frontiers | Frontiers in Animal Science

TYPE Review
PUBLISHED 08 September 2023
DOI 10.3389/fanim.2023.1241318

OPEN ACCESS

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RECEIVED 16 June 2023
ACCEPTED 24 August 2023
PUBLISHED 08 September 2023

CITATION
Hall C (2023) Diffusing the legal conceptions of the global south and decolonizing international law: crystallizing animal rights through inter-judicial dialogue.
Front. Anim. Sci. 4:1241318.
doi: 10.3389/fanim.2023.1241318

Diffusing the legal conceptions of the global south and decolonizing international law: crystallizing animal rights through inter-judicial dialogue

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Global environmental law is characterized by Eurocentric cultural paradigms that perceive humanity as external and superior to Nature. This supremacy over Nature reflects a legacy of Western colonial domination. Accordingly, environmental regulations have been complicit in sustaining the paradigms that have given rise to the Anthropocene. It is against this backdrop that this article seeks to investigate how global environmental law could engage in transformative reform by embracing Southern epistemologies, particularly through the legal subjectivisation of Nature, i.e. by conceptualizing Nature as subjects of rights. Rooted in Indigenous worldviews, the emerging Rights of Nature movement provides a critical opportunity to re-envision global environmental law through historically colonized and marginalized forms of knowledge. In particular, this article explores the instrumentality of litigation to act as a catalyst for diffusing Southern conceptions in Eurocentric legal cultures to decolonize international law. This article specifically analyzes the animal rights dimension of the broader Rights of Nature paradigm. It argues that the recent wave of litigation awarding rights to animals - primarily in the Global South - reflects an evolving inter-judicial dialogue between domestic judges, whose interactions could potentially feed into a cosmopolitan global jurisprudence for animal rights in a bottom-up manner, which captures the plurality of ways of understanding and conceptualizing Nature.

KEYWORDS

animal rights, inter-judicial dialogue, decolonizing law, rights of nature, anthropocentrism

1 Introduction

Current patterns of globalized environmental regulation rely on Eurocentric cultural paradigms that assume the supremacy of humanity over Nature. This dominion over Nature represents a legacy of colonial domination, through which nations in the Global North have diffused and imposed their cultural paradigms across the globe. Environmental regulations are therefore instrumental – and subservient – to a globalized economic

rationale (i.e. capitalism). Accordingly, the law has been unable to prevent the human impacts that have forced Earth into a new geological epoch, termed the 'Anthropocene' (French and Kotzé, 2018). However, the Anthropocene discourse has been criticized by several scholars for implying that humanity as a whole is universally and evenly responsible for the ecological damage inflicted on the Earth (see Moore, 2017; Arons, 2023). Instead, they adopt a more critical analytical framework called the 'Capitalocene', which seeks to situate the planetary ecological crisis through the lens of colonialism and capitalism.

This ecological crisis is unparalleled in its severity, magnitude, and pace. It has been described as representing a 'crisis of human hierarchy' (Kotzé, 2019) that functions within an intra- and inter-species context. To date, global environmental law has been complicit in sustaining the underlying cultural paradigms that have given rise to this socio-ecological crisis. Legal scholars have observed that a key reason for the failure of international environmental law (IEL) is its resistance to embrace this notion of the 'Earth system' (Kotzé, 2020), which regards humanity and Nature as one dynamic, interconnected system. Instead, it has perpetuated the hierarchical structures that depict Nature as a lifeless and exploitable commodity that exists externally to humans (Burdon, 2013).

Latour's (Latour, 2018) criticism of the Global North's conception of Nature as limitless reservoirs of raw material underscores the need for a critical rethinking of global environmental law. Accordingly, this article explores how global environmental law can be transformed to recognize the finite capacity of the planetary system, specifically through embracing insights from Southern epistemologies. Central to this transformation is reconceptualizing Nature - for example, animals, rivers, trees, oceans and mountains – as the subject of rights. While this concept does not fit neatly into Eurocentric understandings of law, the world stands at a crossroads with what could be a legal revolution towards the Rights of Nature (RoN), also referred to as 'Earth jurisprudence'.

The RoN paradigm is grounded in Indigenous worldviews and spirituality that deviate from Western colonial perspectives and ideologies on Nature. While not necessarily framed through the language of 'rights' (which is a Western concept), many Indigenous cosmologies recognize components of Nature as living entities with intrinsic value that humans are innately intertwined with. Nevertheless, dominant Global North culture has conveyed that animals, rivers, oceans - and all others forms of Nature – represent agentless and external commodities that only exist for human consumption (Borras, 2016: p. 137). Accordingly, the legal subjectivisation of Nature offers a powerful tool to advance historically oppressed Southern ontologies and arguably decolonize international law, through an 'epistemological revolution' (De Sousa Santos, 2015).

Several jurisdictions in the Global South have taken unprecedented steps to recognize the RoN, which reflect the Indigenous cosmovision. In 2008, Ecuador explicitly recognized the right of Mother Earth in its national constitution (Republic of Ecuador, 2008). In 2016, the Constitutional Court of Colombia recognized the legal personality of the Atrato River (Atrato River Case, 2016). The following year, the High Court of Uttarakhand in India recognized glaciers, rivers, streams, rivulets, lakes, air, meadows, dales, jungles, forests, wetlands, grasslands, springs and waterfalls as legal persons (Lalit Miglani v State of Uttarakhand & Others, 2017). This judgment was shortly delivered after a previous decision of the High Court of Uttarakhand, conferring legal personhood to the rivers Ganga and Yamuna (Mohd. Salim v State of Uttarakhand, 2017)[1]. This provides a snapshot of the recent legal developments that offer an opportunity to reimagine global environmental law along more eco-conscious perspectives and Southern thought.

In a landmark ruling in 2022, the Ecuadorian Constitutional Court applied the RoN in a particularly novel manner. In the Estrellita Case (2022), the Court ruled that individual wild animals are the subject of legal rights, protected through the RoN. Accordingly, the ruling elevates animal rights to a constitutional level and paves the way for the protection of individual animals through a RoN lens. The Court therefore challenged the traditional idea that the RoN paradigm only encompasses ecosystems and species. Although courts in the Global South have increasingly embraced this trend towards animal rights in recent years – for example, in Argentina, India, Pakistan, Brazil and Ecuador - the *Estrellita case* is the first time that the rights of an individual animal have been recognized as within the scope of RoN protections.

While Global North jurisdictions have generally been reluctant to embrace animal rights protections, this recent wave of litigation could act as a catalyst for integrating Southern conceptions into Eurocentric legal cultures, as part of a broader strategy to decolonize international law through the RoN paradigm. Against this background, this article will seek to assess whether this emerging approach in the domestic courts of the Global South could represent the first ingredients towards a more comprehensive crystallization of animal rights and help subvert dominant Global North legal paradigms, which are deeply rooted in anthropocentric thinking. In contrast to more generalized analyses of animal rights litigation, this article critically engages with this emerging judicial trend from the perspective of the epistemologies of the South and thus, the decolonization of law.

More specifically, the article will investigate what role an 'inter-judicial' dialogue may play in the transplantation of this legal perspective from the Global South. Inter-judicial dialogue as a concept has been described as 'the practice of using the reasoning of other national or international courts' (Mac-Gregor, 2017: p. 89) and can emerge at different levels, i.e. between domestic courts, between international courts, and between domestic and international courts. Accordingly, this phenomenon of inter-

1 This decision was, however, subsequently reversed by India's Supreme Court. The Supreme Court determined that the grant of personhood was not practical, in light of the imposition of 'duties and liabilities' and the complexities that this would raise concerning who would be liable for damages in the event individuals chose to sue the rivers, for example in the case of flooding. In addition, the rivers' geography would also raise potentially problematic questions concerning what government should act as guardian, given that the rivers flow throughout several states.

judicial dialogue enables courts from different jurisdictions across the world to engage and interact with one another. It promotes a process of cross-fertilization and co-ordination that allows for courts to take inspiration from one another, thereby influencing and enriching their own judicial decisions (Tzanakopoulos, 2016). As the frontiers of domestic and international are increasingly blurred, the space for courts to engage in comparative interpretation and cross-jurisdictional cooperation becomes more available. However, inter-judicial dialogue is not a new phenomenon, with courts 'talking to one another all over the world' (Slaughter, 1994: p. 99). Matters that were once traditionally reserved to and regulated by the State now form part of the international legal order (Kuc, 2022). This has opened the door for enhanced interaction among the world's judiciaries and arguably, the ability to function as transnational partners: 'judges see one another not only as servants or even representatives of a particular government or polity, but as fellow professionals in a profession that transcends national borders' (Kersch, 2005: p. 347).

Just as inter-judicial dialogue 'emerged as an important force in the development of international human rights law' (Waters, 2010: p. 465), this article will explore the potential role of an inter-judicial dialogue to (1) present alternative ways of framing Earth system integrity in the courts, and (2) offer a bottom-up method of feeding a cosmopolitan jurisprudence into global law that allows for the accommodation of epistemic pluralism, i.e. the integration of Global South views into the dominant legal frameworks and conceptions of the Global North (see Twining, 2009; Berman, 2012; De Sousa Santos, 2015). Indeed, the animal rights discourse has not merely entered the courtrooms. Domestic courts appear to be engaging in a distinct and dynamic form of inter-judicial dialogue. While these judgments will not create a utopian legal paradigm for all human-animal relations, they may represent the first manifestations towards transformation by sparking necessary conversations on how to embed these judicial innovations into our wider social and legal systems.

The article proceeds in three parts. Section 2 explores the colonial origins of international law generally and the anthropocentric orientation of IEL, and how these origins manifest in international wildlife law. It examines the human-centered underpinnings of relevant multilateral environmental agreements, including the Convention on Biological Diversity, the Convention on the Conservation of Migratory Species of Wild Animals, and the Convention on International Trade in Endangered Species of Wild Flora and Fauna. Section 3 addresses the judicial trend towards animal rights that has taken root in recent years, predominantly in the Global South. It reviews this legal movement through a select number of landmark judgments in the domestic courts of Argentina, Pakistan, India, Brazil, and Ecuador. Section 4 considers the role of an emerging inter-judicial dialogue and discusses its potential to contribute to a cosmopolitan global jurisprudence in a bottom-up manner, that recognizes the plurality of ways of conceptualizing and relating to Nature. Nevertheless, it also canvasses some important challenges associated with the RoN in practice.

2 Global environmental law and governance: the human-nature dualism

2.1 The colonial roots of international law and anthropocentric nature of IEL

The Anthropocene exposes the disorder triggered by the ever-expanding pursuit of human development at the Earth's expense. Humanity has interfered with the Earth system to such an extent that planetary boundaries have been pushed to unprecedented and critical limits (Rockström et al., 2009). However, this is not simply humanity's dominion over Nature. The Anthropocene exemplifies a much more complex hierarchical crisis deeply embedded in Western cultural and economic colonialism, that functions within the 'anthropocentrism of law' (Grear, 2015: p. 4). Accordingly, some scholars have adopted a more critical conceptual framework of the Capitalocene rather than the Anthropocene (Moore, 2017; Arons, 2023), which emphasizes the profound connection between the planetary ecological crisis, global advanced capitalism, and a growing North-South divide.

The exploitation and destruction of the Earth's natural resources traces its origins to colonialism and imperialism, which was central to the rise of Western Europe. These colonial legacies and relentless patterns of over-consumption in the Global North have disproportionality led to, and continue to exacerbate, the ecological crisis. For centuries, the Global North has exploited the resources of the Global South for their own economic gain, with relative contempt for all suffering of the natural world. Indigenous peoples are often the victims of these extractive practices, whose lands are abundant in natural resources. The continuation of these neocolonial practices, and economic appropriation of the Global South, are legitimized and maintained through the dominant Global North conceptualization of Nature as a mere commodity (José Guzmán, 2019). However, this dualist conceptualization of Nature has long been criticized by Indigenous peoples, who share a deep spiritual and philosophical relationship with the natural world.

The Eurocentric origins of international law have arguably served as a 'legitimizing tool of colonialism and cultural imperialism in all its forms' (Gómez Isa, 2010: p. 168). International law is rooted in assumptions and worldviews that have disregarded and excluded 'uncivilized' populations. As Gómez Isa describes, the 'civilizing mission to save non-European peoples from ignorance and backwardness was one of the core aspirational principles of international law' (Gómez Isa, 2010: p. 173). Some scholars maintain that this civilizing mission of international law has served to 'govern' and 'transform' non-Europeans (Anghie, 2006: p. 739). Accordingly, international law emerged to validate the oppression and marginalization of the 'uncivilized': 'as the expansion of Europe proceeded, international law became simultaneously more universal and more exclusionary. It aspired to universal application but excluded primitive societies from its community' (Keal, 2003: p. 108). This principle is confirmed in the

continued imposition of Global North practices and values over the Global South, which represents an advanced and contemporary form of cultural imperialism.

Accordingly, globalized environmental regulations have been, and continue to be, developed consistent with Global North ideology. Such regulations involve a dualist conceptualization of Nature. This is illustrated by the anthropocentric orientation of IEL and its complicity in legitimizing human-centered power structures that render Nature the 'inferior other' (Bosselmann, 2010: p. 2431). As José Guzmán notes, there is an 'increasing institutionalization of anthropocentrism in law that feeds a hierarchy between humans and non-humans' (José Guzmán, 2019: p. 78). Within these legally constructed hierarchies, Nature is treated in instrumentalist terms as an exploitable and fungible commodity that exists for human consumption and without restraint. IEL accordingly lacks a fundamental understanding of, and respect for, ecological limits. Instead, it is underpinned by a green-washed discourse that displays a clear commitment to sustaining globalized capitalist practices. It is continually rationalized and justified by ideological narratives that have emerged as a mask for capitalism, such as 'sustainable development' and 'the green economy'.

Despite attempts to address environmental degradation, global environmental law and governance is conceptually and structurally rooted in dominant anthropocentric thinking that permits ecocidal tendencies. Several scholars have therefore called for a transition towards eco-centric models of regulation to promote a paradigm shift from human-centered perspectives to Earth-centered perspectives (see Abate, 2019; Mylius, 2013; De Lucia, 2015; French and Kotzé, 2018). Etymologically derived from 'Earth as center', eco-centrism seeks to embed humankind within, rather than outside and above, Nature. It therefore aims to dissolve the hierarchies imposed by anthropocentrism by bringing humanity 'back into the fold' (Mylius, 2013: p. 107). Rather than situating humanity at the apex of a hierarchy, eco-centrism embodies a system of interconnected ecological subjects that interact, influence, and depend on one another. In this way, it offers a new - and perhaps revolutionary - conceptualization of humanity's relationship with Nature: 'one of deference and humility, rather than exclusion, commercialisation and monetarisation' (French and Kotzé, 2018: p. 17).

Unlike anthropocentrism, eco-centrism embraces the intrinsic value of Nature, regardless of and independent to its instrumental worth to humanity (Calzadilla and Kotzé, 2018). Southern epistemologies have long upheld such assumptions and guarded knowledge over generations against the odds of colonialism (De Sousa Santos, 2015). Central to this approach is the legal subjectivisation of Nature, which provides a space to translate eco-centric counternarratives of environmental regulation into law. The roots of the emerging RoN movement reflect Indigenous philosophies and thought. According to Indigenous cosmovision, humans form an interdependent component of, and indeed *belong to*, Nature. Indigenous peoples regard themselves as living in a symbiotic partnership with, rather than separately to, ecosystems and animals. Accordingly, they are often referred to as the 'guardians of Nature' (Calzadilla and Kotzé, 2018: p. 403). Indigenous worldviews have therefore helped to advance the RoN legal movement, for example, in Ecuador and Bolivia. By granting Nature and all her elements rights, we open a space to radically reshape our relationship with Nature from one of superiority and separateness to interconnectedness.

Accordingly, the RoN movement offers a critical opportunity for dominant Eurocentric legal culture to unravel its Cartesian roots, articulate ways of 'listening' to non-human components of the Earth system, and ultimately transform traditional Indigenous knowledge and cosmovision into law. The diffusion of Global South values and norms is thus fundamental to departing from neocolonial dynamics and the 'civilized' structures of international law.

2.2 International wildlife law and the 'death of ethics'

As a result of human hegemony, global ecological conditions are now deeply impaired. While the mass extinctions of the past were a direct result of natural phenomena, there is an increasing consensus that the sixth mass extinction that is underway has been driven by anthropogenic activities. At the hands of human ignorance and exploitation, a critical number of the world's animal species are now threatened with extinction (Intergovernmental Science-Policy Platform of Biodiversity and Ecosystem Services, 2019).

Much like general IEL is underpinned by anthropocentric thinking, so too is animal law. So far, animal law has served to uphold the human-Nature dualism that is centered on underlying Global North assumptions. The socially and legally constructed divide between humans and animals can be observed by the legal classification of animals as 'property' opposed to 'persons' (Deckha, 2021). This is particularly evident in the context of international wildlife law, which is largely underpinned by conservation objectives and generally neglects individual welfare concerns (White, 2013). According to Scholtz (2017), the conservation-welfare dichotomy may be explained by what Purdy denotes as the 'near divorce of environmental law from ethics' (Purdy, 2013: p. 860). While it has been argued that conservation and welfare can be construed as expressions of the same broader principle (i.e. animal protection), Harrop contends that the concepts are derived from completely discrete origins, resulting in an 'epistemological gulf' between the two (Harrop, 2011). While welfare is described as belonging to the realm of ethics, conservation is grounded in economic and scientific thinking that directly stems from anthropocentric concern: 'though animals are living beings, we perceive them as living things; we perceive them as though their appropriateness for human consumption is naturally contingent upon their species' (Joy, 2011: p. 116).

As Gillespie observes, international wildlife law largely seeks to conserve animals for the purposes of preserving species population, rather than recognizing animals as individual beings with the ability to experience pain, pleasure, and suffering (Gillespie, 2009: p. 352). Despite embodying intrinsic and moral worth, animals are generally characterized by their instrumental use to humanity. This reflects the assertion that conservation represents 'an intention to conserve man than to conserve nature' (Jacobs, 1986: p. 3921). While

scientific findings confirming the sentience of animals has prompted a transition concerning the ethical treatment of animals (Blattner, 2015), the extension of ethics continues to remain conspicuously absent in international wildlife law and policy: 'to be human is to be a subject, and to be nature or some component of it is to be an object … one to be mastered or controlled' (Wyckoff, 2016: p. 247).

Several multilateral environmental agreements exemplify this human-centered approach to animal protection. The 1992 Convention on Biological Diversity (CBD, 1992) expressly references the 'intrinsic value of biological diversity' and therefore alludes to a wider ethical rationale that captures eco-centric underpinnings. This is also reflected by Article 2 of the CBD, which defines biological diversity as 'variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part: this includes diversity within species, between species and of ecosystems'. Notwithstanding these sporadic references however, conservation objectives rooted in anthropocentric thinking prevail throughout the CBD (Taylor et al., 2020). While it has been argued that the inclusion of intrinsic value is not 'merely itemized' and indicates the broader moral dimension of the CBD (Bowman et al., 2010: p. 67), this reference is a small component of the Convention's preamble. Although the CBD does acknowledge the significance and importance of wildlife protection through a wider eco-systemic lens, there are no provisions concerning the welfare of *individual* animals (Favre, 2012).

In some respects, the CBD can be interpreted as not only neglecting the welfare of individual animals, but also undermining it. For example, Article 8(h) requires parties to 'prevent the introduction of, control or eradicate those *alien species* which *threaten ecosystems, habitats or species*'. In a similar vein, the preamble provides that 'the fundamental requirement for the conversation of biological diversity is the … maintenance and recovery of *viable populations of species*'. The use of 'viable' infers that conservation efforts are only required where species become endangered, which is indicative of the Convention's underlying economic rationale. To this end, the CBD permits humans to monopolize and exploit Nature so long as species and ecosystems are not completed eliminated. Matthews therefore contends that the CBD 'is as much an edict to exploit Nature as to protect it' (Matthews, 2016: p. 141).

The 1979 Convention on the Conservation of Migratory Species of Wild Animals (CMS, 1979), which specifically aims to conserve migratory species with an unfavorable conservation status, also reflects this anthropocentric approach. Again, the focus concerns the wider protection and existence of species groups, rather than the individual entities within them. Birnie and Boyle contend that conservation has 'not become an issue until the level of threat to a species … endangers its survival' (Birnie and Boyle, 2002: p. 550). This reinforces the idea that Nature represents a resource to be exploited by man, with only minimum limitations imposed, i.e. up until the point of threatening species extinction. Accordingly, Nature is once again relegated to its instrumental value, rather than its intrinsic value (see Fosci and West, 2016). This is reiterated in the Convention's language. For example, the preamble states that 'wild animals … must be conserved for the *good of mankind*'. In addition, while the preamble acknowledges the 'value of wild animals' from an ecological point of view, it also cites several anthropocentric viewpoints, for example their value from 'genetic, scientific, aesthetic, recreational, cultural, educational, social and economic points of view'.

The 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES, 1973) contains several provisions concerning the 'protection' of certain species. Bowman (1998) argues that protection is not analogous with conservation and that the inclusion of protection integrates welfare considerations into the Convention, including for individual animals. However, the significance of wild fauna and flora in CITES is largely diminished to a human-centric 'aesthetic, scientific, cultural, recreational and economic' resource in the preamble. The Convention's preamble further affirms this anthropocentric philosophy, referring to animals as 'specimens' and expressing that wild fauna and flora must be protected 'for this and the generations to come'. While not explicitly included in the text, 'sustainable use' was repeatedly referenced in meeting resolutions (see, for example, Resolution of the Conference of the Parties, 2019). This speaks to the characterization of animals as a mere resource for human exploitation, rather than sentient beings. Under CITES, animals are only protected to ensure a minimum base population for current and future exploitation, minimizing them to 'mere playthings for humans' (Bakken, 2021: p. 73). Even if it can be successfully argued that CITES embraces a welfare dimension, Nyilas points out that these provisions are 'incidental in substance, narrow in their application, and frequently disregarded in practice' (Nyilas, 2021: p. 14).

3 A 'roar' in the courts: a judicial road to animal rights?

3.1 Expanding the parameters of rights beyond humans: animal rights on the horizon

Global environmental law must urgently respond to and confront the challenges of the Anthropocene. The apocalyptic imagery of a Sixth Mass Extinction presents profound normative implications for the legal mechanisms that have so far been designed to mediate human-Nature relations. In the context of animal protection, legal developments have failed to keep pace with evolving social movements (Abate, 2019). In recent decades, the human-centered nature of (Global North) legal systems have faced scrutiny from the Nature and animal rights scholarly field (Leth-Espensen and Svensson, 2021). Despite increasing public concerns and the existence of critical legal scholarship concerning the ethical treatment of animals, however, law has generally maintained its anthropocentric ontology. Accordingly, animals continue to be classified as a means to an end, as Nature in general is treated as 'a lifeless, inert machine that exists to satisfy the needs, desires and greed of human beings' (Burdon, 2013: p. 818).

While historically regarded as 'automatons' that lack cognition and sentience, traces of the animal rights movement began emerging as early as the 18th century when an awareness of animal suffering started to emerge (Boyle, 2016). However, the animal rights discourse has now evolved from what was once the perimeters of societal and scholarly debate to center-stage in the courtrooms. While animal rights theories continue to face resistance in the courts of the Global North,[2] an increasing number of pioneering and sweeping judicial decisions that recognize the rights of animals have begun to emerge in recent years in the Global South. Judges have therefore expressed their willingness to expand the traditional parameters of rights beyond humans, by actively engaging in and judicially applying the animal rights discourse.

In doing so, the courts of the Global South have arguably taken the first critical steps towards dismantling the status of animals as mere property, by explicitly recognizing their fundamental rights. These recent judgments have catapulted discussions concerning the treatment of animals from the conventional welfare paradigm to the more powerful rights paradigm. While the former aims to protect animals from unnecessary suffering, they are still largely regarded and regulated as legal objects for humanity to exploit. Welfarism has therefore been described as a pro-ownership philosophy (Hagan, 2022) that permits the 'humane' use of animals and continues to prioritize human needs over the interests of animals. On the other hand, the animal rights movement rejects the notion that animals are owned by humans and freely available for exploitation. Accordingly, the rights-based paradigm transcends the welfare approach to animal protection by dissolving the legal preconceptions that have so far served to enable and facilitate animal exploitation.

Several legal theories have been applied to secure stronger protections for animals (Abate, 2019). A particularly prominent legal strategy that has been pursued in recent years is the common law doctrine habeas corpus, which translates to 'you have the body' (Abate, 2019: p. 99). Historically, habeas corpus has served as a legal tool to safeguard humans from illegal detainment and therefore protect a 'person's' individual liberty. However, the writ of habeas corpus has been applied in a unique and cxreative manner to secure legal rights for animals and protect them from unlawful confinement and abuse (Abate, 2019). By granting habeas corpus, animals are viewed in the eyes of the law as a 'person' and hence entitled to legal rights.

3.2 Laboratories of judicial experimentation: animal rights in the global south

When mapping the contours of judicial decisions, several key cases emerge. These judgments have been carefully selected, because the courts explicitly refer to and recognize the legal 'rights' of animals, rather than merely invoke welfare protections for example. These judicial developments suggest that 'legal animal rights are on the horizon' (Sparks et al., 2020: p. 149). The courts of Argentina, India, Pakistan, Brazil, and Ecuador have demonstrated ample leadership, representing laboratories of judicial experimentation that have produced groundbreaking outcomes. Judgments that have emerged from the domestic courts of the Global South embody powerful statements that may have the potential to resonate globally. This early body of cases could therefore represent a transformational first step towards a more comprehensive crystallization of animal rights in future.

A common feature that emerges from many of the judgments in the Global South is the interpretation of animal rights through an eco-centric lens (Shanker and Kempers, 2022). In these cases, animal rights are arguably conceptualized as forming part of a wider movement that seeks to subvert the underpinning anthropocentric structures of law, from a broader RoN perspective. This is particularly prominent in the *Estrellita case*, which embodies a distinctly eco-centric approach through its application of the RoN doctrine. Crucially though, this eco-centric discourse is largely absent from Global North jurisprudence concerning animal rights, which illustrates the dominant anthropocentric worldview that underpins Northern legal thought.

3.2.1 Argentina: 'animals are not objects to be exposed like a work of art'

In November 2016, a landmark judgment in Argentina was delivered when a court in Mendoza granted a writ of habeas corpus to a chimpanzee held in captivity (Cecilia Case, 2016). Cecilia was living in 'deplorable conditions' and complete solitude, confined to an extremely small cage in a zoo (Cecilia Case, 2016: p. 2). The court affirmed that primates possess fundamental rights and ordered the chimpanzee's release, concluding that 'animals and great apes are not objects to be exposed like a work of art created by humans' (Cecilia Case, 2016: p. 27).

In its judgment, the court cited two theories that arguably justify the recognition of animal rights. First, the court noted the utilitarian theory proposed by Bentham, who argues that a legal person is any individual who experiences pleasure or pain, including within the animal kingdom (Cecilia Case, 2016: p. 24). Second, the court referred to the theory of 'deep ecology', a philosophy which challenges the notion of human dominance and is underpinned by an eco-centric worldview (Forsythe, 2012). Deep ecology recognizes and advocates for the intrinsic worth of all living things, irrespective of their instrumental value to humans. Accordingly, deep ecology aims to articulate a new way of envisioning humanities' relationship with Nature through the principle of interdependence.

2 This is especially the case in the United States, where judicial decisions have consistently failed to recognize animal rights. For example, see *Nonhuman Rights Project, Inc. ex rel. Tommy v. Lavery*, 998 N.Y.S.2d; *Nonhuman Rights Project, Inc. ex rel. Kiko v. Presti*, 16 N.Y.S.3d 898 (Sup. Ct. 2015); No. LLICV175009822S, 2017 Conn. Super. LEXIS 5181 (Super. Ct. Dec. 26, 2017); *The NonHuman Rights Project on Behalf of Happy against Breheny, James J.* (Bronx Cnty. Ct. 2020), Decision and Order (18 February 2020, Supreme Court of the State of New York, County of Bronx).

While animals have been classically characterized as 'things' in Argentinian law, the court nevertheless ruled that primates possess inherent rights as sentient beings with legal personhood: 'a chimpanzee is not a thing, he is not an object that can be disposed of like a car or a building. Great apes are legal persons, with legal capacity' (Cecilia Case, 2016: p. 24). While recognizing that the current positive laws in Argentina regard animals as things, the court noted the evolving nature of rights, commenting that many of the individual legal rights currently enshrined in domestic constitutions across the world and by international human rights treaties were once historically ignored and overlooked (Cecilia Case, 2016: pp. 19). The court cited several examples of this, including gender violence, marriage equality and voting rights (Cecilia Case, 2016; p 20). In doing so, the court indicated the way in which rights have expanded over time to encompass certain groups of humans and the 'identical situation' that we are witnessing vis-à-vis animal rights (Cecilia Case, 2016: p. 20).

In addition to granting a writ of habeas corpus to Cecilia, the court also requested the legal resources necessary to cease the captivity of several other animals in the Mendoza Zoo, including the African elephant, Asian elephants, lions, tigers and bears, among others (Cecilia Case, 2016, p. 32). Accordingly, the significance of the court's decision extended beyond that of Cecilia. The court demonstrated considerable judicial innovation in its recognition of Cecilia's fundamental rights, providing a powerful stimulus for successive cases. Indeed, analogous cases recognizing the legal rights of animals have since proliferated.

3.2.2 India: 'animals may be mute, but we as a society have to speak on their behalf'

Joining the ranks of Argentina, the Uttarakhand High Court delivered a pioneering judgment in 2018 that was filed in connection to horse-drawn carts and the accompanying cruelty, suffering, and pain inflicted on the horses. The Court declared the entire animal kingdom as legal entities with distinct persona and corresponding legal rights, including avian and aquatic (Narayan Dutt Bhatt v Union Of India And Others, 2018: p. 50). The court articulated the right to life and bodily integrity, honor and dignity, stating that 'animals cannot be treated merely as property' or as 'something for humans to use and abuse' (Narayan Dutt Bhatt v Union Of India And Others, 2018: p. 34-35). The court relied on the prior *Nagaraja* decision in arriving at its judgment, a groundbreaking case of the Indian Supreme Court determining that the legal duties owed from humans to animals confer corresponding fundamental rights to those animals (Animal Welfare Board of India v A. Nagaraja and Ors, 2014). In *Nagaraja*, the Supreme Court banned the practice of Jallikattu, a traditional bull-taming sport in the Indian state of Tamil Nadu, which has led to the death of both animals and humans.

The Uttarakhand High Court's ruling was based on a variety of sources. In addition to drawing from scientific evidence, the court referenced and engaged in an extensive literature review concerning legal personhood generally, as well as animal rights more specifically, from both Global North and Global South jurisprudence. In addition, the court also cited several passages of religious, philosophical, and spiritual teachings and important anti-colonial Indian figures like Mahatma Gandhi: 'the greatness of a nation and its moral progress can be judged by the way its animals are treated' (Narayan Dutt Bhatt v Union Of India And Others, 2018: p. 38). The court referred to the current gaps in law and the necessity for new legal 'inventions' to protect the environment and ecology, highlighting the underpinnings of an eco-centric discourse (Narayan Dutt Bhatt v Union Of India And Others, 2018: p. 34). In addition to formally recognizing the entire animal kingdom as legal persons, the court also declared all citizens throughout the State of Uttarakhand as 'persons in *loco parentis*', i.e. authorized to act as their legal guardians (Narayan Dutt Bhatt v Union Of India And Others, 2018: p. 50). Indeed, the court stated that while animals are mute, 'we as a society have to speak on their behalf' (Narayan Dutt Bhatt v Union Of India And Others, 2018: p. 34).

Nevertheless, in May 2023, the Supreme Court reversed its own ban of Jallikattu, based on the cultural significance attached to the sport (Animal Welfare Board of India & Ors v Union of India, 2023). The case marks a step backwards for animal rights in India and demonstrates the need for deep societal change beyond legal transformations. The judgment signifies that despite prior recognition of animal rights by the Indian judiciary on several occasions, human exploitation of animals continues to prevail. While the success of previous animal rights judgments in India have arguably been undermined because of the Supreme Court's most recent decision, they nevertheless contribute to a growing animal rights discourse.

3.2.3 Brazil: 'to recognize non-human animals as beings of their own value'

The Brazilian Superior Court of Justice's Wild Parrot Case (2019) addressed securing rights for animals through the wider RoN discourse. The case concerned an appeal regarding a release order on behalf of a wild blue-fronted parrot, a protected species, which had been held captive for over two decades (Wild Parrot Case, 2019: p. 2). By rejecting the individualist Kantian notion of human dignity, the court sought to confront 'new ecological values that feed contemporary social relations and demand a new ethical conception' (Wild Parrot Case, 2019: p. 11). In light of the current ecological crisis, the court developed a reconstruction and expansion of the concept of dignity to embrace 'an intrinsic value conferred to non-human sensitive beings' (Wild Parrot Case, 2019: p. 10). The court therefore concluded that the ecological dimension of the principle of human dignity had been violated, referring to the dignity inherent in the existence of non-human animals (Wild Parrot Case, 2019: p. 6).

Notably, the case was grounded in legal doctrines and jurisprudence emanating from other South American jurisdictions concerning the RoN, including the Ecuadorean Constitution and Bolivia's Law of Mother Earth. Citing Article 225 of the Brazilian Constitution, the court transcended the anthropocentric language concerning the human right to an ecologically balanced environment and held that the Constitution should be interpreted as an 'eco-centric jurisprudential matrix' (Wild Parrot Case, 2019: p. 10). By referring to the Ecuadorean Constitution and Bolivia's

Law on the Rights of Mother Earth, the court was able to reach a language of rights (Shanker and Kempers, 2022). Accordingly, the court used the seemingly restrictive language of the Brazilian Constitution as a springboard to address the RoN discourse and consequent treatment of animals. The court held that the anthropocentric human right to the environment could be more broadly interpreted and formulated to render non-human animals and 'life in general' holders of rights (Wild Parrot Case, 2019: p. 5).

3.2.4 Pakistan: 'a living being … has rights because of the gift of life'

In May 2020, the Islamabad High Court in Pakistan issued a seminal judgment regarding Kavaan the elephant, declaring 'without any hesitation' that animals have fundamental legal rights. The court stated that 'an object or thing without life has no rights … a living being on the other hand has rights because of the gift of life' (Islamabad Wildlife Management Board through its Chairman v Metropolitan Corporation Islamabad through its Mayor & 4 others, 2019: p. 59). The court granted relief to the elephant by ordering its release from the Marghazar Zoo, having been subjected to 'unimaginable pain and suffering' over the last three decades (Islamabad Wildlife Management Board through its Chairman v Metropolitan Corporation Islamabad through its Mayor & 4 others, 2019: p. 62). The court also concluded that all other animals who had been held captive in the same zoo were to be granted relief and relocated to suitable sanctuaries.

Strikingly, the court conducted an expansive appraisal of the existing global animal rights jurisprudence in both the Global North and Global South, including the Cecilia Case, among others (Islamabad Wildlife Management Board through its Chairman v Metropolitan Corporation Islamabad through its Mayor & 4 others, 2019: p. 30-45). Having conducted this appraisal, the court concluded that 'it has become obvious that there is a consensus that an animal is not merely a thing or property' (Islamabad Wildlife Management Board through its Chairman v Metropolitan Corporation Islamabad through its Mayor & 4 others, 2019: p. 57). Similar to the *Bhatt case*, the court embraced an important religious dimension in arriving at its conclusions. The court consulted several primary sources of Islamic law, including the holy Quran, determining that other forms of life are 'not inferior but each have their own specific and distinct purpose' (Islamabad Wildlife Management Board through its Chairman v Metropolitan Corporation Islamabad through its Mayor & 4 others, 2019: p. 48). Significantly, the court stated that 'an infant, a comatose or a mentally challenged person is no different to an animal' (Islamabad Wildlife Management Board through its Chairman v Metropolitan Corporation Islamabad through its Mayor & 4 others, 2019: p. 18).

In addition to recognizing animals as subjects of legal rights comparable to human rights, the court also made an important reference to the relationship between humanity and Nature from an eco-centric perspective. The consideration of animal rights as an integral component of human rights is a novel facet of this judgment: 'it has highlighted the interdependence of living beings on each other, the desperate need to restore the balance created in Nature and, above all, it has conspicuously brought the essence, meaning and significance of 'life' into the spotlight' (Islamabad Wildlife Management Board through its Chairman v Metropolitan Corporation Islamabad through its Mayor & 4 others, 2019: p. 3). Chief Justice Athar Minallah proposed the role of a rights framework in the Anthropocene as not one of mediating opposing rights, but of illuminating confluences and shared needs. The judgment therefore embodies a departure from classical human rights supremacism and anthropocentrism, holding that 'humans cannot arrogate to themselves a right or prerogative of enslaving or subjugating an animal' (Islamabad Wildlife Management Board through its Chairman v Metropolitan Corporation Islamabad through its Mayor & 4 others, 2019: p. 60).

3.2.5 Ecuador: 'nature, therefore, is observed as a subject of rights with an intrinsic value'

The Ecuadorian Constitutional Court's historic decision in 2022 demonstrates the increasingly creative and audacious nature of animal rights litigation. The case stemmed from a writ of habeas corpus granted in favor of a monkey, Estrellita, who was seized from her 'home' where she was retained as a pet for 18 years (Estrellita Case, 2022: p. 1). The court held that the monkey's rights had been violated on two separate occasions: when Estrellita was forcibly removed by environmental authorities, and when she was removed from her original and natural habitat.

The court noted the anthropocentric character of law and the way in which humans have so far been recognized as the 'center of all legal expression … accompanied by an evident speciesism' (Estrellita Case, 2022: p. 25). However, the court went on to interpret Ecuador's constitutional law, which enshrines the RoN, and recognized that the Constitution surpasses 'classical anthropocentrism' by embracing the pluralism and interculturalism of Ecuador's diverse population (Estrellita Case, 2022: p. 19). Having first concluded that individual wild animals are subjects of legal rights, the court then examined whether these rights are protected through the constitutional RoN. The court made clear that animal rights comprise a specific dimension of the RoN: 'it is clear that in Ecuador animals enjoy special constitutional and legal protection, since the valuation that the Constitution has made of Nature has a common axiological foundation with the rights of animals' (Estrellita Case, 2022: p. 29). In doing so, the court adopted a clear eco-centric discourse, commenting that an animal is representative of 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' (Estrellita Case, 2022: p. 24).

Until this case was brought to the courts, the RoN paradigm arguably only covered the protection of animal species and not as individuals. Citing an earlier animal rights case from Colombia, the court expressed that animals should not only be protected from an ecosystemic perspective, but 'mainly from a perspective that focuses on their individuality' (Estrellita Case, 2022: p. 27). The ruling identifies several specific rights that animals hold, and further acknowledges that these rights are derived from their own individual value: 'Nature, therefore, is observed as a subject of

rights with an intrinsic value, which implies that it is an end in itself and not only a means to achieve the ends of others' (Estrellita Case, 2022: p. 19).

The *Estrellita case* is an unprecedented decision in elevating animal rights to the constitutional level. The judgment has answered the long-standing question of whether individual wild animals are considered legal subjects under the RoN doctrine, marking an important milestone for the future of animal rights law. In addition to embedding individual animal rights within the constitutional RoN, the court also ordered that the Ministry of Wildlife, with the support of the Ombudman's Office, develop new legislation to ensure that these constitutional rights be implemented in practice (Estrellita Case, 2022: p. 57).

4 Crystallizing animal rights: towards southern epistemologies in a bottom-up manner

4.1 Communicating animal rights through inter-judicial dialogue

The domestic courts of the Global South have signaled their ability and willingness to reconceptualize existing laws, and create new ones, that recognize the fundamental rights of animals. In doing so, these courts have begun the first task of dismantling the artificial human-animal divide. However, this article argues that these judgments do not reflect isolated or random occurrences. Instead, it proposes that this trend towards animal rights is representative of an evolving inter-judicial dialogue.

Slaughter characterizes judges as 'remarkably self-conscious' actors engaging in a distinct process of cross-fertilization and pollination, whose interactions feed into a global jurisprudence (Slaughter, 2003: p.195). This trend is particularly discernible in the human rights sphere, with Glendon pointing to a 'brisk international traffic in ideas about rights' in the context of judges (Glendon, 1993: p. 158). Inter-judicial dialogue also has served as a vital force in the development and evolution of international human rights law (Waters, 2010). The phenomenon has also emerged in the environmental protection sphere, particularly in developing countries (Benvenisti, 2008). While historically perceived as mere enforcers of law, many judges in the Global South have now transformed into lawmakers capable of creating and shaping international legal norms. This traditionally more limited role of the judiciary has been described as the classic prisoner's dilemma: 'rational judges act like the prisoner who cannot be sure that his or her fellow prisoner will be cooperative' (Benvenisti, 1993: 175). However, domestic courts in the Global South have progressively abandoned this passive and deferential role to the executive and legislative branches. Judges have now begun to clearly engage in distinct forms of inter-judicial dialogue. To this end, domestic courts have demonstrated that they no longer desire to defer to and speak the voice of their individual governments: 'these courts give a new and quite revolutionary meaning to the call to speak with one voice … this time, it is the different national courts that seek to form one voice' (Benvenisti, 2008: p. 269).

This judicial trend can equally be observed in the animal rights realm, particularly where judges explicitly refer to another jurisdiction's case law (Shanker and Kempers, 2022). The most prominent example of this is the *Kavaan case*. As discussed above, the court conducted an extensive appraisal of existing animal rights jurisprudence in both the Global North and Global South, examining several cases across multiple jurisdictions. Another pertinent example is the *Wild Parrot case*, which developed from jurisprudence across other South American jurisdictions. The shared narratives and themes that continue to emerge from these animal rights cases represent an evolving pattern of inter-judicial dialogue, with like-minded courts engaging in a process of comparative interpretation and legal transplantation.

All of these judgments enrich domestic animal rights landscapes. Perhaps more significantly though, waves of animal rights cases, and judicial cross fertilization of them, lay the foundation for a more comprehensive recognition of universal animal rights in a bottom-up manner. It is also true, however, that universality will only be achieved through consistency and the judiciary's continued courage of convictions, placing the onus on judges to drive the dialogue further. As this trend continues to gain momentum globally, the courts 'carefully watch each other' and 'the one that backs away has to offer an explanation to its peers' (Benvenisti, 2008: p. 252).

While the recognition of animal rights in the Global North courts continue to face strong resistance, they are not completely missing from the picture. Several cases have emerged. For example, in 2020, a case was brought before the High Administrative Tribunal of Paris in France regarding the right to life of a pet dog (N° 2017962, AJDA 2021, 2020). The case concerned the lawfulness of an order of euthanasia by law enforcement authorities, who had seized the pet from its owner. The case was later appealed to the Council of the State (N° 446808, 2020). While the Council of the State ultimately held that the euthanasia had not violated the dog's right to life, the fact that the court considered whether there was a violation in the first place demonstrates that such a right does indeed exist. Another example concerns a case that emerged from Belgium in 2019, also in relation to a pet dog, albeit in the context of ownership following a divorce (No 2019/FA/46, 2019). In this case, the Court of Appeal of Antwerp explicitly determined that animals do have legal rights, and that the dog was entitled to see both owners despite only one having property rights over the dog. Although it is significant that the court affirmed that animals do have rights, they described animals as a 'quasi-good'. Accordingly, while the court asserted that animals cannot be diminished to mere objects in the way that standard moveable property is, they nevertheless failed to remove the traditional legal classification of animals as property.

While less ambitious and far-reaching in nature, these cases in the Global North contribute to this growing body of animals rights jurisprudence across the globe, indicating that the tide is turning. It is also important to note that in some instances, cases that have emerged from the courts of the Global North have expressly referred to Global South authorities in their decisions. An important example of this is a case concerning an elephant named Happy, filed by the Nonhuman Rights Project in the United States, who was denied a writ of habeas corpus by the

New York Court of Appeals (Happy Case, 2020). Significantly though, two of the judges delivered powerful and strong dissenting opinions, describing Happy's captivity as inherently unjust, inhumane and 'an affront to a civilized society' (Judge Rivera, Happy Case, 2020: p. 21). As part of their dissenting opinion, Judge Wilson cited several Global South judgments where animals had successfully been granted rights, including the *Nagaraja case* in India, the *Cecilia case* in Argentina, the *Kavaan case* in Pakistan, in addition to a case in Colombia concerning a bear. While the court ultimately chose not to grant Happy legal rights, it nevertheless demonstrates an increasing willingness on behalf of Global North judges – albeit dissenting in this case - to engage with and recognize Southern epistemologies, further contributing to this inter-judicial dialogue.

4.2 Towards a cosmopolitan global jurisprudence and epistemic pluralism

The domestic courts of the Global South have displayed ample dynamism and creativity by creating a powerful legal discourse that could lead to a crystallization of animal rights. Representing storehouses for transformative legal advancements, judgments emanating from the courts of the Global South may well resonate globally. More specifically, this article argues that this emerging inter-judicial dialogue could offer a bottom-up method of feeding alternative patterns of 'cosmopolitan jurisprudence' into global law. Pursuing a cosmopolitan approach enables us to move beyond traditionally dominant Global North legal traditions by embracing insights from Southern epistemologies. As Twining proposes, the diffusion and influence of non-Western legal conceptions is vital in manufacturing a 'healthy cosmopolitan discipline of law' (Twining, 2009: p. xx). According to De Sousa Santos (2015), a cosmopolitan epistemology must start from and capture the plurality of dominant Global North *and* non-dominant Global South knowledges. This includes the plurality of ways of understanding and conceptualizing Nature (De Sousa Santos, 2015). Santos contends that Global North domination has served to oppress the voices, traditions, and knowledge of the Global South. Accordingly, this article argues that the judgments emanating from the domestic courts of the South may represent the first ingredients towards transformation, where judicial interactions feed into a cosmopolitan global jurisprudence for animal rights, that allows for the accommodation of epistemic pluralism.

A key question that remains is whether these legal conceptions can indeed be diffused from the South to the North. As reviewed in the Global South judgments above, animal rights are often connected to important religious, spiritual, and cultural dimensions that perceive the natural world in a very different way to the Global North. This may explain why there has generally been a strong resistance in the North to recognizing the rights of animals. Indeed, various efforts to secure animal rights have been rejected in courts in the Global North. In the United States, in particular, a number of cases seeking to secure legal rights for animals have been routinely dismissed or failed to succeed on the merits. Efforts to obtain animal rights in American courts have largely failed, because it 'goes against the grain of the whole legal system' (Cullinan, 2003: p. 58). This is illustrated by the *Happy case*, where the court refused the argument that Happy could be considered a legal person and entitled to rights, despite acknowledging that elephants are 'intelligent beings deserving of proper care and compassion' and 'not the equivalent of things or objects' (Happy Case, 2020: pp. 2 and 15). As discussed above though, the opinions of Judge Wilson and Judge Rivera - albeit dissenting in substance - join the body of judges across the world that recognize animals as rights-holders. In his dissent, Judge Wilson urged his colleagues to challenge the notion of human exceptionalism: 'the majority's argument— 'this has never been done before'— is an argument against all progress … the correct approach is not to say, 'this has never been done' and then quit, but to ask, 'should this now be done even though it hasn't before, and why?' (Happy Case, 2020: p. 11).

Legal categories have and will continue to evolve. Throughout history, the rights-bearing community has been progressively expanded to include minorities, women, and even corporations (Stone, 1972). The judgments of these courts are representative of a bottom-up legal movement working towards the recognition of animals as subjects of fundamental rights. While the controversy in extending rights to animals – and Nature more generally – lies in its explicit challenge to the primacy of the human subject, this judicial trend reflects a radical shift in legal consciousness that is continuing to grow.

4.3 A legal revolution through the RoN? from 'rhetoric to reality'

These judgments represent an increasingly aspirational and progressive animal rights trend that forms part of a broader strategy to decolonize international law through the RoN. RoN is a burgeoning and powerful legal movement that is gathering momentum. While the concept falls outside the legal mainstream of the Global North, the RoN movement is continuing to evolve through legislative enactments, constitutional provisions, and perhaps most notably, judicial decisions. To this end, rights-based litigation may act as an important catalyst to diffuse the legal phenomena of the Global South towards the Global North.

While the RoN provides a critical opportunity to rethink global environmental law, it is important to acknowledge the limitations of law and remain critical of its ability to embed deep cultural transformation. Despite the significance of these legal developments, Calzadilla and Kotzé question the potential of law to overcome 'deeply vested corporate-driven neoliberal and political economic interests' (Calzadilla and Kotzé, 2018: p. 400). Indeed, experience has shown that Nature's rights have proven difficult to implement in practice, generating what has been termed a 'divide between rhetoric and reality' (Kotzé and Calzadilla, 2017). Bolivia's Law on the Rights of Mother Earth is particularly illustrative of this.[3] While remarkable symbolically speaking, it has been debated whether this represents a mere 'window-dressing exercise', that allows for the continued exploitation and destruction of Nature (Calzadilla and Kotzé, 2018:

p. 416). Since the Law on the Rights of Mother Earth was passed, the Bolivian government has arguably relaxed and lowered environmental protection standards, to enable natural-resource extractive activities that involve invading protected areas and violating Indigenous peoples' rights. Absent effective implementation and enforcement, it could be argued that the Law on the Rights of Mother Earth represents nothing more than a 'wolf in sheep's clothing' (Kotzé and Calzadilla, 2017: p. 417), as economic development priorities continue to take precedence. Challenges concerning implementation and enforcement have also been explored in relation to the constitutionalization of the RoN in Ecuador, including the political, social and economic barriers that have so far impeded the enforcement of these rights.[4]

In the context of animal rights more specifically, the same problem has emerged. India has a particularly comprehensive animal rights framework – at least on paper - with several landmark judicial decisions. Despite the efforts of the Indian judiciary, cases of animal abuse and cruelty are still rampant throughout India. Once again, this demonstrates a lack of implementation and the paradigm shift in human consciousness that is still needed to reorient society towards an eco-centric way of being. This is also illustrated by the fact that in several of the judgments discussed in this paper, animal rights are caveated by exceptions that permit the continued exploitation of animals. These exceptions are either explicitly or implicitly framed through the notion of 'human necessity'. For example, in *Nagaraja*, while the court held that all species have a right to life and security, they stated that this is subject to limitations under the doctrine of human necessity. While the court was of the view that meat-eating and animal experimentation form two of the main expressions of speciesism in our society, they nevertheless determined that both fall under the doctrine of necessity (Animal Welfare Board of India v A. Nagaraja and Ors, 2014: p. 22). Another example of this is in the *Bhatt case*. Despite recognizing the entire animal kingdom as legal entities with rights, the High Court of Uttarakhand only required the 'regulation' of horse-drawn carts (Narayan Dutt Bhatt v Union Of India And Others, 2018: p. 50). Accordingly, the court failed to expressly ban the practice so long as animal welfare provisions were in place, thus diluting the significance of the case. In the *Estrellita case*, the court discussed the biological interactions that exist between different species, stating that 'some individuals benefit from others by causing them harm, sometimes even death' (Estrellita Case, 2022: p. 31). To this end, they determined that the right to life of an animal would not be violated in the event it is killed by a predator as prey. With respect to the specific relationship between humans and animals in this regard, the court held that 'insofar as human beings are predators, and being omnivorous by nature, their right to feed on other animals cannot be forbidden' (Estrellita Case, 2022: p. 32). Accordingly, while the court recognized the right to life of animals, it clearly confirmed that this can be trumped in the case of human consumption.

These 'exceptions' speak to the continued prevalence of human speciesism and captures how deeply an anthropocentric worldview is engrained in our society. However, the RoN is still in its infancy. While the substantive implications of these judgments remain to be seen, they do embody significant symbolic and discursive importance. They represent a powerful retreat from the dominant Global North legal paradigm that diminishes Nature to the status of a mere object devoid of rights. What these legal developments do provide are the first manifestations towards a new generation of rights, capable of embedding deep change over time. However, while they do not offer an immediate silver-bullet solution, they do provide a powerful impetus to re-imagine global environmental law through a new lens and deliberate how these judicial innovations can eventually be integrated into our wider social, economic and political constructs: 'law will always remain one ingredient (albeit a powerful one) in the societal institutional regulatory toolbox' (Kotzé and Calzadilla, 2017: p.243). Despite the intricacies that overshadow these novel legal avenues, the rights-based paradigm - in the context of both animals and Nature - provides a necessary opportunity to re-envision the role of law in protecting the Earth and subvert the dominant Global North ontology of separation.

5 Conclusion

Humanity is confronted by an unparalleled ecological crisis, with Nature declining at unprecedented rates. The epistemological value of the Anthropocene perhaps lies in its ability to expose that humanity is not a mere spectator of the Earth system: 'the power that humans wield is unlike any other force of Nature, because it is reflexive and therefore can be used, withdrawn or modified' (Lewis and Maslin, 2015: p. 178).

This article has sought to articulate how global environmental law can be transformed by embracing insights from Southern epistemologies through the legal subjectivisation of Nature, specifically from the perspective of non-human animals. While this article has illustrated the anthropocentric ontology of current globalized environmental regulations, and more specifically international wildlife law, the 'perfect storm' of animal rights litigation in recent years provides scope to deliberate whether these cases could represent the first seedlings towards transformation. In particular, this article has sought to demonstrate the potential instrumentality of litigation – specifically through an emerging inter-judicial dialogue - to integrate the legal conceptions of the Global South into the Global North and contribute to a cosmopolitan global jurisprudence in a bottom-up manner.

The rights-based paradigm presents deep normative challenges to the longstanding Global North conception of Nature as a commodity that exists to be manipulated and exploited by humankind. It is at the precipice of potentially revolutionary and watershed changes, by providing a legal pathway to displace

3 For a more detailed analysis, see Calzadilla, P., and Kotzé, L. (2018). Living in harmony with nature? A critical appraisal of the rights of mother earth in Bolivia. *Transnational Environ. Law* 7 (3), 397–424. doi: 10.1017/S2047102518000201

4 For a more detailed analysis, see Rühs, N., and Jones, A. (2016). The implementation of earth jurisprudence through substantive constitutional rights of nature. *Sustainability* 8 (2), 174–193. doi: 10.3390/ su8020174

anthropocentric perceptions and classifications of Nature and radically reshape humanity's relationship with it. The RoN movement - that is permeating from Global South towards Global North legal discourse – is representative of an evolving transnational movement that could signify the eventual demise of Eurocentric approaches to environmental regulation.

Author contributions

CH: conceptualization and writing (original draft and subsequent editing of article). The author confirms sole contribution of this work.

Acknowledgments

The contribution of Dr Antonio Cardesa-Salzmann to the conceptualization and original ideas of the research underlying this article, as well as the contribution by Iona McEntee to the conceptualization of the methodology based on 'inter-judicial dialogues' is duly acknowledged.

Conflict of interest

The author declares that the research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.

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