones, this conception only makes Ecofeminism a limited crusade and not one that seeks for a general change.

⁹⁵ Warren, *supra* note 4, at 398.

⁹⁶ *Id.*

⁹⁷ *Id.* at 399.

⁹⁸ Tănăsescu, *supra* note 52, at 452.

⁹⁹ Warren, *supra* note 4, at 394.

In view of this, many Ecofeminist critics have gone so far as to say the movement is not diverse enough since, for the most part, it does not consider the voices of all women, namely indigenous ones. They contend that most discussions have been led by white women trying to find a new way to see their world and who do not truly care about other women's realities.

Rights of Nature, on the other hand, does not presuppose a domination of nature by humans but rather a relationship of partnership between the two. In Andean Cosmovision, for example, a female representation of nature does indeed exist but is not attributed a lesser value. Indigenous tradition rather imagines it as something out-of-this-world that, in cooperation with its male counterpart, helps maintain a spiritual stability on Earth.¹⁰⁰

This vision has survived for centuries and dominates indigenous culture to this day in several South American countries and is shared with other cultures of the world. Although influenced by Western philosophies, this basic pillar of the movement has subsisted and has even become stronger thanks to the importance of common beliefs indigenous communities share. Contrary to Ecofeminism then, inasmuch as the original ideas that triggered the movement comes from indigenous beliefs, Rights of Nature are inclusive by nature.

ii. Individuality v. the Whole of Nature

On another note, both movements disagree on the importance they place on individuality. For Rights of Nature enthusiasts, an individual doesn't have value by itself unless it contributes to the survival or the balance of the whole. That is because the core of the movement is, in this case, founded on the perception that we are all integrated into an interdependent totality where each element participates in a specific role within the Earth's ecosystem.¹⁰¹

In contrast, Ecofeminism interprets the interconnections in an individualistic rather than in a holistic sense.¹⁰² Ecofeminists affirm that, while the nature/culture split should be denied, humans are all members of an ecological community (in some respects) but still different from it (in other respects)¹⁰³ owing a duty of compassion and respect for all elements of it. The ties of kinship and not the understanding of identification with nature is, for them, what motivates us to treat each other with care and consideration.¹⁰⁴

¹⁰⁰ Suran, *supra* note 56, at 4.

¹⁰¹ *Id.* at 8.

¹⁰² Mathews, *supra* note 18, at 45.

¹⁰³ Warren, *supra* note 4, at 398.

¹⁰⁴ Mathews, *supra* note 18, at 47.

iii. Hierarchical Thinking

Under Ecofeminist logic, the paradigm in which society is currently grounded places certain groups as inherently more valuable than others, reaffirming hierarchical structures (e.g., culture is positioned above nature and men above women). As a solution, they propose a reconceptualization of the world in which the criteria for the organization of the new social forms would be equality, non-violence, cultural diversity and participatory, non-competitive and non-hierarchical decision-making.¹⁰⁵

Hierarchy, for the Rights of Nature philosophy, is crucial. According to indigenous reasoning, even if human, nonhuman, and other entities that exist in the world are mutually intertwined via dependent relationships with each other and have an assigned role that makes them equally valuable as the rest,¹⁰⁶ there is still a supernatural force that reigns above everything. A supernatural entity—like the cosmos or Pachamama for the Andean Cosmovision, for example—exists peacefully with all of the different beings that inhabit the relational world¹⁰⁷ but is yet worthy of a high respect. Consequently, a kind of reverence or admiration is created and deems itself essential to maintain the harmony between all the different elements of Earth.

iv. Anthropocentrism v. Androcentrism

Other critics of the Rights of Nature movement that might come from Ecofeminist views revolve around the theories that have forged the doctrine, like ecocentrism and deep ecology, claiming that these approaches are gender neutral and, as a consequence, they might be plagued by gender inequality.¹⁰⁸ Ecofeminists contend that, even when these theories agree that abstract, dualistic, atomistic, and hierarchical categories are responsible for the domination of nature, their critic of the anthropocentric world is incomplete as they do not consider androcentrism as the real root of the domination of nature.¹⁰⁹

Howbeit, we have to remember that the movement has not only been inspired by deep ecology, utilitarianism, ecocentrism and other holistic views, but also—and more importantly—by indigenous culture. Claiming that the Rights of Nature is only based on arguments

¹⁰⁵ Tasneem Anjum, *Ecofeminism: Exploitation of Women and Nature*, 5 INT'L J. ENG. LITERATURE AND SOC. SCI. 846 (2020).

¹⁰⁶ Suran, *supra* note 56, at 8.

¹⁰⁷ Tănăsescu, *supra* note 52, at 449-50.

¹⁰⁸ Pereira & Borsellino, *supra* note 3, at 60.

¹⁰⁹ Zimmerman, *supra* note 8, at 37-38.

formulated almost exclusively by men¹¹⁰ would be putting the movement in a box, limiting its scope to traditional Western ontologies and ignoring the leading role some indigenous peoples, especially women have played in engendering transformative environmental protection.¹¹¹

v. Is There an Actual Need for Rights?

Perhaps the most significant criticism of Rights of Nature that could be extracted from Ecofeminist postulates is the questioning of the need to have rights. Since Ecofeminism focuses more on relationships and in the imposition of less dualistic moral concepts (“such as respect, sympathy, care, concern, compassion, gratitude, friendship and responsibility”), their proponents feel as if rights should be removed from their central position and be replaced by other less restrictive models.¹¹² Although so far, the notion of rights, as Ecofeminists claim, has been centered in an anthropocentric thought, this does not necessarily mean that the figure itself should be abolished.

On the contrary, Rights of Nature actually provides an opportunity to rethink about what rights really mean and in benefit of who—or rather, of what—they should be recognized. Their supporters argue that rights are gradual human constructs that have evolved over time,¹¹³ so they can be shifted into incorporating nonhuman subjects,¹¹⁴ which would cause legal decisions to widen their focus and consider their impacts on a complex web of relationships that constitutes nature.¹¹⁵

IV. RE-VALUING NATURE

Up to this point, I have presented the fundamentals of each movement as well as the connections and disconnections between the two. As it has been observed, while very coincidental, differences seem to surpass the resemblances of these philosophies. But what if there was a way for them to coexist? Is it possible that they find common ground and start learning from each other? Will Ecofeminism be willing to accept new ideas coined by Rights of Nature or are these theories just too far from its mission?

¹¹⁰ Id. at 38.

¹¹¹ O’Donnell, *supra* note 51, at 426.

¹¹² Anjum, *supra* note 105, at 846.

¹¹³ Rubén Martínez Dalmau, Fundamentos para el reconocimiento de la naturaleza como sujeto de derechos, in *LA NATURALEZA COMO SUJETO DE DERECHOS EN EL CONSTITUCIONALISMO DEMOCRATICO* 40 (Liliana Estupiñán Achury et al.eds., 2019).

¹¹⁴ Id.

¹¹⁵ Gutmann, *supra* note 54, at 169.

a. Dismantling Patriarchy through a New Valorization of Nature

From what we have learnt so far about these movements, they both claim that the image we have of nature is what ultimately defines our course of action. This image either establishes, limits, or tears them down and determines the possibilities that define human behavior. In the case of Ecofeminism specifically, the dualisms defined by society have established a hierarchy in which less value is placed in nature and women, and, thus, they are seen as lesser than men. Men then, have the power to do with nature as they please, without restrictions.

Yet, is it always bad to personify nature as a female? Does giving it this attribute automatically mean they are oppositional to men and consequently have lesser value? Or is it possible to picture nature as something with female characteristics but not feeling the need to possess it, explode it, or even dominate it? Can we change the concept into something empowering rather than diminishing?

For Warren, the problem is not just that value dualisms *are used* but *the way* in which they are used, which, according to her, has been to perpetuate inferiority and justify subordination.¹¹⁶ A dualism is a dichotomy where a cultural expression of a hierarchical relationship has been imposed, building a radical exclusion that makes equality something unthinkable.¹¹⁷ Hence, not all dichotomies are dualisms, and not all dualisms are inherently bad; they only become a problem when they validate oppression.

Following this rationale, if a contrasting dichotomy is not necessarily associated with an oppressive framework, that means that the value we are assigning is not inherently harmful. A value hierarchy with these characteristics that despises domination would hence be accepted by Ecofeminists. The objective then is to look for a model that makes us rethink the values that have historically—at least in Western countries—dominated human nature and aim for a better design in which men and women can be given similar or complementary values instead of adversary ones so that a culture of equality instead of superiority can be achieved.

b. Constructing a New Conceptual Framework

But how do we start building this design for society grounded in new values? Where do we start? Would it be a completely new model, or can it be molded after a preexisting one? Would we need to create new values from scratch, or can we rely on the ones that already exist? The theory of value is applied to answer these questions, specifically the notion of intrinsic value.

¹¹⁶ Warren, *supra* note 4, at 391.

¹¹⁷ VAL PLUMWOOD, FEMINISM AND THE MASTERY OF NATURE 47-48 (1993).

Value is a normative concept¹¹⁸. It requires a norm, which is a standard that has to be created, constructed, or somehow discovered before it can be applied, and it must be applied to have meaning.¹¹⁹ There are three ways in which nature can be valued: 1) instrumentally, 2) aesthetically, and 3) intrinsically.¹²⁰ Intrinsic value is the value that is inherent to an object, act, or situation regardless of whether it benefits or harms an individual.¹²¹ Intrinsic value means that the object itself is valued rather than the benefits it provides.¹²² If nature has this kind of value, then humans must respect nature regardless of their subjective opinions.¹²³

But how is it determined if nature has inherent value? According to Taylor, “in order to show that such an entity ‘has’ inherent worth we must give good reasons for ascribing that kind of value to it (placing that kind of value upon it, conceiving of it to be valuable in that way).”¹²⁴ For Ecofeminism, this value is dependent on the relationships we all have with the others and how these contribute to the community, but where individuality of every component is respected. Maintaining this separation, however, could lead to a problematic loop: the endless differentiation between the human and the non-human can instead bolster the hierarchical thinking Ecofeminists are trying to eradicate.

An exit of this apparent dead end could be the realization that humans are not radically separate or independent from nature, but instead a manifestation of it. The idea, attuned to the internal relatedness of all things as ingredients in a social cosmos, could potentially result in the respect of all nature that Ecofeminists look for.¹²⁵ Rights of Nature, especially indigenous thought, are precisely based in these postulates: they see nature as an entity that connects everyone where female and male figures are seen as equal and supplemental, needing each other to reach a greater good.

Intrinsic value, in this case, doesn’t only consider the relationship within the elements of nature, but the linkages between them and the worth they create when working together as one unit. A view that takes into consideration intrinsic value imagined this way might have the potential to establish new conceptual frameworks that are not oppressive and thus are one that Ecofeminists would regard as ideal.

¹¹⁸ Marcel Wissenburg, *Green Liberalism: The Free and the Green Society* 95 (1998).

¹¹⁹ *Id.*

¹²⁰ Mark Sagoff, *Zuckerman’s Dilemma: A Plea for Environmental Ethics*, 21 HASTINGS CTR. REP. 32, 34 (1991).

¹²¹ Eduardo Gudynas, *La Senda Biocéntrica: Valores Intrínsecos, Derechos de la Naturaleza y Justicia Ecológica* [*The Biocentric Path: Intrinsic Values, Nature Rights and Ecological Justice*], 13 TABULA RASA 45, 50 (2010).

¹²² Sagoff, *supra* note 120, at 33.

¹²³ Wissenburg, *supra* note 118, at 92.

¹²⁴ Taylor, *supra* note 36, at 182.

¹²⁵ Zimmerman, *supra* note 8, at 43.

CONCLUSION

In “The Death of Nature,” Merchant recognized that the goals of the ecological and feminist movements could suggest new values and social structures based on the full expression of both men and women, as well as the maintenance of environmental integrity.¹²⁶ Years later, in *Environmental Philosophy*, Warren asked if there was a possibility for any ecological ethic to also be a feminist ethic and wondered if mainstream normative ethical theories could generate a theory that were not male based.¹²⁷ Both of these authors’ research and proposals are seen nowadays as being essential to Ecofeminist thought.

But can Ecofeminism alone start a change in society? Whilst Warren suggested that not classical conceptions of feminism but a transformative one could do the trick,¹²⁸ I believe that, as long as the focus of this theory stays on the critics of the Western world and does not incorporate alternative conceptions of nature, such as the one indigenous people in the Rights of Nature movement share, a different kind of humanity-nature relationship would still just be a fantasy.¹²⁹

In fact, some Ecofeminists like Shiva have highlighted the idea that the incorporation of the thoughts that Rights of Nature bring to the table could be the opening door to a new era in which both nature and the Earth, as well as human consciousness, come out of the prison of patriarchal capitalism in which we have been so far imprisoned.¹³⁰ If the real objective of Ecofeminism is to reconfigure what nature means for humans and—at last—what it means to be human,¹³¹ then a more interaction of the movement with Indigenous cultures, languages, and ontologies is needed.¹³²

¹²⁶ Merchant, *supra* note 5, at 19.

¹²⁷ Karen Warren, *Ecofeminism*, in *ENVIRONMENTAL PHILOSOPHY. FROM ANIMAL RIGHTS TO RADICAL ECOLOGY* 273 (Michael Zimmerman ed., 1998).

¹²⁸ Warren, *supra* note 11, at 19.

¹²⁹ Zimmerman, *supra* note 8, at 44; see also Huey-li Li, *A Cross-Cultural Critique of Ecofeminism*, in *ECOFEMINISM. WOMEN, ANIMALS, NATURE* 272-294 (Greta Gaard ed., 1993) (critiquing the lack of analysis of non-Western interpretations in Ecofeminist theory).

¹³⁰ Shiva, *supra* note 85, at 4.

¹³¹ Warren, *supra* note 4, at 399, 401.

¹³² O’Donnell, *supra* note 51, at 427.

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