

Toward the Universal Declaration of Rights of Nature

Thoughts for action

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"Nature still has much to say and it is high time we, its children, stopped playing deaf. And maybe even God will hear the call coming from this Andean country –Ecuador– and add the eleventh commandment forgotten in the instructions given to us from Mount Sinai, “Thou shalt love Nature, of which thou art part”."

Eduardo Galeano
(18 April, 2008)

The materialistic –mechanistic and endless—accumulation of goods considered as progress has no future. The limits implicit in the lifestyles based on the ideological vision of anthropocentric progress are increasingly marked and a cause for concern. If we want the absorption capacity and resilience of the earth not to collapse, we must stop considering natural resources a condition for economic growth or a mere object of development policies. Additionally, we should accept that mankind is crystallized within a community context, together and as related to other human beings, as an integral part of Nature, without intending to dominate it.

This leads us to accept that Nature, being a social construct, that is, as a term conceptualized by humans, must be wholly reinterpreted and revised if we intend to preserve the life of human beings on the planet. To begin any reflection, let us accept that mankind is not outside Nature and that Nature has its limits.

We must admit, without denying science's valuable contributions, that the voracity to amass resources –the capitalist system– has forced human societies to subordinate Nature; although we cannot ignore several pre-capitalist cases of downfall of entire societies as a result of disrespecting Nature (Diamond 2006). The important thing is that, in an increasingly global fashion in capitalism, through various ideologies, sciences and techniques, attempts have been made to brutally separate human beings from Nature. It was a cut of sorts to life's Gordian knot. Capitalism, while a “*world-economy*” (Immanuel Wallerstein)², turned Nature into an apparently inexhaustible source of resources...

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² The “*actual existing socialism*” was in fact part of said economy-world. It never attained the status of alternative in civilizing terms. This disdain for Nature in the East and West probably stems from common Judeo-Christian roots.

In this context, when putting forward Nature's Rights, it is not a question of relinquishing the pressing need to improve human beings' living conditions, particularly those of alienated and exploited groups'. Neither is closing the door on the wide and rich scientific legacy, much less giving up the reason to find refuge, in our anguish or perplexity at the course of the world, in ancient or modern mysticisms, or in political irrationalities an option.

Seizing the potential Nature has to offer, as humans have done since the beginning, is inevitable.³ The task is to investigate and talk with Nature, always appreciating that we are immerse in it. Thus, consolidation of a new form of interrelation of human beings with Nature is required, as being an integral part of it. This entails having a scientific understanding of Nature and, at the same time, admiration and reverence for it, an attitude of identification with Nature, far from ownership and dominance, and very close to curiosity and love.

Latin America, exporter of Nature

Our Abya Yala, like Africa and Asia, was incorporated into the global market as a supplier of basic resources over 500 years ago. The gold, silver and precious stones that financed the expansion of the Spanish Empire, but, more importantly, the emergence of capitalism in central Europe, came from this region. This wealth shifted the center of Asia's (which had its own internal crisis, particularly China) global system to Europe, and since then, these American lands, especially those in the South, assumed a submissive position in the international context upon specializing in the extraction of natural resources for the global market.

Alexander von Humboldt (1769-1859), the distinguished German naturalist and geographer, in an appeal to science, ratified our mission as exporters of Nature in what would be the post-colonial world. During his visit to this part of America, he viewed us as territories that were obliged to increasingly exploit the existing natural resources under the orders of the exploitative Reason of that time. The story goes that Humboldt –marveled by the geography, and the flora and fauna of the region– saw its inhabitants as beggars sitting on a sack of gold, in reference to their vast untapped natural wealth.

Having achieved their Independence from Spain, the countries of Latin America continued exporting natural resources, that is, Nature, as they had done in colonial times.

Humboldt's message was given a theoretical interpretation in David Ricardo's renowned book, *“Principles of Political Economy and Taxation”* (1817). This distinguished English economist recommended that a country should specialize in the production of goods having

³ The problem arises when the biophysical limits are not recognized and are not respected, thinking that, maybe, technological advances will help find answers to solve the problems caused by this kind of actions, even to overcome such limits.

comparative or relative advantages, and acquire from another goods where it is in a comparative disadvantage. According to him, England, in his example, should specialize in the production of fabric and Portugal in wine... The theoretical foundation of foreign trade was built on this basis.⁴

Since then, a passive and submissive vision of acceptance –deeply interwoven with the primary export accumulation model– of this positioning in the international work division in many of our countries, rich in natural resources, was consolidated.⁵ Said acceptance has remained deeply rooted in broad segments of these societies, as if it were an insuperable DNA. For many leaders, even those considered progressive, it is virtually impossible to imagine a path of liberation from this “curse of wealth” of natural resources. (See Schuldt 1995; Acosta 2009)

The desire to dominate Nature, to change it into exportable products, has always been present in this region. In the early stages of Independence, when faced with the earthquake in Caracas of 1812, Simon Bolivar said the famous words, which marked that time, “*If Nature objects, we shall fight against it and make it obey us*”. Beyond any patriotic interpretations that draw from said statement the leader's decision to face adversity, it must be clear that Bolivar acted according to the demands of the time. He was convinced –in keeping with the prevailing thinking of that time– that Nature could be dominated.

The funny thing is that that spirit of domination has not been overcome despite knowing for many years the impossibility of continuing down the current predatory path of Nature.⁶ And, likewise, the illusion of all-powerful extractivism, expressed over two centuries ago in Humboldt's message, is still applied.⁷

⁴ This thesis so alluded to and recognized by economists, did not accept or was not aware that it was only the interpretation of an imperial order. The labor division proposed by Ricardo was reflected in the Methuen agreement signed in Lisbon on December 27, 1703 between Portugal and England. Said agreement, probably the shortest in the diplomatic history of Europe, established that the Portuguese would buy fabric and textile products from England, and in return, the British would grant a favorable treatment for wines from Portugal. This relationship would bring about what would later be called “an uneven exchange”. In the long run, exporting raw materials does not have such multiplying effects as exporting manufactured items.

⁵ It must be pointed out that this positioning is not only justified by the availability of natural resources, but also by imposition of the imperial powers. Great Britain, to recall the first industrialized capitalist nation with a worldwide vision, did not practice the trade freedom that it so emphatically promoted. In fact, with its fleet, it imposed its interests in several corners of the planet: it introduced opium to the Chinese with cannon shots because of the alleged trade freedom or blocked markets of its vast colonies for protectionist purposes to maintain the monopoly for its textiles. Historically, the starting point of successful economies was based on protectionist schemes, many of which are still in effect in diverse manners. (Ha-Joon Chang 2002)

⁶ President Rafael Correa, in the face of the electrical power rationing due to the prolonged low water level, and considering the event as a result of an environmental adversity, publicly declared in one of his Saturday talks that “*if with this draught, Nature is opposing the citizen revolution, we will fight and together will conquer it, rest assured of that*” (November 7, 2009).

⁷ The same Ecuadorian president, in his report to the nation, on January, 15, 2009, in order to defend the Mining Law resorted to the same metaphor used by Humboldt when he said that: “*We will not go back*

In short, Nature is still taken to be an element to be tamed, exploited and, incidentally, commercialized. Nature, more specifically, natural resources are considered the mainstays to build development.

The endangered limits of Nature

Several voices of warning have arisen to confront this ancient vision of domination and exploitation, supported by the deep-seated discrepancy between the economy and Nature.

Almost 40 years ago the world faced up to a warning message. Nature has limits. In 1972, in the Report of the Club of Rome, known as “*The Limits to Growth*” or the Meadows Report, the world was confronted with that undeniable reality. A reality kept secret by the voracity of the demands of accumulation of capital, which are supported by the firm and dogmatic belief in the all-mighty power of science. The matter is clear, Nature is not infinite, it has limits and those limits are about to be exceeded. Although this report –which gave rise to various interpretations and suppositions– did not have a great impact in practice, it gave, on one hand, a warning signal and, on the other, it made a demand: we cannot continue down this path, while at the same time calling for analyses and global answers.

Many renowned economists, such as Nicholas Georgescu-Roegen, Kenneth Boulding, Herman Daly, Roefie Hueting or Joan Martinez Alier have already demonstrated the limitations of economic growth. Even the economist Amartya Sen, Nobel Prize laureate in Economic Sciences, who does not question the market or capitalism, stated his opposition to economic growth as synonymous with development.⁸ Currently, claims are increasing –especially in developed countries– for an economy that not only fosters stable growth, but also “*degrowth*”.⁹

Now, when the world's limits of sustainability are literally being exceeded, the finding of environmental solutions considered a universally pending issue is indispensable. The impoverished and structurally excluded countries must, on one hand, try to find options for a decent and sustainable lifestyle, which do not represent a caricatured reissue of the western way of life. While, on the other hand, the “*developed*” countries will have to solve

on the Mining Law, because the responsible development of mining is essential for the progress of the country. We cannot sit on a gold sack like beggars”. Other heads of state of the region have expressed similar ideas, adjusted to their national reality or to their respective situations: Alan García, or Evo Morales, presidents with different ideologies in fact.

⁸ He stated that “*the real limitations of the traditional development economy did not result from the means chosen to achieve economic growth, but from not recognizing enough that said process is just a means to achieve other ends. (...) The problem is that economic growth is more a means than an end; and for certain important ends it is not a very efficient means*”. (1985)

⁹ Here, we could mention the works by Enrique Leff or Serge Latouche, late followers of John Stuart Mill, an English economist who in 1848 anticipated some foundational reflections which are now known as the stationary economy.

the growing problems of international unfairness that they have caused and, particularly, incorporate criteria of sufficiency into their societies before attempting to support, at the expense of the rest of mankind, the logic of efficiency understood as permanent accumulation of material possessions. In short, rich countries should change their way of life, which endangers the global ecological balance, because from such a perspective, they are also in some way underdeveloped or “*poorly developed*” (Tortosa). Additionally, they must assume their co-responsibility to give way to a global restoration of the damages caused; in other words, they must make good their ecological debt.¹⁰

The crisis triggered by exceeding Nature’s limits necessarily entails a questioning of the social-political institutionalism and organization. Let us bear in mind that, “*in an ecological crisis, the resources of ecosystems, as well as the ‘systems of social performance’ are overtaxed, distorted and exhausted, or, to put it differently: too much is expected from the institutionalized forms of social regulation; society becomes an ecological risk*” (Egon Becker 2001). This risk amplifies exclusive and authoritarian trends, as well as the disparities and inequality so typical of the capitalist system: “*a system of values, a model of existence, a civilization: the civilization of inequality*”, as understood by Austrian economist Joseph Schumpeter.

In view of these challenges, the need to reconsider sustainability in terms of the carrying capacity and resilience of Nature is strongly emphasized. In other words, the task is to know the actual dimensions of sustainability, which cannot be subordinated to anthropocentric demands. This task calls for new ethics to organize life itself. It is necessary to acknowledge that conventional development leads us to a dead-end. The limits of Nature, rapidly exceeded by anthropocentric lifestyles, especially exacerbated by the demand for accumulation of capital, are increasingly notable and unsustainable.

The task seems simple. It is, however, extremely complex. Instead of preserving the discrepancy between Nature and humans, their reunion must be encouraged, something along the lines of attempting to tie the Gordian knot broken by the strength of a predatory

¹⁰ This is not only a climate debt. This debt, stemming from the colonial robbery—the extraction of mineral resources or the extensive felling of natural forests, for example—is reflected both in an “*ecologically uneven exchange*”, as well as in the “*free occupation of the environmental space*” of impoverished countries” due to the predator lifestyle of industrialized countries. Here, we must include the pressures exercised on the environment through natural resource exports—usually poorly paid, which neither assume the loss of nutrients and biodiversity, to give another example—from developing countries, aggravated by increasing requirements derived from the external debt service, and the extreme liberalizing proposal. The ecological debt increases also from another source interrelated to the previous one, to the extent that the wealthier countries have greatly exceeded their national environmental equilibrium by directly or indirectly transferring “*contamination*” (waste or emissions) to other regions without incurring any payment. Another element to be added to the above is biopiracy, promoted by several transnational corporations that patent indigenous plants and knowledge in their countries of origin. For this reason, we could very well state that there is not only an uneven trade and financial exchange, but also an exchange that is ecologically unbalanced and destabilizing.

and, incidentally, unacceptable conception of life.¹¹ To accomplish this civilizing conversion, one of the initial tasks lies in the decommercialization of Nature. Economic objectives must be subordinated to the natural systems' laws of operation, without overlooking the respect for human dignity by seeking to ensure quality in people's lives.

To be precise, the economy must tear down the entire theoretical framework that drained “*the materiality out of the notion of production and completely (separated) the economic reasoning from the physical world, thus completing the epistemological rupture that meant displacing the idea of economic system, with its production and growth merry-go-round, to the mere field of value*” (Jose Manuel Naredo, 2009).¹²

Putting this historic change into writing is mankind's greatest challenge if the very existence of human beings on earth is to be preserved.

The Rights of Nature or the right to existence

The above reflections record in history the avant-garde steps taken in the Constituent Assembly of Montecristi and clearly define the path to be followed in order to build a new form of organization in society, if society really wants to be an option of life, while respecting and coexisting in Nature.

For this undertaking, once the Rights of Nature have been understood for what they really mean and offer, an action plan must be drawn up which initially identifies the mega-rights (particularly, Human Rights, Rights of Nature and to *Good Living*) and then the meta-rights (water, food sovereignty, biodiversity, energy sovereignty).

In the Ecuadorian Constitution of 2008, by acknowledging the Rights of Nature, that is, by perceiving Nature as a subject of rights, and, moreover, investing it with the right to be restored when destroyed, a milestone was established for mankind. The inclusion of the term ‘Pacha Mama’ as being synonymous with ‘Nature’ –as acknowledgment of plurinationality and interculturality– was equally significant.

The debate at the heart of the Constituent Assembly in Montecristi was complex. Several members of the Assembly, including the pro-government block, the majority block, as well as high-ranking government officials objected to the acceptance of the Rights of Nature and even called it “*nonsense*”.¹³ Outside the Assembly, the Rights of Nature were taken for

¹¹ Bruno Latour says that “*the issue is to again tie the Gordian knot by crossing the cut separating exact knowledge from the exercise of power, for example, Nature and culture, as many times as needed*”. Latour's input raises big debates in anthropology on the division between Nature in singular and cultures in plural. When both are combined, politics becomes current again.

¹² Let us not forget that “the so-called economic laws are not perpetual laws of Nature, but historic laws which appear and disappear” (Friedrich Engels in his letter to Albert Lange, 29 March 1865).

¹³ Alexis Mera, legal advisor to the Presidency, in an electronic communication sent to the author of these lines, on July 10, 2008, while the constituent debate was in full progress, stated that “*This is not an ideological problem, but technical. I agree with all possible protections for Nature. I have even come to the*

“conceptual gibberish” by those preserving the legal status quo, who basically failed to understand the changes in progress. They find it difficult to comprehend that the world is constantly moving.

Throughout legal history, every broadening of rights was previously inconceivable. The emancipation of slaves or the broadening of the rights of African Americans, of women, and boys and girls were once rejected on account of their being considered ridiculous. Throughout history, it has been necessary to recognize “*the right to have rights*” and that goal has always been achieved through a political effort to change the laws denying those rights.

Thus, freeing Nature from its status as subject without rights or as a mere object to be owned called and calls for a political effort recognizing it as a subject of rights. This aspect is essential if we acknowledge that all living beings have equal ontological value –which does not imply that all are identical.

Therefore, investing Nature with rights involves politically encouraging its transition from object to subject, as part of a centenarian process to widen the subjects of rights, as Jörg Leimbacher, a Swiss jurist, called to mind in 1988. The essence of Nature's Rights, according to Leimbacher himself, is rescuing the “*right to existence*” of human beings themselves. This is the core issue of Nature's Rights. We have to stress over and over again that human beings cannot live apart from Nature. Therefore, ensuring sustainability is indispensable to ensuring human life on the planet. This freedom fight, being a political effort, must start by acknowledging that the capitalist system destroys its own biophysical conditions of existence.

The political situation at the constituent moment, the intense debate and the commitment of a group of members of the assembly, as well as the contributions of several authorities on the subject, including the text timely written by Eduardo Galeano, highlighting the relevance of the discussion in progress in Montecristi¹⁴, permitted the initiative to be finally accepted after much hard work. Incidentally, the contributions and efforts made in this respect by those in the indigenous world –where Pacha Mama is an innate part of their lives–should be praised.¹⁵

conclusion that the ITT must not be exploited. The rights-holders system has been in existence on the planet for approximately 2,500 years. (...) The difference lies in that the Law is aimed at regulating human relations as the core of the social development that must take place, certainly, in harmony with nature. Therefore, only people can acquire rights and contract obligations. If nature is a rights-holder, it means that it must be represented by someone, which is stupid and, besides, said person could oppose the actions of man. This not only applies to biodiversity, but includes flies and cockroaches, which must be represented. By whom? Bacteria? Virus? We should be suing the WHO for eradicating smallpox, since the virus is part of nature too, and we have gotten rid of that “valuable” species.

¹⁴ Reading the text by Galeano at the plenary session of the Assembly helped consolidate a position, which did not seem promising in the beginning of the constituent process.

¹⁵ Apart from the transcultural tradition that considers the earth as the Mother, i.e. the Pacha Mama, there are other scientific reasons considering the earth as a live super organism (Gaia), which is extremely complex, requires care and must be strengthened. There are even cosmological reasons that consider the earth and life

Apart from the fact that Nature is an active part of the indigenous view of the world—wherein humans are immersed in Nature—, the idea of investing Nature with rights even has precedents in the western world. This thesis was already reflected by Italo Calvino in the XIX century, when eliciting that the Baron Cosimo Piovasco di Rondo, known as “*The Baron of Trees*”, proposed, during the French Revolution, a “*project of Constitution for a republican state entity with the Declaration of Human Rights, of rights of women, of children, of domestic animals and of wild animals, including birds, fish and insects, as well as plants, be they trees or legumes and herbs.*”¹⁶

Despite the abovementioned constitutional progress, since the new Ecuadorian Constitution's coming into effect, in October 2008, the road has been rugged as far as the application of its rules. There are several laws, pushed by the executive, that contradict constitutional principles in the field of environmental rights and, particularly, Nature's rights. Therefore, given that we are aware that materializing these changes will not be easy in Ecuador, we know that their approval worldwide will be even more difficult, especially to the extent they affect the privileges of national and transnational power circles, which will do everything in their power to try to stop this liberation process. In fact, since the Rights of Nature are in effect, it is indispensable to be on the lookout for a post-capitalist civilization.

With a transforming constitutional frame of reference like Montecristi's, the task lies in democratically facing the struggle for life, which is what is really at stake. And, incidentally, an international strategy will need to be put into action to empower the avant-garde principles contained in the Ecuadorian Constitution and possibly boost the Universal Declaration of Rights of Nature.

Before putting forward some thoughts on how the Rights of Nature could be incorporated into Ecuador's international policy, acknowledging beforehand the importance of a profoundly renewed and renewing diplomatic mission, let us devote a few lines to discuss the relation and the differences between Human Rights and the Rights of Nature.

Human Rights and the Rights of Nature

The prevalence of the Rights of Nature poses serious changes. Gudynas clearly stated that we must go from the current anthropocentrism to biocentrism. A sustained and pluralistic

as moments in the vast process of evolution of the Universe. Similarly, the transversal nature of inter-retro-connections between all beings is highlighted: everything is related to everything, in all points and in all circumstances. (Boff 2010).

¹⁶ See Jörg Leimbacher's book, *Die Rechte der Natur* (The Rights of Nature), Basel and Frankfurt am Main, 1988. German translation by the author of this article. It is worth mentioning that this and other texts on the subject reached the author's hands as a result of the issuance of the Montecristi Constitution. In fact, along with several experts on constitutional matters, who are open-minded and capable of understanding the relevance of these proposals, we are working on what, in a near future, could be the Universal Declaration of the Rights of Nature.

transition process is required.¹⁷ According to Roberto Guimaraes, the task consists in organizing society and the economy to guarantee the integrity of natural processes, energy and material flows in the biosphere, without forsaking the conservation of global biodiversity.

Therefore, this pioneer definition at the global level stating that Nature is a rights-holder is a front-line response to the current crisis of civilization. As such, it has been adopted by vast segments of the international community, which are aware of the fact that it is not feasible to continue with a predatory model of society, which is based on the struggle of human beings against Nature. Wealth and well-being cannot be defined any longer as the accumulation of material goods, with the subsequent expectations of unlimited economic growth and consumption. It is also necessary to acknowledge that instruments available to analyze these matters are no longer useful. These instruments make it seem that this “civilizing” pattern is natural and unavoidable. This was inherited from our colonial and Eurocentric past, as the Venezuelan writer Edgardo Lander accurately states.

By acknowledging that Nature is a rights-holder, as part of the search for that a necessary balance between Nature and the needs of human beings, the traditional constitutional version of the rights to a healthy environment will be exceeded. This traditional version has been included for a long time in Latin American constitutions. Strictly speaking, as proposed by Eduardo Gudynas (2009), it is urgent to state that the rights to a healthy environment form part of Human Rights and do not necessarily imply the Rights of Nature. This differentiation is aimed at stating that the classic formulations of third-generation Human Rights, i.e. the rights to a healthy environment or to a higher standard of living, are basically anthropocentric and must be understood as something different from the Rights of Nature.

When speaking of Human Rights, the focal point is the individual. This is an anthropocentric vision. When describing political and social rights, i.e. the first and second generations, the State acknowledges that citizens have those rights, and this forms part of an individualist and individualizing vision of citizenship. Regarding economic, cultural and environmental rights, identified as third-generation rights, the right for human beings to have access to fair social conditions and to a healthy and non-polluted environment is included. Poverty and environmental deterioration adversely affecting the life of individuals must be prevented.

First-generation rights pertain to the classical image of justice: the impartiality of laws, citizen safeguards, etc. To implement economic and social rights, the redistributive or social justice is accepted, since its focus is eliminating poverty. Third-generation rights also influence environmental justice, which meets in particular the demands of poor and marginalized groups, defending their quality of life affected by environmental destruction.

¹⁷ This will be a transitional process, mainly a political one, since it invites us to always include power-related aspects

If there are environmental damages, human beings may be indemnified, rewarded and/or compensated. (Beriensstein 2010)

In the Constitution drafted in Montecristi, basic constitutional mandates are derived from environmental or third-generation human rights. A key aspect deals with processes to decommercialize Nature, such as the one related to the privatization of water or the introduction of marketable criteria to commercialize environmental services.¹⁸ More specifically, “*environmental services shall not be susceptible to appropriation; their production, supply, use and exploitation shall be regulated by the State,*” according to article 74 of the Constitution.

The Constituent Assembly of Montecristi declared water as a basic human right. Activities related to water cannot be perceived as businesses. Therefore, in the beginning of the Constitution, Article 12 stipulates that “*the human right to water is basic and non-relinquishable. Water is a strategic national patrimony for public, inalienable, non-prescriptible, non-seizable, and essential uses for life.*”

The relevance of these constitutional provisions is multiple.

- Considered as a human right, the commercial image of water was left behind and the idea of “users” was recovered. By users we are referring to citizens instead of “customers,” term referred to those who can pay for this resource.
- Considered as a national strategic asset, the role of the State was recovered as related to the supply of water services. The role of the State can be very efficient as has been proved in practice.
- Considered as heritage, a long term vision was employed, bearing in mind future generations, disregarding market and speculative short-term pressures on water.
- Considered as a component of Nature, the Constitution of Montecristi recognized the importance of water as essential to life for all species, a goal common to the Rights of Nature.

This was a progressive position worldwide. Two years after the inclusion of this constitutional mandate regarding water, on July 28, 2010, the General Assembly of the United Nations approved the proposal of the Plurinational State of Bolivia which recognized “*the right to safe water and sanitary services as a human right.*” This is a right that is “*essential for the full enjoyment of life and all the human rights,*” according to that statement.

Food sovereignty became another basic guiding principle of constitutional provisions. Foreign sovereignty includes the protection of soil and the appropriate use of water, which

¹⁸ Nevertheless, the use of economic values cannot be excluded as a type of human valuation that, at a specific moment, can be quite useful especially to design and specify policies as part of the processes to go from anthropocentrism to biocentrism.

represents an example of the protection provided to thousands of farmers who depend on their work, as well as a decent existence for all the population. This should be the starting point of agrarian policies and even the recovery of the real national heritage: its biodiversity. The Constitution even includes the need for power sovereignty, without jeopardizing food sovereignty or ecological balance.

On the other hand, regarding the Rights of Nature, the focus is Nature, which obviously includes human beings. Nature is valuable on its own, without considering how human beings might use it. This is what a biocentric vision means. These rights do not defend a virgin Nature, which might cause the stopping of farming, fishing or animal breeding activities. These rights defend the maintenance of life systems and groups. They are focused on ecosystems and groups, not on individuals. Meat, fish, and grains can be eaten, for example, as long as we can guarantee that ecosystems with native species will continue to thrive.

The fulfillment of these rights corresponds to individuals, communities, peoples and nationalities. In spite of the opinions opposing this pioneer proposal, the Constitution is definite on this matter, in its article 71: *“Nature, or Pacha Mama, where life is reproduced and lived, is entitled to its existence, which must be respected in an holistic manner; its maintenance and the regeneration of its vital cycles, structure, functions, and evolutionary processes must also be respected. All individuals, communities, peoples and nationalities may demand public authorities to comply with the Rights of Nature. To apply and interpret these rights, the principles established by the Constitution must be complied with, as appropriate.”*

The Rights of Nature are considered as ecological rights to distinguish them from environmental rights of the previous option. These rights were granted by the Ecuadorian people who are the actual drafters of the Constitution through their representatives to the assembly and who approved it by a wide majority vote in the referendum of September 28, 2008. In the Ecuadorian Constitution—unlike the Bolivian Constitution—these rights are explicitly identified as the Rights of Nature. These rights are geared to protecting vital cycles and diverse evolutive processes, not only threatened species and natural areas.

Ecological justice seeks to guarantee the continued existence and survival of species and ecosystems, as groups and as life networks. This justice is independent from environmental justice. It is not concerned with compensating human beings for environmental damages. It is manifested in the restoration of affected ecosystems. Actually, two types of justices shall be concurrently applied, i.e. environmental justice to protect individuals and ecological justice to protect Nature.

Based on the ideas of Gudynas, the Rights of Nature need and, in turn, bring about another type of definition of citizens, which is based on social as well as environmental aspects. These types of citizenships are plural, since they depend on history and on environments, and admit principles of ecological justice which surpass the traditional vision of justice. Gudynas identifies these citizenships as “meta-ecological citizenships.”

On the Road to a Universal Declaration of the Rights of Nature

Summarizing all the above, recognizing the need for innovative proposals, such as that of the Ecuadorian Government with the Yasuní-ITT Initiative to leave crude oil underground¹⁹ or with the Daly-Correa tax on each barrel of oil exploited internationally, highlighting the achievements of the Bolivian government in the sense that water be declared a fundamental human right, Ecuador, and its government, must adopt a coherent strategy, to achieve leadership in the construction of a sustainable and equitable human society.

This eminently political task, which must be inserted into the management of international relations, demands, in the first place, knowing what has already been done in this field, particularly, the steps already taken to favor a Universal Declaration of the Rights of Nature.

These subjects have been discussed in different arenas even before the approval of the Constitution of Montecristi. However, this Constitution, with its declaration that considers Nature as a right-holder and opens up the possibility of a complete restoration of Nature as an entity affected by the actions of human beings, had a positive impact on wide sectors of international public opinion and immediately became a landmark. This has definitely been the most significant step so far. It is an undisputed pioneer proposal.

Worldwide awareness of global environmental problems has its own history. From mid 20th century different organizations began to appear voicing concerns about the Earth: the International Union for the Conservation of Nature (IUCN), in 1948; the Preservation and Use of Resources Conference in 1949; the Geneva Convention on the Law of the Sea in 1958; or the Antarctic Treaty in 1959, just to mention a few of the most outstanding.

Since the Stockholm Conference in 1972, environmental problems are defined as issues that extend beyond national borders. Several world conferences on environmental issues, such as the one in Rio de Janeiro in 1991 and in Johannesburg in 2001, have already been held with undoubted influence on countries and international relations themselves. Gradually these global environmental problems have modified the way in which this challenge is faced and in which humans view Nature.

In 1980, a formal demand for concerted global actions was brought. In the “*North-South Report: A Program for Survival*”, prepared by a commission chaired by the former German chancellor Willy Brandt, it was established that “*whether we like it or not, we are evermore facing problems that affect humanity as a whole, and therefore the solutions are inevitably international. The globalization of dangers and challenges requires international policies that go beyond regional or, even, national issues.*”

¹⁹ See the extensive contribution by Martínez y Acosta (2010) on the subject.

Policies, institutions and the law have evolved. Many changes have been introduced since those declarations in the past. Furthermore, civil Society, with growing global awareness, has begun carrying out a series of actions and initiatives. It is ever more evident that it is necessary to cooperate to protect human life and the planet itself.

As Jörg Leimbacher (2008) reminds us, in 1989, in Seoul, South Korea, the Evangelical Churches, thinking of broadening the Universal Declaration of Human Rights, worked on a proposal of “*Rights for future generations – The Rights of Nature*”. At that time, a draft of the declaration was proposed. Discussion continued during meetings in Geneva, in 1990, in Sao Paulo in 1991, until in Wellington, in 1992, the subject was not discussed. It was in 1997, in Debrecen, when the issue was again addressed from the perspective of the Rights of Nature within the framework of the biblical vision of creation.

In line with this discussion, which took place in civil society, it is necessary to point out that there are already proposals for declarations of the Rights of Nature. For example, there is the Universal Declaration of the Rights of Nature, proposed by EnAct International, an organization created by Comac Cullinam, a South African jurist, who has worked on the subject and has carried out several studies on it. Also the proposal by George Winter, the House of the Future (Haus der Zukunft) in Germany.

Going back in time a bit further, since we are pointing out some of the actions of civil society, the valuable contributions of Christopher Stone, considered by Leimbacher the “*Father of the Rights of Nature*”, or Albert Schweitzer, for example, are worth mentioning.

All the aforementioned efforts and many others have paved the way for us to follow the path of reuniting Man with Nature, which is what this is all about. Therefore, if we are to propose extending the Universal Declaration of the Rights of Nature, it would be necessary to analyze the ways and means to achieve this.

Bolivia, with a Constitution where the Rights of Nature are not included, as noted above, has achieved a position of significant leadership. Due to the failure of the Copenhagen Summit in December 2009, Evo Morales convened the People's World Conference on Climate Change and the Rights of Mother Earth, which took place in Cochabamba in April 2010. In said summit, in addition to promoting the Rights of Nature, the creation of an international tribunal to penalize environmental crimes was proposed.

In July of the same year, Bolivia achieved another significant objective with the declaration of water as a fundamental human right at the United Nations. This may serve as another point of reference.

According to the results of this Bolivian diplomatic action, in order to promote the Declaration of the Rights of Nature, a block of countries deeply committed to the issue should be created, to put forward these efforts within a framework of international cooperation and complementation, considering that this type of action will take some time

to materialize. Therefore, these actions must have a long term strategy, to add supporters to the cause.

Actions of this type require sustained efforts of coordination and support by the civil society of each of the countries involved in bringing them about, as well as from other actors of civil society worldwide. It is not just a question of government action. Therefore, this effort at diplomatic level has to be supplemented with activities and campaigns proposed and even led by civil society. This is a fundamental conclusion considering that not infrequently changes in government may cause changes in policy and even those governments that have proposed projects may lose interest in these.

If the Bolivian government achieved an important objective with the declaration of water as a fundamental human right, Ecuador, with more reason and a plethora of arguments, could also add its voice and occupy a position of leadership in this type of initiative. This would mean organizing a specialized unit within the Ministry of Foreign Affairs of Ecuador to work systematically to build a common front to cosponsor the subject of the Rights of Nature in the United Nations.²⁰ This unit should also coordinate all the actions relating to environmental issues carried out by the Ecuadorian State abroad. Diverse and even contradictory positions such as those favored by the Ministry of Environment should not be maintained.

However, it must be clear that all options to be followed internationally must be carefully considered, since we must be aware that a Declaration such as the one we hereby propose cannot be expected to have immediate results.

Let us remember that Human Rights did not emerge as totally developed concepts. From the French Revolution to the Universal Declaration in December 1948 there were many struggles. The drafting and application of this Declaration has involved and involves a sustained effort. And since then every new right involves sustained political effort, within the framework of increased diplomatic efforts. In this way, the Human Right to Education and Work, incorporated into the Universal Declaration of Human Rights, required prolonged debate and construction. A similar process was seen with the International Covenant on Economic, Social and Cultural Rights or the Declaration of Rights of Indigenous Peoples and Minorities.

We must also keep in mind how difficult the acceptance of Human Rights has been in practice, and these were formally accepted as a universal mandate in 1948. This, however,

²⁰ The Bolivian initiative became viable due to the formation of an important group of sponsoring States: Angola, Antigua and Barbuda, Azerbaijan, Bahrain, Bangladesh, Benin, Eritrea, the Plurinational State of Bolivia, Burundi, Congo, Cuba, Dominica, Ecuador, El Salvador, Fiji, Georgia, Guinea, Haiti, Solomon Islands, Madagascar, Maldives, Mauritius, Nicaragua, Nigeria, Paraguay, Philippines, Dominican Republic, Samoa, St. Vincent and the Grenadines, Santa Lucía, Serbia, Seychelles, Sri Lanka, Tuvalu, Uruguay, Vanuatu, Bolivarian Republic of Venezuela, and Yemen.

must not lead to discouragement. On the contrary, it is indispensable to think of a strategy and a diplomatic procedure to follow.

There are many possible routes to address this issue in the United Nations. In my opinion, that is the arena where most political efforts must be made. This, of course, does not mean that it is not necessary to support the Rights of Nature in other forums, or in other countries by means of constitutional amendments, for example.

Without expecting to exhaust the subject, but only as a further reference, it would be advisable to think of acting in the Council of Human Rights in the United Nations; there it would be possible to link respect for Human Rights with the need to ensure balanced ecological management to ensure effectiveness. Other routes of access could be considered, such as United Nations programs that address environmental issues, such as the *United Nations Environment Programme* (UNEP), or the *Division of Environmental Law and Conventions*, within the framework of UNEP. Incidentally, the United Nations General Assembly must be targeted for this diplomatic initiative; there are several committees that could be forums for addressing this proposal.

Another point to clarify is the advisability or not of a Declaration of the Rights of Nature in a text separate from Human Rights. Some experts recommend that the Rights of Nature should form part of Human Rights. These are not insignificant issues. An in-depth investigation and consultations in different areas is required.

In summary, the task ahead is extremely complex. Ancestral resistance and arrogant positions that conceal a series of privileges must be overcome, while at the same time building strategic proposals for action at home and abroad. The strict enforcement of the Rights of Nature requires the existence of an appropriate international legal framework, taking into account that environmental problems are issues increasingly affecting humankind as a whole.

And lastly, we must recognize that in Ecuador the Good Life or *sumac kawsay*, i.e. the basis of the plurinational and intercultural State, closely related to the Rights of Nature, is at stake. And that these rights, ever more closely related to Human Rights, urge us to democratically build sustainable societies, based on a plural citizenships also considered from an environmental point of view.

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