



FACULTY OF LAW
MASTER OF ARTS IN WOMEN CHILDREN AND
NATURE RIGHTS IN ENVIRONMENTAL GOVERNANCE
GEG 6105: NATURE'S RIGHTS IN ENVIRONMENTAL
GOVERNANCE

COURSE CONVENERS: Collins Odote, Elizabeth Rutsate,
Elvin Nyukuri, Chikosa Banda

LECTURE SCHEDULE: Thursdays, 6.00-9.00 p.m. (EAT); 5.00-8.00
p.m. CAT.

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Contact Hours: 45 hours

Purpose of the Course

The purpose of this course is to: evaluate the developments and discourses in the recognition of nature's rights in environmental governance; appraise the existing frameworks on nature rights at the local, national, regional and international levels; disrupt the conventional discourses on environmental rights vis-à-vis nature; and demonstrate the interconnectedness between nature's rights and transformative environmental governance.

Expected Learning Outcomes

By the end of this course, the learner should be able to:

1. Assess the 'nature rights paradigm' as a tool for facilitating transformative environmental governance.

2. Critique mainstream approaches to environmental rights and protection of nature.
3. Evaluate the existing philosophical, policy, legal and institutional foundations of nature's rights.

Mode of Delivery

Lectures; Tutorials; Case Method; Seminar discussions; Individual Student and Group Presentations; Problem based learning.

COURSE REQUIREMENTS

Class Attendance and Participation

- As per the University regulations, students must attend at least two thirds of the lectures appearing on the timetable to qualify to sit for the examination in the course.
- In addition to class attendance, you are expected to contribute to the class discussions. The mode of instruction is interactive, and you are expected to participate fully in the various class activities.
- To excel in the course, you need to complete all reading assignments.

ASSESSMENT

Type	Weighting (%)
Examination	60
Continuous Assessment	40
Total	100

Note that continuous assessment is a mandatory component of the course and failure to do it renders one ineligible to sit for the examination.

Written Assignments

The objective of written assignments is to develop your legal writing and research skills. It also develops your ability to apply concepts learnt to actual situations.

As per the University regulations, **PLAGIARISM** will not be tolerated and will result in an (E) grade.

COURSE POLICIES AND RULES

- You must attend the class on time.
- Class participation is mandatory.
- The course's E-class provides a great platform for discussion and sharing of course materials. Students are encouraged to make use of this platform.

Core Texts

Core reading materials

1. Boyd, D. R. (2017). *The Rights of Nature: A legal Revolution that Could Save the World*. ECW Press.
2. Sheber, K. (2020). Legal Rights for Nature: How the Idea of Recognizing Nature as a Legal Entity Can Spread and Make a Difference Globally. *Hastings Env't'l LJ*, 26, 147. Available at: https://repository.uchastings.edu/hastings_environmental_law_journal/vol26/iss1/8
3. Stone, C. D. (2010). *Should Trees Have Standing? Law, Morality, And The Environment*. Oxford University Press.
4. Christopher, Stone, "Should Trees Have Standing? Toward Legal Rights for Natural Objects" 45 *Southern California Law Review* (1972) 450-501

Recommended reference materials

1. Carolina Valladares, Rutgerd Boelens (2019), *Mining for Mother Earth: Governmentalities, Sacred Waters and Nature's Rights in Ecuador* *Geoforum*, Volume 100, P68-79
2. Elizabeth Macpherson (2021), *A Comparative Study of Emerging Legal Rights for Rivers and Lakes in The United States in The United of America and Mexico*, *Duke Environmental Law and Policy Forum* Vol 31, P327
3. Kaitlin Sheber (2020), *Legal Rights for Nature: How the Idea of Recognizing Nature as A Legal Entity Can Spread and Make a Difference Globally* *Hastings Environmental Law Journal* Vol. 26 (1)
4. Kauffman, C. M., & Martin, P. L. (2020). *Constructing Rights of Nature Norms in the US, Ecuador, and New Zealand* (Reprinted from *Global Environmental Politics*, Vol 18, Pg 43-62, 2018). *Global Environmental Politics*, 20.
5. Kersten, J. (2017). *Who Needs the Rights of Nature? RCC Perspectives*, (6), 9-14.
6. Nash, R. F. (1989). *The Rights of Nature: A History of Environmental Ethics*. Univ Of Wisconsin Press.
7. Ordóñez, M. F., Shannon, K., & d'Auria, V. (2022). *The Materialization of The Buen Vivir and The Rights of Nature: Rhetoric and Realities of Guayaquil Ecológico Urban Regeneration Project*. *City, Territory and Architecture*, 9(1), 1-17.
8. *Rights of Rivers: A Global Survey of the Rapidly Developing Rights of Nature Jurisprudence Pertaining to Rivers* (2020), <https://www.internationalrivers.org/resources/reports-and-publications/rights-of-river-report/>

COURSE STRUCTURE

1. The Concept of Rights as Applied to Nature-

- 1.1 Why Nature Rights?
- 1.2 Rights as Jurisprudential Concepts
- 1.3 Elements of Rights
- 1.4 Harmony with Nature
- 1.4 Defining Rights of Nature
- 1.5 Rights of Nature versus Rights to Nature

References

- 1. Ojwang, J.B., Laying A Basis for Rights, An Inaugural Lecture Delivered Before the University of Nairobi, 9th July 1992, University of Nairobi Press.
- 2. Hohfeld, N.W. "Some Fundamental Legal Conceptions as Applied in Judicial Reasoning" 26 Yale Law Journal 16-59 (1913-14).
- 3. Fraley, J. M. (2014). The Jurisprudence of Nature: The Importance of Defining What Is Natural. Catholic University Law Review, 63(4), 917-952.
- 4. Ezra, O. (2017). The Rights of Non-Humans: From Animals to Silent Nature. Law & Ethics of Human Rights, 11(2), 285-304.
- 5. Mihnea Tănăsescu, Understanding the Rights of Nature: A Critical Introduction, 2022 (169 Pages)

2. Historical Evolution of Nature Rights

- 2.1 Spiritual, Ideological and Moral Origins
- 2.2 Christopher Stone's Argumentation
- 2.3 Early Legal Recognition
- 2.4 Constitutionalizing Rights of Nature
- 2.5 Modern Recognition

References

1. Christopher Stone, "Should Trees Have Standing: Toward Legal Rights for Natural Objects" 45 Southern California Law Review (1972) 450-501
2. Roderick Nash, "From Natural Rights to The Rights of Nature" In R Nash, *The Rights of Nature: A History of Environmental Ethics*. Wisconsin Press, (1989), Chapter 1
3. Anna Grear , "Deconstructing Anthropos: A Critical Legal Reflection On 'Anthropocentric' Law and Anthropocene 'Humanity' ." - (2015) - *Law and Critique* 26 (3):225-249.
4. David Boyd, *The Rights of Nature: A Legal Revolution That Could Save The World*, ECW Press, (2017)
5. Susan Emmenegger & Axel Tschentscher, 'Taking Nature's Rights Seriously: The Long Way to Biocentrism in Environmental Law' (1994) 6(3) The Georgetown Int'l Env'tl. Law Review 545-742.
6. Mihnea Tanasescu, *Understanding The Rights Of Nature: A Critical Introduction*, (2022), Chapter 1 <https://library.open.org/bitstream/handle/20.500.12657/53088/1/9783839454312.pdf>.
7. Margaret Mckeown, The Trees Are Still Standing: The Backstory of *Sierra Club V. Morton*, (2019), Journal of Supreme Court History, 44(2), 189-214
8. Calzadilla P and Kotzé L, 'Living in Harmony with Nature? A Critical Appraisal of the Rights of Mother Earth in Bolivia' (2018) 7(3) Transnational Environmental Law 397–424.
9. Rebecca, Romano, "Can Nature Be Entitled to Constitutional Rights: A historical overview and the Innovative Approach of Bolivia and Ecuador." 2017/2018.
10. Maria Akchurin, "Constructing the Rights of Nature: Constitutional Reform, Mobilization, and Environmental Protection in Ecuador" Law & Social Inquiry, Vol. 40, No. 4 (Fall 2015), pp. 937-968.

3. Conceptual Underpinnings-

- 3.1 The Building Blocks for Nature Rights
- 3.2 Ethical considerations
- 3.3 Earth jurisprudence
- 3.4 Elements of the Rights of Nature

- 3.5 Legal personhood and standing
- 3.6 Enforcement of Rights of Nature
- 3.7 Duties Under Nature Rights

References

1. Davor Petric, Nature of the rights of nature, (2019)
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4133918
2. Cormac Cullinan, Earth Jurisprudence, in Lavanya Rajamani (ed.), Jacqueline Peel (ed.) The Oxford Handbook of International Environmental Law (2nd ed), (2021), Oxford University Press, 233-
3. Mumta Ito and Massimiliano Montini, “Nature’s Rights and Earth Jurisprudence: A New Ecologically Based Paradigm for Environmental Law in the Right to Nature,” in Elia Apostolopoulou and Jose Cortes-Vazquez, The Right to Nature Social Movements, Environmental Justice and Neoliberal Natures, (2018) Routledge, 13.

4. Nature Rights and Human Rights: Linkages and Distinctions

- 4.1 Anthropocentrism and Ecocentrism: Pros and Cons
- 4.2 The Human Rights to a Clean and Healthy Environment
- 4.3 Animal Rights
- 4.3 Making Peace with Nature
- 4.4 Options for Protecting Nature Rights and Human Rights
- 4.5 Interface Between Nature and Women and Children Rights

References

1. Sumudu Atapattu and Andrea Schapper, *Human Rights and the Environment: Key Issues* (2019), Routledge, 325-339
2. John Darpo, Can Nature get it right? A study on rights of nature in the European Context, (2021) European Union.
<http://www.europarl.europa.eu/supporting-analyses>
3. Louis Kotze and Paolo Calzadilla, Somewhere between and reality: Environmental constitutionalism and rights of nature in Equador, (2017), *Transnational Environmental Law* , 6(3), 401 - 433.
4. Redgwell C, ‘Life, the Universe and Everything: A Critique of Anthropocentric Rights’ in Alan Boyle and Michael Anderson (Eds), *Human Rights Approaches to Environmental Protection*, (1996), Oxford University Press 48.
5. Sumudu Atapattu, The Right to a Healthy Life or the Right to Die Polluted? The Emergence of a Human Right to a Healthy Environment under International Law, 16 TUL. ENVTL. L.J. 65 (2002).

6. Giorgetta, S. 2004. The Right to a Healthy Environment. In: SCHRIJVER, N. & WEISS, F. (eds.) International Law and Sustainable Development. Principle and Practice. Martinus Nijhoff Publishers.
7. Tom Sparks, Visa Kurki and Sakia Stucki, “Animal rights: interconnections with human rights and the environment (Editorial)”, Journal of Human Rights and the Environment, September 2020, Volume II, Issue 2, pp. 149-155 Download Link: [Editorial: Animal rights: interconnections with human rights and the environment in: Journal of Human Rights and the Environment Volume 11 Issue 2 \(2020\) \(elgaronline.com\)](#)
8. Shelton, Dinah, ‘Human Rights, Environmental Rights, and the Right to Environment’ (1991-1992) 28 Stanford Journal of International Law 103.
9. Saskia Stucki, (2023) One Rights: Human and Animal Rights in the Anthropocene, (Open Access), Springer [OneRights:HumanandAnimalRightsintheAnthropocene \(oopen.org\)](#)
10. Ellen Hey, The Universal Declaration of Human Rights in the Anthropocene, 112 AM. J. INT’L L. 350, 352 (2018) at: (18) (PDF) [The Universal Declaration of Human Rights in “The Anthropocene” \(researchgate.net\)](#)
11. Weston, Burns H and David Bollier, ‘Toward a Recalibrated Human Right to a Clean and Healthy Environment: Making the Conceptual Transition’ (2013) 4(2) Journal of Human Rights and the Environment 116.
12. The Ogoniland Case, The Social and Economic Rights Action Center and the Center for Economic and Social Rights v Nigeria, Communication No 155/96 (2002) (‘Ogoniland Decision’),
13. UN Committee on the Rights of the Child, General comment No. 26 on children's rights and the environment with a special focus on climate change, August 2023, available at: [CRC/C/GC/26: General comment No. 26 \(2023\) on children’s rights and the environment with a special focus on climate change | OHCHR](#)
14. Louise Chawla, “Childhood nature connection and constructive hope: A review of research on connecting with nature and coping with environmental loss,” People and Nature, September 2020, Volume 2, Issue 3, pp. 509-867 [Childhood nature connection and constructive hope: A review of research on connecting with nature and coping with environmental loss \(wiley.com\)](#)
15. International Rivers, Earth Law Centre and Cyrus R. Vance Centre for International Justice, (2023) Rights of Rivers: A Global Survey of the Rapidly Developing Rights of Nature Jurisprudence Pertaining to Rivers, at: [Right-of-Rivers-Report-V3-Digital-compressed.pdf \(internationalrivers.org\)](#)
16. Short Video Link: <https://www.bbc.com/reel/video/p080h12j/this-river-can-sue-you-in-a-court-of-law>.

5. African and Indigenous perspectives on nature rights

- 5.1 Rights of Nature- an ancient and emerging concept in Africa
- 5.2. The role of taboos and customary practices in protecting nature
- 5.3 Traditional worldview on the intersection of nature and family health

Reference

1. Munamoto Chemhuru and Dennis Masaka, “Taboos as sources of shona people’s environmental ethics, *Journal of Sustainable Development in Africa*,”12(7)
2. Chemhuru, M. (2019), *African environmental ethics: A critical reader*, Springer.
3. B Verschuuren et al (eds) (2010) *Sacred natural sites, conserving nature and culture*.
4. African Commission Resolution 372 on the protection of sacred natural sites and territories ACHPR/Res.372(LX)2017.

6. International Legal and Policy Frameworks

- 6.1 Universal Declaration for the Rights of Mother Earth (UDRME) / Universal Declaration of Rights of Rivers, and the Universal Declaration of Ocean Rights (UDOR)/ IUCN World Declaration on the Environmental Rule of Law Principle 2 on the Rights of Nature/ WECAN International, (2013) Women’s Climate Declaration (English version) at: [bf92a9_786e93bc9e124f82a15b2b4027373812.pdf](https://www.wecaninternational.org/wp-content/uploads/2013/07/bf92a9_786e93bc9e124f82a15b2b4027373812.pdf) (wecaninternational.org)
- 6.2 Law of the Rights of Mother Earth
- 6.3 Rights of Nature in the Convention on Biological Diversity/ Convention on International Trade in Endangered Species (CITES)/
- 6.4 International Rights of Nature Tribunal.
- 6.5 The World Charter for Nature
- 6.6 Stockholm Declaration
- 6.7 Agenda 21
- 6.8 Rio+ 20, The Future We Want Declaration
- 6.9 SDGs
- 6.10 UNGA Resolutions
- 6.11 Stockholm@50
- 6.12 UN Human Rights Council and UNGA Resolutions on Right to a Clean and Healthy Environment.

- 6.13 Climate Change Resolutions
- 6.14 Kunming-Montreal GBF
- 6.15 Future Prospects

References

1. Peter Burdon, Wild Law and The Project of Earth Democracy, in M Maloney and P Burdon (Eds), *Wild Law in Practice, Law, Justice and Ecology*, Routledge Press, 2014.
2. Organization of African Unity (OAU), African Charter on Human and Peoples' Rights ("Banjul Charter"), 27 June 1981
3. UN, *Transforming Our World: the 2030 Agenda for Sustainable Development A/RES/70/1*, <https://sdgs.un.org/2030agenda>.
4. Samantha Franks, The Trees Speak for Themselves: Nature's Rights Under International Law, 2021, Michigan Journal of International Law, Vol. 42 Issue 3, pp. 633-657
5. Gilbert, J., Macpherson, E., Jones, E., Dehm, J. (2023). The Rights of Nature as a Legal Response to the Global Environmental Crisis? A Critical Review of International Law's 'Greening' Agenda. In: Dam-de Jong, D., Amtenbrink, F. (eds) Netherlands Yearbook of International Law 2021. Netherlands Yearbook of International Law, vol 52. T.M.C. Asser Press, The Hague. The Rights of Nature as a Legal Response to the Global Environmental Crisis? A Critical Review of International Law's 'Greening' Agenda | SpringerLink
6. Craig M. Kauffman and Pamela L. Martin, "Can Rights of Nature Make Development More Sustainable? Why Some Ecuadorian Lawsuits Succeed and Others Fail", *World Development*, Vol. 92, 2016, pp. 130-142.
7. WECAN, Movement Rights and GARN, (2022) Rights of Nature: Redefining Global Climate Solutions and Environmental Protection for Systemic Change - *A White Paper prepared for the United Nations Framework Convention on Climate Change (UNFCCC) COP27, Sharm El Sheik, Egypt, November 2022* at: RON COP 27 White Paper (wecaninternational.org)
8. WECAN International, Movement Rights and Indigenous Environment Network, (2017) Rights of Nature and Mother Earth: Rights-based law for Systemic Change, at: bf92a9_3b5cf6bb3212404d923f8ab0012d7156.pdf (wecaninternational.org)
9. A. Boyle and D. Freestone (1999). Introduction. *International Law and Sustainable Development, Past Achievements and Future Challenges* (ed. Alan Boyle and David Freestone), Oxford University Press.

10. Case Law: *Conservation NW, et al. vs Commissioner of Public Lands case*. (Washington State Supreme Court) Case No. 991839 of 2022 at: [20220721_docket-99183-9_opinion.pdf](https://climatecasechart.com/cases/washington-state-supreme-court-conservation-nw-et-al-vs-commissioner-of-public-lands/) (climatecasechart.com)

7. National and Regional Legal and Policy Frameworks

7.1 African Union Instruments

7.2 EAC and SADC Frameworks

7.3 National Constitutions

7.4 National Laws

7.5 Key Jurisdictions to draw Lessons from: Ecuador; Bolivia; Brazil; New Zealand; India; Colombia.

7.6 Emerging Trends and Gaps

References

Books and Articles:

1. Bruce Baer Arnold, (2023) Signs of Invisibility: Non-recognition of Natural Environments as Persons in International and Domestic Law, *International Journal for the Semiotics of Law* (2023) 36 pp. 457–475, Springer (Open Access) [Signs of Invisibility: Nonrecognition of Natural Environments as Persons in International and Domestic Law | International Journal for the Semiotics of Law - Revue internationale de Sémiotique juridique \(springer.com\)](https://www.springer.com/journal/11081/issue/1/2023/10)
2. IUCN Environmental Law Programme, (2004) An Introduction to the African Convention on the Conservation of Nature and Natural Resources, IUCN Environmental Policy and Law Paper No. 56 at: [45Titel](https://www.iucn.org/our-work/our-publications/iucn-environmental-policy-and-law-papers) (iucn.org)
3. Mari Margil, (2022) Can nature have rights? That's no longer the question. *African Law Matters*, Public Law/International Law Blog, 11 October 2022, Link: [Can nature have rights? That's no longer the question. — African Law Matters](https://www.africanlawmatters.com/2022/10/11/can-nature-have-rights-that-s-no-longer-the-question/)

Constitutional, Statutory and Policy frameworks

Regional:

African Convention on the Conservation of Nature and Natural Resources at: [CONSERVATION OF NATURE.doc](https://www.africanunion.org/our-work/our-publications/african-convention-on-the-conservation-of-nature-and-natural-resources) (au.int) ; Maputo Protocol; African Charter on the Rights and Welfare of the African Child, Revised SADC Protocol on Gender and Development; SADC Revised Protocol on Shared Watercourses;

National

4. **Kenya:** Constitution; The Environment and Management Co-ordination Act 1999; The Climate Change Act 2016; The Energy Act 2019
 5. **Malawi:** Constitution; Environment Management Act No. 19 of 2017; National Gender Policy, 2015; National Environmental Policy.
 6. **Zimbabwe:** Constitution, Environmental Management Act, Environmental Policy, Water Act, National Water Policy, National Gender Policy
- 8. Emerging Jurisprudence on the Rights of Nature-**
- 8.1 The Role of Courts in Protecting Nature
 - 8.2 Jurisprudence on Legal Standing
 - 8.3 Presentation of Evidence in Court
 - 8.3 Cases from Africa
 - 8.4 Cases from Asia
 - 8.5 Cases from America and Europe
 - 8.6 Lessons from Latin America

References

1. Babcock, H. M. (2016). brook with legal rights: the rights of nature in court. *Ecology Law Quarterly*, 43(1), 1-52.
2. Paola Villavicencio Calzadilla, “A Paradigm Shift in Courts’ View: The Atrato River and Amazon Basin Cases in Colombia” *15/0 Law, Environment and Development Journal* (2019), p. 1-11,

9. Implications of Rights of Nature for Environmental Governance-

- 9.1 Rights of nature and sustainable development
- 9.2. Integration of the Rights of Nature in the principles and objectives of the SDGs.
- 9.3 United Nations Sustainable Development Initiatives
- 9.4 Rights of Nature and environmental rule of law
- 9.5 Procedural Issues in Nature’s Rights
- 9.6. Worldwide Rights of Nature and Related Activities

Reference

1. Mauricio Guim and Michael Livermore, Where Nature’s Rights go Wrong, (2021) *Virginia Law Review*, 107: 1347-1419/
2. Arnold Kreilhuber & Angela Kariuki, Environmental Rule of Law in the Context of Sustainable Development, 32 *The Georgetown Environmental Law Review*, (591-598(2020)
3. Brigit Peters, “Unpacking the Diversity of Procedural Environmental Rights: The European Convention of Human Rights and the Aarhus Convention” 30(1) *Journal of Environmental Law* 1-28(2018).

4. UN General Assembly, Towards a Global Pact for the Environment, A/RES/72/277 (2018).
5. C. Kaufmann and P. Martin, The Politics of Rights of Nature Strategies for Building a More Sustainable Future, (MIT, 2021).
6. International Centre of Comparative Environmental Law, International Covenant on the Human Right to the Environment, (2017).

10. Rights of Nature and Ecocide-

- 1.1 The Concept of Ecocide
- 1.2 Historical evolution of ecocide
- 1.3 International Recognition of Ecocide
- 1.4 Ecocide in Eastern and Southern Africa
- 1.5 Protecting Nature Through Ecocide

References

1. Jain, Aditi, and Charu Soni. "Ecocide: A New International Crime." *Jus Corpus Law Journal*, vol. 2, no. 2, December 2021 - February 2022, pp. 627-634.
2. Emamsou, OG, "Environmental Pollution in the Niger Delta of Nigeria: Human Rights Vis- a- Vis Ecocide Which Way Out?" *Ajayi Crowther University Law Journal* 1-21(2017)
3. Hotz, Dominik. "Ecocide as the Missing Fifth Crime under International Criminal Law?" *Zeitschrift für die gesamte Strafrechtswissenschaft*, vol. 133, no. 3, 2021, pp. 861-906. <https://doi.org/10.1515/zstw-2021-0032>.
4. Eleanor Sharpston, "From "Do Trees Have Rights?" to Wondering about Ecocide: Some Legal Reflections," *52 Environmental Policy and Law* 117-131(2022)
5. Bronwyn Law, *et al*, Timely and Necessary: Ecocide Law as Urgent and Necessary," *Journal of Jurisprudence* 431-452 (2015)