RIGHTS OF NATURE IN EUROPE

ENCOUNTERS AND VISIONS

Edited by
Jenny García Ruales, Katarina Hovden, Helen Kopnina,
Colin D. Robertson and Hendrik Schoukens

Rights of Nature in Europe

This book addresses the recognition of the Rights of Nature (RoN) in Europe, examining their conceptualisation and implementation. RoN refers to a diverse set of legal developments that seek to redefine Nature's status within the law, gradually emerging as novel template for environmental protection. Countries like Ecuador and New Zealand, each with distinct histories and ways of dwelling in the world, have pioneered a new era in environmental governance by legally acknowledging rights or personhood for nature, ecosystems, and more-than-human populations.

In recent years, Europe has witnessed growing interest in RoN, with academic, legislative, and political initiatives gaining momentum. A significant development is the September 2022 passage of a law in the Spanish Parliament, granting legal personhood and rights to the Mar Menor, a saltwater lagoon severely affected by environmental degradation.

Given the diversity in interpretations and articulations of 'Rights of Nature', this edited volume argues that their arrival in Europe fosters different kinds of interactions across distinct areas of law, knowledge, practices, and societal domains. The book employs a multidisciplinary approach, exploring these interactions in law and policy, anthropology, Indigenous worldviews and jurisprudence, philosophy, spiritual traditions, critical theory, animal communication, psychology, and social work.

This book is tailored for scholars in law, political science, environmental studies, anthropology, and cultural studies as well as legal practitioners, NGOs, activists, and policymakers interested in ecology and environmental protection.

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Chapter 1

Arrival of the Rights of Nature in Europe

Jenny García Ruales, Katarina Hovden, Helen Kopnina, Colin D. Robertson, Hendrik Schoukens

The roots of this edited book go back to 2020, when a group of scholars, lawyers, and activists with a concrete interest in the rights of Nature met up online to discuss the possible manifestation of these rights in Europe and their potential repercussions.[1] Since these initial meetings and in tandem with our work on the book, the rights of Nature have taken root in Europe, with legal initiatives, policy engagement, and public debate on the topic, including at the EU institutions. Meanwhile, the climate and biodiversity crises continue to manifest, urging the need for different societal relations with more-than-human nature.[2] As our group expanded and the book began to take shape, our views coalesced around the importance of taking a nuanced approach to the rights of Nature in Europe. Instead of presenting these rights as a quick fix with the potential to resolve all contemporary environmental challenges, the approach adopted in this collected volume discusses some of the potential

1 We would particularly like to express our appreciation to Hana Begović and Jan-Ole Komm, whose dedication and enthusiasm early in the process brought the group together and spurred our collective work on the book. This book, however, could not have been produced without the dedicated support and assistance of the team at Routledge; we extend our appreciation and thanks in particular to Colin Perrin, Naomi Round Cahalin, Chloe Herbert, and also to Promoth Jaikishan and his team.

2 In our introduction, we choose the term 'more-than-human' because, following multi-species scholars Eben Kirksey and Stefan Helmreich, who organised the Multispecies Salon, one of the main conclusions drawn by participant Susan Leigh Star was that 'non-human is like non-white' and that 'it implies a lack of something' (2010) 555. In this sense, like Kirksey and Helmreich, the editors of this volume assert that '[t]he category of "non-human" is also rooted in human exceptionalism', a concept that other posthuman scholars like Donna Haraway encourage us to transcend (ibid). Here, we recommend García Ruales et al., who provide a profound ethnography of four more-than-human interlocutors, their conditions of existence, and interactions. This can offer insights for legal scholars to delve into anthropology to understand more-than-human entities. See García Ruales, Jenny, Benedict Mette-Starke, Joaquín Molina, and Naomi Rattunde, 'Sharing Messages, Not Meals: Engaging with Non-Humans in Fieldwork during the Pandemic' (2022) 174 Journal for Social and Cultural Anthropology (JSCA) 75–98. Throughout the volume, contributors have the freedom to select their preferred terminology.

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pathways for these rights in Europe and anticipates challenges. Moreover, rather than essentialising the rights of Nature and their potential impacts, our view is that there are distinct meanings of the 'rights of Nature' and many possibilities for articulating and enforcing these rights in Europe.[3] For this reason, we opted for a multidisciplinary approach that encompasses voices both from within and beyond academia.[4] While many more voices are needed than those encompassed in the present volume, this book contributes to ongoing discussions about the impact of these rights and eco-centric approaches on genuinely sustainable and just ways of living with more-than-humans.

Emerging eco-centric paradigms

The ideas and principles underpinning the rights of Nature are not novel. They stem from traditional and Indigenous ways of conceiving and dwelling in the world.[5] Furthermore, the work of Western environmental philosophers, from the 19th-century transcendentalist writers Henry Thoreau[6] and Ralf Waldo Emerson[7] to the early 20th-century environmental advocate John Muir,[8] and in the 20th century, the work of Aldo Leopold's land ethics,[9] Arne Næss,[10] and Holmes Rolston III[11] have inspired the ideas of rights for Nature. The work of eco-feminists in the field is also notable, ranging from Susan Griffin[12] to Carolyn Merchant[13] to Val Plumwood.[14] It is also notable

3 Alessandro Pelizzon, 'Earth Laws, Rights of Nature and Legal Pluralism' in Michelle Maloney and Peter D Burdon (eds), *Wild Law - In Practice* (Routledge 2014). See also Sophie Chao, Karin Bolender, and Eben Kirksey, *The Promise of Multispecies Justice* (Duke University Press 2022).

4 Jérémie Gilbert and others, 'Understanding the Rights of Nature: Working Together Across and Beyond Disciplines' (2023) 51, Human Ecology 363.

5 Nevertheless, it is important to acknowledge that both the constructs of 'rights' and 'nature' have Western origins, as well as that the rights of Nature discourse has 'at times accidentally, and even wilfully, ignored indigenous agency and difference' (Elizabeth Macpherson and others, 'Where Ordinary Laws Fall Short: "Riverine Rights" and Constitutionalism' [2021] Griffith Law Review 1, 8–9). See in this connection, Virginia Marshall, 'Removing the Veil from the "Rights of Nature": The Dichotomy between First Nations Customary Rights and Environmental Legal Personhood' (2020) Australian Feminist Law Journal 1–16; Erin O'Donnell and others, `Stop Burying the Lede: The Essential Role of Indigenous Law(s) in Creating Rights of Nature' (2020) Transnational Environmental Law 1.

6 Henry David Thoreau, *Walden; or Life in the Woods* (Dover Publications 1854).

7 Ralph Waldo Emerson, *Selected Writings of Ralph Waldo Emerson* (Penguin 2011).

8 Jon Muir, *My First Summer in the Sierra* (Houghton Mifflin 1911).

9 Aldo Leopold, *A Sand County Almanac* (Ballantine Books 1949).

10 Arne Næss, 'The Shallow and the Deep, Long-range Ecology Movement: A Summary' (1973) 16 Inquiry 95–100.

11 Holmes Rolston III, 'Duties to Endangered Species' (1985) 35(11) BioScience 718–726.

12 Susan Griffin, *Woman and Nature: The Roaring Inside Her* (2016 Catapult).

13 Carolyn Merchant, 'Earthcare: Women and the Environment' (1981) 23(5) Environment: Science and Policy for Sustainable Development 6–40.

14 Val Plumwood, *The Eye of the Crocodile* (ANU Press 2012).

that the work of various writers and activists from queer,[15] black,[16] eco-socialist,[17] eco-anarchist,[18] etc., groups increasingly represent the variety of backgrounds and perspectives in Europe's legal, political, and ethical debates. In a sense, one can speak of global environmental politics.[19] Biophilia, or love of life, and the defence of nature, as well as the recognition of intrinsic values, ecological justice, and indeed, the notion of Nature's rights, seem to be cross-cultural and universal, although not always widespread.[20] The work of environmental writers spans disciplines from (environmental) philosophy, biological conservation, environmental social sciences, Indigenous studies, (environmental) law, and animal ethics.

As such, one might say that partially, the idea of 'rights' for Nature comes from legal philosophy and political science. Partially, it is a product of environmental ethics, especially deep ecology, the concept developed by Arne Næss.[21] Deep ecology is often known as ecocentrism, which is grounded upon a worldview that recognises the interwoven nature of social and ecological values. Environmental philosophers show how social and ecological values populate the Earth's web of life, calling for duties to human and more-than-human individuals and collectives. However, this does not change the fact that considerations pertaining to the rights of Nature are missing in many contemporary environmental and conservation discussions, in Europe and beyond. In essence, Nature's rights support the intrinsic rights of Nature to exist, or the need for social and ecological rights and justice to walk hand in hand. Emerging out of these environmental traditions is the field known as 'Earth Jurisprudence', which posits that the Earth community and all the beings that constitute it have 'fundamental rights', including the right to exist and to flourish. Human acts that infringe upon those rights are deemed 'unlawful'.[22] Such a rights-based approach to nature protection is relatively new. Even some of the most progressive pieces of environmental law most often do not explicitly affirm the intrinsic value of Nature. Or if they do, they do not explicitly include a rights-based approach towards environmental protection and Nature conservation. Underlying rights of Nature scholarship

15 Joshua Sbicca, 'Eco-queer Movement (s)' (2012) 3 European Journal of Ecopsychology 33–52.
16 Robert D. Bullard and Beverly H. Wright, 'The Quest for Environmental Equity: Mobilizing the African-American Community for Social Change' in *American Environmentalism* (Taylor & Francis 2014) 39–49.
17 Vishwas Satgar, *The Climate Crisis: South African and Global Democratic Eco-socialist Alternatives* (Wits University Press 2018) 372.
18 Francisco J. Toro, 'Stateless Environmentalism: The Criticism of State by Eco-Anarchist Perspectives' (2021) 20(2) ACME: An International Journal for Critical Geographies 189–205.
19 Peter Newell, *Global Green Politics* (Cambridge University Press 2019).
20 Helen Kopnina, 'Revisiting the Lorax Complex: Deep ecology and Biophilia in Cross-Cultural Perspective' (2015) 1(4) Environmental Sociology 315–324.
21 Næss (n 10).
22 Cormac Cullinan, *Wild Law. A Manifesto for Earth Justice* (Green Books 2011).

is, moreover, a critical engagement with values and worldviews[23] and long-standing debates regarding excessive anthropocentrism and eco-centric alternatives.[24] This book builds upon that body of literature, and eco-centric perspectives orient the contributions from different disciplinary, activist, practitioner, and community perspectives.

The codification of rights of Nature

Instead of treating Nature as a mere object, resource, or property, proponents of granting legal rights to Nature submit that in order to effectively reverse human impacts on Nature, a legal paradigm shift is required. Rather than regulating the human usages of Nature, as many environmental laws do today, the recognition of intrinsic rights of ecosystems could lead to a more eco-centric based and holistic approach to ecological governance. Since the 1970s, the approach of recognising Nature as a legal stakeholder with inalienable rights has been advocated by global scholars and environmental activists. When Christopher Stone wrote his now famous 1972 article 'Should trees have standing?',[25] his case for Nature as a subject of rights was not widely embraced by the legal academic community.[26] A few decades later, however, the idea of recognising the rights of Nature has in fact been implemented in a growing number of jurisdictions, in particular, over the past fifteen years.[27] Parallel with the development of the rights of Nature, there has been an expansion of attention to animal welfare and animal rights, stemming from the work of Peter Singer and Tom Regan,[28] and more recently expanding into such fields as animal rights law.[29] In Europe, several political parties, such as the Party for Animals in the Netherlands, have been consolidating their membership, with associated issues having to do with

23 Mihnea Tănăsescu, 'The Rights of Nature in Ecuador' (2016) Environment, Political Representation, and the Challenge of Rights 85–106.

24 Klaus Bosselmann, 'A Normative Approach to Environmental Governance: Sustainability at the Apex of Environmental Law' in D Fisher (ed), *Research Handbook on Fundamental Concepts of Environmental Law* (Edgar Elgar 2016) 22–50.

25 Christopher Stone, 'Should Trees Have Standing? Towards Legal Rights for Natural Objects' (1972) 45 Southern California Law Review 450.

26 See notably, Mark Sagoff, 'On Preserving the Natural Environment' (1974) 84 Yale Law Journal 205.

27 Guillaume Chapron, Yaffa Epstein, and José Vicente López-Bao, 'A Rights Revolution for Nature' (2019) 363 Science 1392.

28 T Regan and P Singer, *Animal Rights and Human Obligations* (Prentice Hall 1989).

29 S Stucki, 'Towards a Theory of Legal Animal Rights: Simple and Fundamental Rights' (2020) 40(3) Oxford Journal of Legal Studies 533–560.

sustainability, biological conservation, and particular attention to the treatment of domestic as well as wild animals.[30]

The notion of 'rights of Nature' entails the idea of granting and/or recognising legal rights and/or legal personhood for Nature as a whole or for categories of natural entities such as all rivers or water bodies in a specific territory, for collectivities such as particular rivers and ecosystems,[31] or more-than-human populations,[32] or for individual animals.[33] These new rights have taken many forms and have been enacted in local, national, and constitutional laws, as well as in tribal laws.[34] Already in 2006, the Council of Tamaqua Borough in Pennsylvania adopted an ordinance in which the rights of Nature were recognised. This was part of a major effort to ban fracking on its territory.[35] In holding that '(b)orough residents, natural communities, and ecosystems shall be considered to be "persons" for purposes of the enforcement of the civil rights of those residents, natural communities, and ecosystems', Tamaqua Borough inadvertently became the first municipal jurisdiction in the United States where rights of Nature were legally recognised. More prominent examples include Ecuador's constitutional recognition of

30 Helen Kopnina, 'Party for Animals: Introducing Students to Democratic Representation of Nonhumans'(2019) 29(4) *Society & Animals* 415–435.

31 Veronica Strang, 'The Rights of the River: Water, Culture and Ecological Justice' in H Kopnina and H Washington (eds), *Conservation: Integrating Social and Ecological Justice* (Routledge 2020) 105–119.

32 In the US, tribal laws and proceedings have addressed for instance the rights of populations of manoomin (wild rice: *Zizania palustris*) and of Tsuladxw (salmon: *Oncorhynchus*). For the rights of manoomin, see 1855 Treaty Authority, Resolution Establishing Rights of Manoomin, Resolution Number 2018-05 (December 5, 2018), White Earth Band of Ojibwe; and proceedings in Manoomin et al. v Minnesota DNR. For the rights of Tsuladxw, see Sauk-Suiattle Tribe v. City of Seattle.

33 For instance, on 27 January 2022, the Ecuadorian Constitutional Court recognised that animals are subjects of rights under the 'rights of Nature' provision (Constitution of the Republic of Ecuador (2008), Article 71, in a case concerning the monkey Estrellita, a chorongo monkey (*lagothrix lagothricha*). The reasoning of the Court was as follows. First, the Court defined Nature as 'a community of life', meaning that '[a]ll the elements that compose it, including the human species, are linked and have a function or role. The properties of each element arise from interrelationships with the rest of the elements and function as a network'. According to the Court: '[w]ithin the levels of ecological organization, an animal is a basic unit of ecological organization, and being an element of Nature, it is protected by the rights of Nature and enjoys an inherent individual value'. Consequently, animal rights should 'be observed as a specific dimension—with their own particularities—of the rights of Nature'. See Ecuador, Constitutional Court, 27 January 2022, Final Judgement No. 253-20-JH/22, Judge: Teresa Nuques Martínez (Translation by Animal Law & Policy Program, Harvard Law School).

34 For a comparison of different types of legally recognised natural entities, see Craig M Kauffman and Pamela L Martin, 'Constructing Rights of Nature Norms in the US, Ecuador, and New Zealand' (2018) 18 Global Environmental Politics 43. See also the Eco Jurisprudence Monitor <ecojurisprudence.org> accessed 23 May 2023.

35 Tamaqua Borough, Schuylkill County, Pennsylvania, Ordinance No. 612 of 2006.

rights for 'Nature, or *Pacha Mama*',[36] Bolivia's national Law of the Rights of Mother Earth,[37] New Zealand's Whanganui River Claims Settlement,[38] and court decisions such as the Bangladesh Supreme Court's recognition of rights for rivers[39] and the Colombian Constitutional Court's and Colombian Supreme Court's recognitions of rights for the Atrato River[40] and Amazon ecosystem[41] respectively.

Despite this proliferation of laws, it would be wrong to postulate that all recent enactments of these rights have been successful. Two of the most recent manifestations of the rights of Nature in the United States—the City of Toledo (Ohio) (granting legal personhood to Lake Erie)[42] and Greater Orlando (Florida) (granting legal personhood to two lakes, two streams, and a marsh)[43]—were subsequently thwarted by legal challenges undertaken by industry. The day after the adoption of the Lake Erie Bill of Rights, the agricultural company Drewes Farm, later joined by the State of Ohio, challenged the legislation, claiming, among others, that it pre-empted state law. US District Court Judge Zouhary agreed and concluded that the Lake Erie Bill of Rights was unconstitutional. In reaching this conclusion, he raised

36 Constitution of the Republic of Ecuador (n 33), articles 70-73; Alberto Acosta and Esperanza Martínez (eds), *La naturaleza con derechos* (Abya Yala 2011); Liliana Estupiñan Achury and others, *La naturaleza como sujeto de Derechos en el Constitucionalismo Democrático* (Universidad Libre 2019); Raúl Llasag Fernández, 'Derechos de la naturaleza: una mirada desde la filosofía indígena y la Constitución' in Carlos Espinosa Gallegos-Anda and Camilo Pérez Fernández (eds), *Los Derechos de la Naturaleza y la Naturaleza de sus Derechos* (Ministerio de Justicia, Derechos Humanos y Cultos 2011) S. 57–92; Adriana Rodríguez Caguana and Viviana Morales Naranjo, *Los Derechos de la Naturaleza Desde una Perspectiva Intercultural en las Altas Cortes de Ecuador, la India y Colombia. Hacia la Búsqueda de una Justicia Ecocéntrica* (Universidad Andina Simón Bolívar-Huaponi Ediciones 2022); Rommel Lara, Jenny García Ruales, and Alex Valle Franco, *Derechos de la Naturaleza y Territorio en Ecuador. Diálogos desde los Saberes y Quehaceres Jurídicos Antropológicos. Abya Yala: Quito* (forthcoming); Louis J Kotzé and Paola Villavicencio Calzadilla, 'Somewhere between Rhetoric and Reality: Environmental Constitutionalism and the Rights of Nature in Ecuador' (2017) 6 Transnational Environmental Law 401.

37 Law 071 of the Rights of Mother Earth of 2010 (Ley 071 de Derechos de la Madre Tierra).

38 Te Awua Tupua (Whanganui River Claims Settlement) Act 2017.

39 Writ Petition № 13989, Upheld by the appellate division of the Supreme Court of Bangladesh 2020.

40 Acción de tutela interpuesta por el Centro de Estudios para la Justicia Social 'Tierra Digna', Expediente T-5.016.242, T-622 de 2016.

41 Radicación n.° 17001-22-13-000-2017-00468-02, AHC4806-2017.

42 See Toledo Municipal Code, Chapter XVII Lake Erie Bill of Rights (American Legal Publishing) <https://codelibrary.amlegal.com/codes/toledo/latest/toledo_oh/0-0-0-158818> accessed 31 March 2023.

43 Isabella Kaminski, 'Streams and Lakes Have Rights, a US County Decided. Now They're Suing Florida' *The Guardian* (1 May 2021) <www.theguardian.com/environment/2021/may/01/florida-rights-of-nature-lawsuit-waterways-housing-development> accessed 31 March 2023.

two important elements.[44] As to the alleged vagueness of the rights of Nature clause, which was claimed to be in violation of the Fourteenth Amendment right to due process, the judge held that the rights granted to the lake were merely 'aspirational' and lacked practical meaning.[45] In spite of its criticism, Judge Zouhary lauded the environmental goals of the Bill and held that 'with careful drafting', the citizens of Toledo could probably enact valid legislation to reduce water pollution.[46] More recently, in 2022, the aforementioned Orange County charter amendment was also rendered ineffective in a lawsuit, where it was invoked to halt a development project that would violate the wetlands' right to flow freely. This suit was dismissed in court because the charter was pre-empted by state law.[47] These recent legal challenges serve as a reminder of the potential clashes with existing anthropocentric legal templates that might arise when a more eco-centric understanding of environmental protection is translated into hard law.[48]

Why Europe?

The European continent is often depicted as the cradle of the notion of individual human rights, with its overwhelming focus on the human individual as a subject of rights. Through colonialism, this anthropocentric and liberal approach, which indirectly reduced Nature to a mere instrument and commodity, became a dominant worldview. The concept of rights of Nature that is emerging around the world highlights an interesting paradox. To some extent, rights of Nature seem to challenge the dominant Western anthropocentric worldview on its terms, relying upon western ontological and legal concepts, meanwhile endeavouring to expand these registers. On the one hand, it encapsulates a more holistic and interdependent understanding of Nature, which is based less on a dichotomic and dualistic approach to Nature as in 'Western' thinking. On the other hand, it relies on the concept of 'Nature' which has been used to distinguish the realms of Nature and human culture. The abstract concept of 'Nature' is furthermore a Western construct that finds no translation in several cultures and languages, as plural worldviews shape interpretations of cosmos and entities depending on epistemic

44 Drewes Farms P'ship v City of Toledo, Northern District of Ohio Western Division (27 February 2020), nr. 3:19 CV 434.

45 Drewes Farms P'ship v City of Toledo (n 44).

46 Ibid.

47 Information retrieved from <https://wusfnews.wusf.usf.edu/environment/2022-07-12/judge-strikes-down-rights-of-nature-charter-amendment> accessed 31 March 2023.

48 For more positive rulings, especially in the Ecuadorian context, see for instance the decisions of the Constitutional Court, concerning the cloud forest of Los Cedros (Sentencia No. 1149-19-JP/21, 10 November 2021), and Aquepi (Sentencia Nro 1185-20-JP, 15 December 2021) and Monjas (Sentencia 2167-21-EP/22, 19 January 2022) rivers.

enunciations, particularly among Indigenous Peoples.[49] As such, it has been argued that laws recognising rights for 'Nature' as a whole could (inadvertently) contribute to further entrenching the separation of humans from more-than-humans.[50] Additionally, the use of the liberal legal constructs of 'rights' and 'personhood' in these legal developments has been the subject of further criticism. For instance, it has been questioned whether the legal constructs of individual personhood and rights, which have been central to the creation and embedding of anthropocentric and capitalist-extractive juridical arrangements, can meaningfully be expected to dismantle them.[51] Bearing these important critical questions in mind, it is important nevertheless to acknowledge the diverse ways in which these rights and/or legal personhood arrangements have been constructed, where Indigenous-led and place-based models have offered greater space for transformative, pluralist legal and ontological frameworks.[52] When considering the arrival of the rights of Nature in Europe, therefore, we wonder how the European context, which remains steeped in anthropocentric and rationalist approaches, might influence the reception and development of the rights of Nature across the continent.

Despite the interest in European societies for Nature protection, sustainability, and environmental governance, the topic of the rights of Nature had—with the exception of a few early scholarly contributions, such as Klaus Bosselmann's *Eigene Rechte für die Natur? Ansätze einer ökologischen Rechtsauffassung* of 1986 and Jörg Leimbacher's *Die Rechte der Natur* of 1988[53]—garnered relatively limited attention until recent years. Within a short time frame, however, the topic has ignited interest among scholars, activists, politicians, and institutions, including the European Union. A Draft EU Directive on the rights of Nature was proposed by the organisation Nature's Rights and presented at a conference in the European Parliament

49 See Stephen Muecke, 'After Nature: Totemism Revisited' in Thom van Dooren and Matthew Churlev (eds), *Kin: Thinking with Deborah Bird Rose* (Cambridge University Press 2022), cited in O'Donnell and others (n 5) 3.

50 O'Donnell and others (n 5), 3.

51 Mihnea Tănăsescu, *Understanding the Rights of Nature: A Critical Introduction* (transcript 2022). Ariel Rawson and Becky Mansfield, 'Producing Juridical Knowledge: "Rights of Nature" or the Naturalization of Rights?' (2018) 1 Environment and Planning E: Nature and Space 99.

52 Mihnea Tănăsescu, 'Rights of Nature, Legal Personality, and Indigenous Philosophies' (2020) 9 Transnational Environmental Law 429; O'Donnell and others (n 49). See also the *Kawsak Sacha* (Living Forest) *Declaration* of declaring the territory as a 'living and conscious being, the subject of rights', by the Kichwa People of Sarayaku in the Ecuadorian Amazon (García Ruales and Viteri Gualinga, this volume).

53 Klaus Bosselmann, 'Eigene Rechte Für Die Natur? Ansätze Einer Ökologischen Rechtsauffassung' (1986) 19 Kritische Justiz 1. Jörg Leimbacher, *Die Rechte der Natur* (Helbing & Lichtenhahn 1988). See also Klaus Bosselmann, 'Der Mensch als Maß und die Rechte der Natur' in Peter E Stüben (ed), *Die neuen Wilden, Gießen* (Focus 1988) 132–155.

in 2017.[54] The organisation considered initiating a European Citizens Initiative (ECI) to advance the text but eventually dropped these plans due to the costs and perceived inadequacies of the ECI process. The interest of EU institutions in these legal developments has become apparent in recent years, with the European Economic and Social Committee and the European Parliament commissioning studies on the topic. This has resulted in two comprehensive reports, entitled 'Towards an EU Charter of the Fundamental Rights of Nature' (2020)[55] and 'Can Nature Get It Right? A Study on Rights of Nature in the European Union' (2021).[56] Furthermore, the engagement of Member of the European Parliament Marie Toussaint towards the rights of Nature, through statements at the European Parliament,[57] the organisation of a conference series,[58] and a public consultation in 2021,[59] has increased the visibility of rights of Nature developments in the EU policy space.

Furthermore, local authorities as well as nationally elected politicians have proposed initiatives for the rights of Nature.[60] For instance, the Municipality of Dongeradeel, the Netherlands, adopted a motion on rights for the Wadden Sea in 2018. The Town Council of Frome, United Kingdom, passed a byelaw for the Rights of the River Frome and Rodden Meadow in 2019, although this was not approved by the central authorities. In other countries, like France, Germany,[61] and Italy, among others, similar initiatives are being contemplated at the regional level. Initiatives to recognise the rights of Nature in national constitutions have been proposed by members of the Parliaments of

54 Nature's Rights, 'Draft EU Directive on Securing the Rights of Nature' <http://natures-rights.org/ECI-DraftDirective-Draft.pdf> accessed 31 March 2023.

55 Michele Carducci, Silvia Bagni, Massimiliano Montini, Mumta Ito, Vincenzo Lorubbio, Alessandra Barreca, Costanza Di Francesco Maesa, Elisabetta Musarò, Lindsey Spinks, and Paul Powlesland, 'Towards an EU Charter of the Fundamental Rights of Nature: Study' (European Economic and Social Committee 2020) <www.eesc.europa.eu/en/our-work/publications-other-work/publications/towards-eu-charter-fundamental-rights-nature> accessed 31 March 2023. See the contribution by Mumta Ito, Massimiliano Montini, and Silvia Bagni to this volume.

56 Jan Darpö, *Can Nature Get It Right? A Study on Rights of Nature in the European Context* (Brussel2021)<www.europarl.europa.eu/thinktank/en/document/IPOL_STU(2021)689328> accessed 31 March 2023.

57 For an overview, see Home | Marie TOUSSAINT | MEPs | European Parliamen2 <europa.eu>.

58 Webinar: «Recognizing rights of nature: a condition for survival»—CIPRA (e).

59 Purpoz. Recognising the rights of nature in Europe. We are living through the sixth extinction of species.

60 For an overview of European initiatives, see Alex Putzer, 'European Rights of Nature Initiatives' (2022) <https://alumnisssup-my.sharepoint.com/:x:/g/personal/alex_putzer_santannapisa_it/EcYzg1NTs05HkIRAcPlluq0BT3hYXZ7Sl7NWusdFkxN_og?rtime=q423uW-W20g>. See also Eco Jurisprudence Monitor (n 34).

61 Matthias Kramm (ed), *Rechte für Flüsse, Berge und Wälder. Eine neue Perspektive für den Naturschutz?* (Oekom Verlag 2023).

France (2018), Sweden (2019), and Switzerland (2021).[62] In Ireland, proposals for the constitutional recognition of the rights of Nature have been made by a Citizens Assembly on Biodiversity Loss (2022),[63] convened by the Irish government. Further proposals for constitutional recognition were submitted to the 'Seanad Public Consultation Committee on the Constitutional Future of the Island of Ireland' (2022).[64] Civil society work is ongoing in other parts of Europe. In 2021, the NGO GARN organised a People's Tribunal for European Aquatic Ecosystems, hearing cases from Sweden, Serbia, and France.[65]

However, few of these initiatives appear to have any realistic prospects of immediate success.[66] Indeed, most of the initiatives did not result in binding legislation or, in many instances, concerned aspirational local legislation with no concrete repercussions for the existing decision-making procedures regarding unsustainable project developments. Recent attempts to see the rights of Nature recognised through strategic litigation were also unsuccessful. For example, in 2019, the NGO Aardewerk for socio-ecological transition submitted a voluntary intervention petition to court proceedings concerning climate change in Belgium, on behalf of eighty-two protected trees, which led to the first judicial decision in the European Union on the rights of Nature. In its decision, the Court held that the trees could not be represented in court since existing laws did not explicitly grant Nature legal personality.[67] The Court did not address the extent to which the existing protection schemes attached to those trees implicitly amounted to the recognition of certain legal rights for Nature.

62 Laura Affolter and Siân Affolter, 'Rights of Nature in Switzerland: Sketching the Scene' in Ralf Michaels and Daniel Bonilla (eds), *Rights of Nature* (Ius Comparatum—Global Studies in Comparative Law, Intersentia forthcoming).

63 Following a submission to the Citizens Assembly on Biodiversity Loss, 'Towards a Living Island of Rights-bearing Communities' (September 2022), the Citizens Assembly included in its final report to the government a recommendation to hold a referendum on a constitutional amendment to recognise the rights of Nature. Submission: <https://ejni.net/wp-content/uploads/2022/09/EJNI-Submission-to-CA-Sept-2022.pdf>. Source: Eco Jurisprudence Monitor (n 34).

64 The submission argues that Ireland's constitutional future should be centred around the rights of Nature and a bioregional approach. See Declan Owens and Peter Doran, 'Towards a Second Republic: A Pluriversal Home for All', submission to the Seanad Public Consultation on the Constitutional Future of the Island of Ireland. See <www.oireachtas.ie/en/debates/debate/seanad_public_consultation_committee/2022-10-07/3/> accessed 31 March 2023.

65 International Rights of Nature Tribunal, 'European Tribunal in Defense of Aquatic Ecosystems' (2021) <www.rightsofnaturetribunal.org/tribunals/europe-tribunal-2021> accessed 31 March 2023.

66 Alex Putzer and Laura Burgers, 'European Rights of Nature Initiatives' (IACL-AIDC Blog, 22 February 2022) <https://blog-iacl-aidc.org/new-blog-3/2022/2/22/european-rights-of-nature-initiatives-6gxaj> accessed 31 March 2023.

67 Decision Brussels Court of First Instance, 17 June 2021.

In the meantime, though, the rights of Nature have attracted increasing attention in academic circles,[68] and academic conferences have been organised on the rights of Nature at several European universities.[69] One trajectory of research has been to evaluate the potential contribution that the rights of Nature and eco-centric approaches might make to EU law and particularly the area of EU environmental law. Assessing regulatory and deregulatory trends in EU environmental law, Massimiliano Montini argues that both of these trends have fallen short, constituting a 'double failure', and proposes instead an ecologically based approach to law, which would include the recognition of the rights of Nature.[70] Katarina Hovden and Mumta Ito suggest that the EU's environmental laws and policies are misaligned with ecological realities and unable to support the Union's own stated objectives of living well, within ecological limits by 2050.[71] Meanwhile, legal scholar and environmental lawyer Hendrik Schoukens has argued that elements of an eco-centric orientation can already be discerned in the laws and practices of the EU.[72] Moreover, Yaffa Epstein and Schoukens argue that, according to a Hohfeldian analysis of rights, Nature can already be considered to have some

68 See, for example, in Germany, the research projects of Prof. Dr. Andreas Fischer-Lescano <www.uni-kassel.de/fb01/institute/institut-fuer-sozialwesen/fachgebiete/just-transitions/forschungsprojekte> and the *ERCC - Environmental Rights in a Cultural Context* at the Max-Planck Institute for Social Anthropology, led by Prof. Dr. Dirk Hanschel <www.eth.mpg.de/ercc>.

69 See among others the conference 'Rights of Nature: Opening the Academic Debate in the European Legal Context' (Universities of Toulouse and Sweden, October 2019) and 'Private Rights for Nature' (University of Amsterdam, June 2020).

70 Massimiliano Montini, 'The Double Failure of Environmental Regulation and Deregulation and the Need for Ecological Law' (2017) 26 The Italian Yearbook of International Law Online 265.

71 Katarina Hovden, 'The Best Is Not Good Enough: Ecological (Il)Literacy and the Rights of Nature in the European Union' (2018) 15 Journal for European Environmental & Planning Law 281; Mumta Ito, 'Nature's Rights: Why the European Union Needs a Paradigm Shift in Law to Achieve Its 2050 Vision' in Cameron La Follette and Chris Maser (eds), *Sustainability and the Rights of Nature: In Practice* (CRC Press 2020). Ito argues that the failures of environmental law, including EU law, stem from a 'fundamental mismatch between a fragmented, mechanistic, reductionist, top-down, fixed, quantitative and outdated system of law—with the holistic, dynamic, multidimensional and unpredictable nature of complex adaptive systems such as Nature and human societies (which are a subsystem of Nature)'.

72 Hendrik Schoukens, 'Granting Legal Personhood to Nature in the European Union: Contemplating a Legal (R)Evolution to Avoid an Ecological Collapse? (Part 1)' (2018) 15 Journal for European Environmental & Planning Law 309; Hendrik Schoukens, 'Granting Legal Personhood to Nature in the European Union: Contemplating a Legal (R)Evolution to Avoid an Ecological Collapse? (Part II)' (2019) 16 Journal for European Environmental & Planning Law 65; Hendrik Schoukens, 'Rights of Nature as an Unlikely Saviour for the EU's Threatened Species and Habitats: A Critical Introduction to a Revolutionary Idea' in M Boeve and others (eds), *Environmental Law for Transitions to Sustainability* (Intersentia 2021).

rights under EU law. They claim that the existing protection schemes as well as the broad access to justice in environmental cases can be construed as an indirect recognition of legal rights for at least some protected species, such as grey wolves (*Canis lupus*) in the EU.[73] The possibilities for the rights of Nature in distinct national systems, for instance, in Germany[74] or in particular locations, such as the Baltic Sea,[75] as well as questions of representation, have also received scholarly attention.[76]

Taking a more critical stance towards the added value of the rights of Nature in EU law, Julien Bétaille argues that modern environmental law is less anthropocentric than it used to be, among others protecting the intrinsic value of nature, and that the rights of Nature would encounter the same problems of enforcement as those faced by environmental law.[77] Based on an analysis of the implementation of the rights of Nature, Ludwig Krämer observes that the main lesson for Europe would be to improve access to courts in environmental matters so as to be able to challenge the inadequate implementation of EU environmental regulation.[78] The rights of Nature do not yet, Krämer contends, show evidence of overcoming 'administrative inertia, passivity or open collusion with polluters', which also block the full application of environmental law.[79] This view was, broadly speaking, also shared in the more extensive study 'Can Nature Get It Right?' commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the Juri Committee and written by Jan Darpö.[80] He concludes that the idea of granting natural entities 'legal personhood', or legal rights, when compared to the existing EU model for protecting environmental interests through representation by environmental NGOs, would not entail a systemic advantage from a European perspective.[81] Darpö opines

73 Yaffa Epstein and Hendrik Schoukens, 'A Positivist Approach to Rights of Nature in the European Union' (2021) 12 Journal for European Environmental & Planning Law 23.

74 Laura Schimmöller, 'Paving the Way for Rights of Nature in Germany: Lessons Learnt from Legal Reform in New Zealand and Ecuador' (2020) Transnational Environmental Law 1; María José Narváez Álvarez, 'Naturaleza, ecosistemas y acceso de justicia: Estudio del caso Bosque de Hambach, Alemania' (2021) 54(3) VRÜ: Verfassung und Recht in Übersee 352–375.

75 Michelle Bender, 'Ocean Rights: The Baltic Sea and World Ocean Health' in Cameron La Follette and Chris Maser (eds), *Sustainability and the Rights of Nature: In Practice* (CRC Press 2020).

76 Andreas Fischer-Lescano, 'Nature as a Legal Person: Proxy Constellations in Law' (2020) 32 Law & Literature 237.

77 Julien Bétaille, 'Rights of Nature: Why It Might Not Save the Entire World' (2019) 16 Journal for European Environmental & Planning Law 35.

78 Ludwig Krämer, 'Rights of Nature and Their Implementation' (2020) 17 Journal for European Environmental & Planning Law 47, 75.

79 Krämer (n 78).

80 Darpö (n 56).

81 Ibid.

that the few manifestations of the rights of Nature in other jurisdictions do not appear to give rise to a paradigmatic shift in environmental regulation, especially since weak enforcement apparently still constitutes a fundamental obstacle.[82] Even so, Darpö conceded that including a provision in the constitutional EU legal order which protects the integrity of ecosystems is to be advocated.[83] These sceptical authors did not consider, however, whether a tightened enforcement of the existing protection schemes, for instance, in the context of EU-protected sites (Natura 2000) and species, would not amount to an implicit reassertion of the legal rights of certain ecosystems in Europe.

In the meantime, the academic debate has been caught up by hard law. In 2022, the first binding legislation in Europe was adopted regarding the rights of Nature. Rather than go to court on the basis of existing environmental laws, Spanish citizens submitted a *Iniciativa Legislativa Popular* 'popular legislative initiative' (PLI) in 2020 in order to protect a severely polluted coastal saltwater lagoon, Mar Menor. The PLI sought recognition of the rights of the Mar Menor lagoon to exist as an ecosystem and to be protected and preserved by the government and residents. The law affording the lagoon its own legal rights was approved by the Spanish Congress in September 2022, making it the first European ecosystem to be protected in this way.[84] The lagoon and the nearby Mediterranean coastline, which are also included in the network of protected species in the EU (Natura 2000), can now be explicitly represented by a group of 'guardians', made up of local officials, local citizens, and scientists who work in the area.[85] That being said, it can be noted that the right-wing political party Vox has sought to challenge the law before the Spanish constitutional court.[86]

Why rights of Nature matter

As indicated previously, the rights of Nature are related to several interrelated concepts, mostly known from the field of environmental philosophy and ethics, namely, anthropocentrism, ecocentrism, and intermediate positions. Anthropocentrism supports the idea that the environment exists primarily for use by humans and 'environmental justice' refers to the distribution of

82 Ibid.

83 Ibid.

84 Ley 19/2022, de 30 de septiembre, para el reconocimiento de personalidad jurídica a la laguna del Mar Menor y su cuenca, hereinafter: 'Mar Menor Law'.

85 Mar Menor Law, Article 3. See the contribution by Teresa Vicente Giménez and Eduardo Salazar Ortuño to this volume.

86 David Gómez, 'Vox lleva al Tribunal Constitucional la ley de personalidad jurídica del Mar Menor' (La Verdad, 10 January 2023) <www.laverdad.es/murcia/lleva-tribunal-constitucional-20230110124310-nt.html> accessed 30 August 2023. Referenced in Yaffa Epstein and others, 'Science and the Legal Rights of Nature' (2023) 380 Science eadf4155, 1–8, 7.

environmental risks and benefits among human groups. Ecocentrism supports the idea that ecosystems or habitats and species have intrinsic value, and taken further, are entitled to 'ecological justice',[87] 'multi-species justice',[88] and inherent rights. In this context, a related subject of biological conservation, in particular, ecosystem restoration—as opposed to the more instrumental ways of viewing 'natural resources' and 'ecosystem services', articulated in the UN's sustainable development goals[89]—is prominent in the idea of Nature rights. However, these rights are not unambiguous.

Whilst these kinds of approaches can be challenging to implement (especially in a transboundary context), they provide a legal framework to protect the rights of various elements of Nature, for instance, rivers.[90] More informally, animal ethics perspectives (e.g. animal rights, animal welfare, critical animal studies, etc.) can overlap with eco-centric perspectives (focused on ecosystems or species but which do not necessarily recognise individual rights or the equal value of all species, with special contentions arising in regard to domestic vs wild animals, or invasive species). Another tension is between those defending Indigenous rights and social justice at all costs and those that seek to protect biodiversity, as supported by biological conservation writer John Piccolo and his interdisciplinary colleagues.[91] While some biodiversity and social justice–related initiatives (also in the triple bottom line, sustainable development, and ESG discourses) see social and ecological objectives congruent, tensions and trade-offs might be prevalent, as described by the late environmental activist and writer Haydn Washington.[92]

Despite these inherent tensions and challenges, if Nature is seen as having no rights or moral standing, then it will continue to be peripheral, and

87 Brian Baxter, *A Theory of Ecological Justice*, vol 8 (Routledge 2004).

88 See Chao, Bolender, and Kirksey (n 3).

89 Helen Kopnina, 'Education for the Future? Critical Evaluation of Education for Sustainable Development Goals' (2020) 51(4) The Journal of Environmental Education 280–291.

90 Strang (n 31).

91 John J Piccolo, Haydn Washington, Helen Kopnina, and Bron Taylor 'Why Conservation Biologists Should Re-embrace Their Ecocentric Roots' (2018) 32 Conserv Biol 959–961 <https://doi.org/10.1111/cobi.13067>; John J Piccolo, Bron Taylor, Haydn Washington, Helen Kopnina, Joe Gray, Heather Alberro, and Ewa Orlikowska, ' "Nature's Contributions to People" and Peoples' Moral Obligations to Nature' (2022) 270 Biological Conservation 109572.

92 Haydn Washington, 'Ecosystem Services—a Key Step Forward *or* Anthropocentrism's "Trojan Horse" in Conservation?' in H Kopnina and H Washington (eds) *Conservation: Integrating Social and Ecological Justice* (Springer 2020); Haydn Washington, Bron Taylor, Helen Kopnina, Paul Cryer, and John Piccolo 'Why Ecocentrism Is the Key Pathway to Sustainability' (2017) 1 The Ecological Citizen 35–41; H Washington, G Chapron, H Kopnina, P Curry, J Gray, and J Piccolo, 'Foregrounding Ecojustice in Conservation' (2018) 228 Biological Conservation 367–374; H Washington, J Piccolo, E Gomez-Baggethun, H Kopnina, and H Alberro, 'The Trouble with Anthropocentric Hubris, with Examples from Conservation' (2021) 1(4) Conservation 285–298.

to lose out in any decision-making. Ultimately, the colonisation of nature also has negative consequences for social justice. While the inherent value of Nature has been sidelined in many social spaces for hundreds of years, this is not a universal phenomenon. For many Indigenous groups or people, for instance, Nature is seen as kin and is granted respect, where people have an *obligation* to protect it. Today, the 'Harmony with Nature' approach of the United Nations, an alternative to anthropocentrism, provides a chance to find a middle ground where social justice, but *also* ecojustice, operates. However, we also need to note that at times, there is a tension between those defending Indigenous rights at all costs and those that seek to protect biodiversity, as in present-day societies, not all 'local' and Indigenous actions lead to environmental protection. Although in the majority of cases, Indigenous populations live in more sustainable ways that safeguard their territories, some Indigenous leaders have welcomed mining or oil firms onto their lands, when, for example, governmental/national policies do not reach specific territories and the needs of the people are left aside.[93] This should not detract from an understanding of the irreversible and wide-scale impacts generated by Western-based and colonial, industrialist, capitalist societies upon peoples and ecosystems, which is further highlighted in the widely-known reports of the Intergovernmental Panel on Climate Change. Recent studies have moreover shown that almost half of the world's land mass is occupied, owned, or managed by Indigenous Peoples and local communities and that most of these areas are considered ecologically sound and rich in biodiversity. Whilst Indigenous Peoples make up around 6% of the global population, they safeguard 80% of the biodiversity left in the world.[94]

The editors to this volume agree that a shift to the rights of Nature is inevitable in times characterised by climate change and massive biodiversity loss. Firstly, because explicitly or indirectly accepting that Nature 'has' rights

93 Ter Ellingson, *The Myth of the Noble Savage* (University of California Press 2001). George Wuerthner, 'Yellowstone as Model for the World' in *Protecting the Wild: Parks and Wilderness, the Foundation for Conservation* (Island Press 2015) 131–143. See also references on Native American hunting of buffalo, which in some cases was outstripping replacement rates even before Euro-American settlers alighted on their slaughter for hides and meat. Pekka Hämäläinin, 'The First Phase of Destruction: Killing the Southern Plains Buffalo, 1790-1840' (1 April 2001) 21(2) Great Plains Quarterly 101–114. In the context of African conservation, the assumptions of local or Indigenous stewardship or the ideological critique by critical social scientists of militarised conservation has led to a skewed view of conservation, underplaying widely distributed capability for overhunting and biodiversity loss, for example, Fergus O'Leary Simpson and Lorenzo Pellegrini, 'Agency and Structure in Militarized Conservation and Armed Mobilization: Evidence from Eastern DRC's Kahuzi-Biega National Park' Development and Change (2023) <https://onlinelibrary.wiley.com/doi/full/10.1111/dech.12764>.

94 Stephen T Garnett and others, 'A Spatial Overview of the Global Importance of Indigenous Lands for Conservation' (2018) 1 Nature Sustainability 369.

highlights *why* we do conservation—as our more-than-human kin have a right to exist for themselves, which has historically been the main driving force behind eco-centric conservation. Even more so, many of the human duties vis-à-vis protected Nature also implicitly seem to presuppose some intrinsic legal rights on behalf of nature. Secondly, it asserts up front that justice must *also* apply to the more-than-human world, something social justice-oriented or decolonial conservation approaches do not always consider. Rather, these approaches assume that by addressing social justice concerns environmental protection will follow and that ecological justice and social justice must be entwined. While we support human rights and justice between groups of people, we maintain that justice cannot be limited to humanity, that it must cover all of the living world. That means it must include the more-than-human world, our *living kin*. Fundamentally, social justice should be advocated together with ecojustice. If it is not, then extinction and ecosystem breakdown will accelerate.

Encounters with and visions of the rights of Nature in Europe

Diverse expressions of the rights of Nature arise from distinct histories, ways of conceiving and dwelling the world, norms, and institutions.[95] With this in mind, the edited volume does not presuppose or search for a uniform approach to the rights of Nature in Europe. On the contrary, it aims to discern how the rights of Nature are being articulated and developed across Europe in their diversity. The 'European' lens adopted for the book goes beyond the concrete materialisation of these concepts within EU law. Even while much of the legal analysis will take stock of the recent jurisprudential and legislative evolutions that have emerged within the EU, justified in part by the role of the EU as initiator of the environmental laws that have emerged in many national states, the EU will neither limit nor dominate the main narrative of the book. Instead, it is understood that the European juridical landscape is a multi-faceted landscape, within which EU laws interact with local, regional, national, and international legal developments and arrangements. Expanding beyond the strictly legal, the emerging discourse and practice on the rights of Nature evokes reflection and enquiry within numerous disciplines and social institutions, many of which are embedded in anthropocentric understandings.

Rather than being a quick fix, the recognition of the rights of more-than-human Nature gives rise to complex questions of operationalisation within law and governance and calls for a paradigm shift in the human-nature relationship. Several chapters in the book anticipate the challenges inherent in

95 Pelizzon (n 3).

this task and discuss the limitations of these rights. Moreover, while some chapters call for an overhaul of the existing legal-political order, others discern the existence or potential for the rights of Nature in Europe's existing societal structures by considering cracks in the dominant narratives towards a more eco-centric understanding of the human-nature relationship.

For these reasons, we argue that the arrival of the rights of Nature in Europe gives rise to different kinds of *encounters* between distinct conceptions of the rights of Nature and different areas of law, forms of knowledge, practices, and social domains. Whilst several contributions take their departure in law, many chapters intersect the legal with other disciplines and forms of knowledge. Moreover, some are written from activist, practitioner, and community perspectives. In so doing, the contributions to the book demonstrate diverse encounters between the 'rights of Nature' and distinct areas of law and policy, anthropology, Indigenous approaches, philosophy, spiritual traditions, critical theory, animal communication systems, psychology, and social work. Emerging from these encounters are different visions of the possible manifestations and implications of the rights of Nature in Europe. This is an exercise to immerse ourselves in different fields addressing these rights through the various methods and approaches that the contributors apply in each field site. We believe it is an exercise that immerses us in alternative ways of approaching the law and navigating meaningful dialogues on how to approach and enrich the way we think and theorise about the law.

Overview of the chapters

Part I Landing and grounding

The contributions of this first part provide the foundation and groundwork for conceiving expressions of diverse forms of rights of Nature in Europe. Landing signifies the arrival of the rights of Nature in Europe. This is why we decided to open our volume by journeying from Ecuador, particularly the Amazon, to Europe. After landing in Europe and delving deeper into European philosophies and spiritual traditions, the authors provide concrete examples of existing rights of Nature. They begin with a general sense of the concept of these rights and then delve into specific cases, forms, and conditions that illustrate the emergence and articulation of these rights, such as ecodemocracy and the first codified recognition in Europe with Mar Menor.

Jenny García Ruales and Yaku Viteri Gualinga's chapter entitled '**A well-braided (knowledge) braid: Lessons learned from the *Kawsak Sacha* and the forest beings to Europe**' explores conceiving rights of Nature in Europe. It takes the form of an interview, reflecting on lessons learned from Ecuador and translating them interculturally. The interview moves between the Amazon and Europe, with insights from Yaku Viteri Gualinga, a Kichwa member of Sarayaku. Topics include *Pacha Mama* in Europe, the first tribunal of aquatic

ecosystems, and the juridical sentence of the cloud forest of Los Cedros. The chapter also connects to the Sami and cases in Germany. In conclusion, it highlights rights of Nature as an ongoing learning process in Ecuador. The knowledge and struggles must intertwine in a 'well braided braid', exchanging strategies for multi-species justice and protecting life itself.

In '**Caring for nature: Exploring the concepts of stewardship in European philosophies, spiritual traditions, and laws**', a collective contribution of scholars, including Jérémie Gilbert, Camilla Brattland, Sophie de Maat, Matthias Kramm, and Alessandro Pelizzon, explores the concept of stewardship in European philosophy. They trace its origins from Christian contexts like *Laudato si* to pagan and non-Christian traditions. The chapter, enriched by a Sami author, delves into Sami concepts like *soabalašvuohta*, *javrednikšun*, and *vuotnadikšun*, leading to a deeper understanding of stewardship and reciprocity. Examining the Mar Menor, the embassy of the North Sea, and rivers in France, the chapter highlights how actors care for Nature. The main takeaway is that stewardship becomes more graspable by focusing on specific cases and local initiatives. A decentralised approach with clearly defined rights, duties, and enforceability proves more effective than as recognised in EU legislation.

In '**Ecodemocracy in the wild: If existing democracies were to operationalise ecocentrism and animal ethics in policymaking, what would rewilding look like?**' Helen Kopnina, Simon Leadbeater, Paul Cryer, Anja Heister, and Tamara Lewis present a democratic approach to considering the interests of entities and the correlation of rights of Nature within it. According to the authors, '(e)codemocracy's overarching potential is to establish the baseline principles that dethrone single-species domination and elevate multiple living beings as stakeholders in all decision-making'. They provide insights on how ecodemocracy could become manifest and what it takes to achieve multi-species justice. A unique contribution in this chapter is the notion of ecodemocracy in rewilding, exemplified by the controversial Dutch rewilding experiment in Oostvaardersplassen. The authors discuss the complexities of decision-making in the interest of different species and the challenges that arise when implementing such policies.

Teresa Vicente Giménez and Eduardo Salazar Ortuño's chapter titled '**An ecological citizenship's triumph: From the popular legislative initiative to the rights granted for the Mar Menor**' provides first-hand accounts of collective action using the 'popular legislative initiative' (Article 87.3 of the Spanish Constitution) to engage citizens in political participation amidst a pandemic and an endangered ecosystem. The chapter goes beyond anthropocentric approaches and discusses rights of Nature, drawing from Teresa Vicente Giménez's earlier work, 'Justice and Environmental Law: For a model of ecological justice' (1992). Additionally, the authors provide an English translation of law 19/2000, acknowledging the legal personhood of the Mar Menor and its basin. This law regulates personhood, specific characteristics, the Mar

Menor's definition, granted rights, and the representative bodies and management of its ecosystem, with rotation from various economic, social, and environmental defence sectors.

Part II Attuning to European legal landscapes

With some roots firmly embedded in European soil and conditions, the contributions in the second part of the volume attune to the multi-faceted legal landscapes of Europe to discover the possibilities for, as well as the presence of, rights of Nature. By engaging with existing legal arrangements, institutions, and practices, the contributions touch upon the question what the European legal and cultural context means for the conceptualisation of the rights of Nature in Europe.

After analysing extractivism as a product of human exceptionalism, a practice that relies upon the legal subordination of Nature as an object and resource to be appropriated and extracted, in '**From extractivism to the Rights of Nature**', Rana Göksu and Katarina Hovden examine whether the rights of Nature might be a means to overcome extractivism and related exceptionalist logics. With examples from Bolivia and Ecuador, they argue that whilst the rights of Nature have been invoked to prevent extractive operations, the discourse still struggles against extractivist practices. Turning to a proposal by the European Commission to expand mineral mining on European soil, the authors wonder about the possibilities for the rights of Nature in Europe. Regarding two legal proposals for the rights of Nature at EU level, the authors take the position that while these proposals do seek to subvert the legal conditions that facilitate extractive operations, the success of any such legal endeavours is contingent upon many factors, not least how the rights of Nature are constructed, implemented, and enforced in particular cases.

In '**Rights of Nature in EU Law: A linguistic approach**', Colin D. Robertson undertakes a corpus linguistic analysis of EU legislative texts—the Treaty on European Union, the Treaty on the Functioning of the European Union, and EU secondary law—by searching for the frequency and location of different terms associated with 'Nature' and 'rights' in these legal instruments, relying upon the EUR-Lex database. The terms included in the study are animal, bird, ecosystem, environment, fish, insect, lake, landscape, mountain, nature, ocean, person, plant, right (rights), right(s) of Nature, river, and seed. The results reveal an EU legal corpus that views what Robertson refers to as Nature beings and entities in predominantly, but not exclusively, economic terms, whereas rights are limited to human beings. Whilst there was no explicit legal promulgation of the rights of Nature, Robertson suggests that the possibility for indirect recognition of such rights cannot be excluded. This entails extending the linguistic analysis to the case law of the EU Court of Justice.

In '**Do wolves own property in the EU? On John Locke, the EU Habitats Directive and animal property rights**', Hendrik Schoukens analyses the leeway for the operationalisation of animal property rights within the European Union. After having outlined the theoretical underpinnings of the concept of human property, this chapter assesses the possible interplay between the concept of animal property rights and recent manifestations of rights of Nature. Through a detailed analysis of the case law of the Court of Justice of the EU, this chapter claims that a recalibration of the existing human duties towards strictly protected species, such as grey wolves, provides a more promising new pathway for the recognition of property rights of wild animals in the EU. In fact, it is established that new litigation strategies might focus on pushing courts to acknowledge the property rights of strictly protected species that lie dormant in the existing legislation, which would have a significant normative value for the further development of EU environmental law and governance.

In '**Animal rights under the European Convention on Human Rights**', Elien Verniers tackles the intersectionality between humans and animals. Based on the 'One Welfare' discourse, which has emerged in the past years, she analyses whether there is room for a so-called 'One Right' approach to address legal rights for (nonhuman) animals in Europe. The chapter assesses to what extent it is possible to argue that animals possess certain legal rights under Article 8 of the European Convention on Human Rights. Elien argues that, whereas recent progressive jurisprudence underscored the large scope of the latter provision in the context of environmental protection and also, in particular, animal welfare, one cannot claim that Article 8 grants certain legal rights to animals in Europe given the prevailing anthropocentric rationale that still applies in this regard. Even though, Elien claims that in the coming years the anthropocentric rationale does not stand in the way of the gradual recognition of certain proto-animal rights either.

In '**Finding a path to Europe for the Rights of Nature**', Elena Ewering, Andreas Gutmann, and Tore Vetter approach the recent arrival of rights of Nature in Europe through the lens of human rights law. In their chapter, they conclude that both within the framework of EU law and the European Convention on Human Rights, a range of both procedural and substantive hurdles exists which might hinder the operationalisation of rights of Nature in Europe. That said, the authors still seem to see room for progression in the gradual recognition of procedural environmental rights, which do grant environmental organisations the right to, albeit indirectly, represent Nature in court. They underscore the importance of the Aarhus Convention in this regard. Even though the authors conclude that traditional approaches to standing, as is the case with the so-called Plaumann doctrine before the Court of Justice of the EU, might stand in the way of the future manifestation of rights of Nature at the European level, they ultimately advocate for a more explicit recognition of the legal rights of Nature in order to overcome this bottleneck.

Part III Encounters with the Rights of Nature

In the penultimate section of the volume, a first assessment of possible encounters with the rights of Nature in Europe are outlined. Assuming that the rights of Nature will become mainstream in Europe at some point in the near or distant future, this section presents a set of contributions that analyses how this novel legal approach might interact with our current understandings of the possibilities for communication with animals, as well as with existing and future conservation paradigms, such as the emerging concept of ecological or nature restoration and the management of invasive species.

In '**Wild animals speak: Implications for nature rights**', Kimberley J. Graham starts from the existing research regarding the sophisticated communication systems animals use. Animals communicate among themselves, with other species, and make group decisions, Graham argues. She explores how Nature rights may be inclusive of diverse animal languages and invite new more respectful multi-species relations. Acknowledging that animals speak and use language, Graham posits that this gives rise to practical implications in terms of how to understand the intricacy of their inner lives, respect their agency, and discern their wishes. Deep listening, animal-language learning, and community-specific observational practices offer pathways to be inclusive of animal views and voices within decision-making structures. Graham argues that rights of Nature might present a more diverse template to genuinely reflect the animal agency and the diversity of animal communication.

In '**Strangers in paradise: The challenge of invasive alien species to (the implementation of) Earth Jurisprudence in Europe**', Hendrik Schoukens and Eva Bernet Kempers focus on a potential future scenario, in which rights of Nature have been fully implemented in the EU legal order. However, the authors argue that some obstacles arise in such a context, in particular, when the interests of native wild species clash with those of invasive species. Schoukens and Bernet Kempers assess the extent to which Earth Jurisprudence provides adequate tools to address the delicate balancing act required when aligning the conservation of endangered species with the individual interests of invasive species. Taking the case of the grey squirrel (*sciurus carolimensis*) as a starting point, the moral and legal issues surrounding the eradication of invasive species are outlined from an Earth Jurisprudence perspective. The authors conclude that, as with human rights, a general application of a rights of Nature rationale should at least include a basic consideration for the welfare of every animal specimen present on the European territory, whether native or invasive. Fully-fledged eradication programmes are only justifiable when no other alternatives remain for the containment of invasive species.

In '**Ecological restoration and the rights of nature in the EU: Natural twins or a Pandora's box?**' Hendrik Schoukens and An Cliquet describe the recent emergence of ecological restoration as novel conservation paradigm. With the release of a proposal for an EU restoration law in 2022, the European

Commission underlined the pioneering role of the European Union in this regard. The authors analyse the precise alignment between ecological restoration and a rights-based approach to nature protection. Using the recently proposed EU restoration law as a benchmark, the authors hold that a rights-based approach to ecological restoration might engender some additional complexities yet ultimately presents itself as a logical lever for more comprehensive restoration efforts on the European continent.

In '**Rights of Nature from a historical-economic perspective and the opportunity for a fundamental reorientation of the societal relationship to nature**', Alessio Thomasberger and Lena Hennes develop a historical-economic perspective on implementing rights of Nature in Europe by looking at crucial (legal) developments that accompanied industrialisation. The chapter uses Polanyi's 'double movement' analysis as a tool to understand the creation of free markets of labour (human) and land (nature) in the context of their societal legal responses. Both authors contend that counter-movements against liberal legislation have not created similar protective mechanisms for nature as they have for humans. The authors argue that the recognition of nature in the legal system constitutes an essential element in countering the effects of economic drivers associated with the commodification and destruction of nature. Furthermore, the legal recognition of rights of Nature is an essential lever in fundamentally readjusting society's relationship with nature. The idea of 'living law' (Ehrlich) emphasises that change must emerge from within society. Rights of Nature challenge the authority of the state in relation to its positioning towards nature, and the authors claim that the case of the Hambacher Forest in Germany helps to illustrate how Kersten's notion of a constitutional ecological revolution could be initiated in this connection.

Part IV Visions for the Rights of Nature

In the final part of the volume, an eclectic set of contributions from different perspectives—academic, activist, lawyer, educator, social worker, and psychotherapist—and notably with several authors occupying a number of these perspectives, outline distinct 'Visions for the Rights of Nature'. Understood as a legal tool, paradigm, discourse, embodied reality, and relational practice, the contributions in this section consider the possibilities for the rights of Nature to confront and transform legal and cultural paradigms, societal institutions, worldviews, values, practices, relationships, and selves.

We begin this part with a contribution calling for the European Union to adopt a Charter for the Fundamental Rights of Nature. In the piece '**Towards an EU fundamental charter for the Rights of Nature: Integrating nature, people, economy**', Mumta Ito, Massimiliano Montini, and Silvia Bagni, who were among the authors of a study on the topic for the European Economic and Social Committee, elaborate on their main findings and recommendations and call for recognising the fundamental rights of Nature as part of a

more comprehensive and systemic shift towards what they call a 'wholistic' (whole system) and ecological reorientation of legal, political, and institutional arrangements. Entering into a dialogue with the European Parliament report, 'Can Nature Get It Right? A Study on Rights of Nature in the European Context' (2021), the authors respond to theoretical as well as practical arguments against the recognition of the rights of Nature. They propose that the EU Charter could be adopted as an inter-institutional non-legislative act as a means to begin to generate legal, political, and institutional effects towards a deeper cultural transformation.

In March 2023, the European Parliament voted to include ecocide in the revised Environmental Crimes Directive of EU. In their piece '**Ecocide law as a transformative legal leverage point**', Pella Thiel and Valérie Cabanes argue that the ecological crises can be characterised as a 'systemic ecocide' threatening the living conditions of humans as well as more-than-humans. After tracing debates on the crime of ecocide in international law from the 1970s, Thiel and Cabanes introduce the legal definition of ecocide proposed by an international Independent Expert Panel in 2021. Engaging with criticisms that have been levied against the legal definition, the authors argue that while ecocide law can be understood and implemented from both anthropocentric and eco-centric perspectives, it can be a means to dissolve the rift between these two perspectives by affirming the fundamental interdependence between, and intrinsic value of, both human and more-than-human Nature. As such, they argue, ecocide law can act as a 'transformational legal bridge', supporting the paradigm shift inherent in the rights of Nature approach and ensuring that 'the worst violations of the rights of Nature' are criminalised.

The final two chapters in the volume imagine how recognising the rights of Nature and embodying its worldview and principles can transform the fields and practices of (eco)psychology and (eco)social work. In '**Rights of Nature as an ecopsychological praxis**', Henrik Hallgren and Hans Landeström analyse the psychological aspects of rights of Nature. Drawing on a model by Per Espen Stoknes, the authors argue that the rights of Nature discourse as a 'communication strategy' incorporates features that can contribute to overcoming psychological barriers to environmental/climate action. Going further, the authors place the rights of Nature discourse into conversation with ecopsychology, arguing that a cross-fertilisation of the two movements can be generative and mutually supporting. They argue that ecopsychology can deepen the understanding of the rights of Nature as not merely a legal tool but as an integrative praxis (an 'ecopsychological praxis') that is seeking a 'transformation of relationships and of consciousness' by reconnecting psyche, nature, and society. Meanwhile, the rights of Nature can assist by articulating how 'an ecopsychological understanding of the world can be manifested in societal institutions'.

In their piece '**Eco-social work and the healing and transformative powers of Nature: Towards an eco-centric practice**', Anette Lytzen and Cathy