

Rights of Nature: The Art and Politics of Earth Jurisprudence*

TJ Demos

April, 2015

We, Indigenous Peoples from all regions of the world have defended our Mother Earth from the aggression of unsustainable development and the over exploitation of our natural resources by mining, logging, mega-dams, exploration and extraction of petroleum. Our forests suffer from the production of agro-fuels, bio-mass, plantations and other impositions of false solutions to climate change and unsustainable, damaging development.

-Kari-Oca II Declaration, the Indigenous People's Conference at Rio +20, 2012¹

To speak about Mother Earth's rights challenges the entire legal system on which this capitalist system is based. This is why we insist on talking about rights. Someone who kills someone else goes to jail, but if you pollute a river, nothing happens to you. We have to be accountable. The key issue is to make us accountable in relation to our Earth system.

-Pablo Solón Romero, former Ambassador of the Plurinational State of Bolivia to the United Nations, 2011²

Facing catastrophic climate change, runaway global warming, and environmental destruction, modern society appears locked in crisis. That crisis, at once ecological, economic, political, and cultural, concerns our fraught relationship to the world around us—including the myriad life forms threatened with extinction, biodiverse habitats befouled by industrial development, and the planet's atmosphere filled with greenhouse gas emissions—which is putting life as we know it at grave risk. Indeed, it's increasingly common to read warnings of the near-future collapse of Earth's life-support systems, and by extension the viability of human civilization, should nothing be done to alter our course.³ In recent years, viewing Earth as an infinite supply of natural resources to be freely exploited by multinational corporate capitalism has, however, been increasingly challenged, and today, the rights of nature to subsist in a state free from destructive human practices are increasingly being recognized in environmental law as a means to protect our fragile existence. Foremost amongst the principles of Earth jurisprudence is the recognition that all members of the planet's community possess legal rights, including the right to exist and participate in the evolution of life's biodiverse networks of interdependent systems.⁴

* Catalogue essay for *Rights of Nature: Art and Ecology in the Americas*, Nottingham Contemporary, 2015, curated by TJ Demos, Alex Farquharson, with Irene Aristizábal. The catalogue's publication is forthcoming.

¹ See <http://climateandcapitalism.com/2012/06/19/kari-oca-2-declaration/>.

² "The Rights of Mother Nature," CUNY, 2011, at: <http://ashleydawson.info/2011/04/21/the-rights-of-mother-nature/>.

³ See Christian Parenti, *Tropic of Chaos: Climate Change and the New Geography of Violence* (New York: Nation Books, 2011); and Nafeez Ahmed, "NASA-funded Study: Industrial Civilisation Headed for 'Irreversible Collapse'?" *The Guardian* (14 March, 2014), at: <http://www.theguardian.com>.

⁴ For further elaboration, see Cormac Cullinan, *Wild Law: A Manifesto for Earth Justice* (Claremont, SA: Green Books, 2002); Peter Burdon, ed., *Exploring Wild Law: The Philosophy of Earth Jurisprudence* (Kent Town, South Australia: Wakefield Press, 2011); and Maude Barlow et al., *The Rights of Nature: The Case for a Universal Declaration of the Rights of Mother Earth* (Global Exchange, the Council of Canadians,

While such a legal transformation is global in scope, there has been an intensity of interrelated legal, political, and cultural developments in the Americas—from the Southern Cone to the Arctic pole—that link Indigenous movements, political activists and ecologically-concerned artists, and legal and philosophical theories around rights-to-nature discourse. From Bolivia’s and Ecuador’s recent enshrining of the rights of Mother Earth in their constitutions and legal systems in 2008, to movements like Idle No More that join First Nations peoples across the continent via environmental activism, each has contributed in significant ways to this bi-continental shift, a shift mirrored in recent philosophical developments (such as the formations of new materialism, speculative realism, and object-oriented ontology⁵) in rethinking humanity’s relation to non-human life. These diverse developments have variously contested the anthropocentrism of instrumental reason, the assumed human sovereignty over the environment, and investigated newly egalitarian ways of being-in-the-world. Against Western epistemologies of division between the human and the natural, these diverse formations assume mutuality and integration as the basis of ecology, and endow non-human life forms with complex forms of legal and political agency. The convergence of energies is driving toward nothing less than a cultural-political-philosophical revolution that is redefining our relation to the world.

With this research-exhibition, we aim to explore how an international grouping of artists and activists—all with links to the Americas—have participated in this transformation in their diverse practices and conceptual engagements. How have they advanced their own analyses, and produced creative modelings that express or reveal entrances to the fundamental principles of rights that transcend human subjects against environmentally destructive practices? In refusing to surrender the term “nature,” as is proposed in the post-natural discourse of recent ecocritical theory, we wish to trace the cultural resonances shared by bio-centric legal developments, Amerindian cosmologies referring to *Pachamama* (Quechua and Aymara for “Mother Earth”), and speculative materialist ontologies that extend sensitivity to the world beyond systems of human knowledge—not in order to retain the admittedly outdated concept of a pure realm apart from the human, but rather to register a new, as well as, in some ways, very old, conception of nature located within Indigenous rights struggle, Earth law, and political ecology. The exhibition considers how this diverse set of practitioners have imagined or attempted to realize what Naomi Klein, in her recent book *This Changes Everything*, has described as a world we want to live in, where “we” is no longer limited to an exceptional and autonomous humanity.

The Pachamama Alliance, and Fundacion Pachamama, 2011). Also see the Earth Law Library at: <http://www.gaiafoundation.org/earth-law-library>; and the Indigenous Law Institute, at: <http://ili.nativeweb.org/index.html>.

⁵ For instance, see Jane Bennett, *Vibrant Matter: A Political Ecology of Things* (Durham, NC: Duke University Press, 2010); Diana Coole and Samantha Frost, eds., *New Materialisms: Ontology, Agency, and Politics* (Durham: Duke University Press, 2010); Anselm Franke, ed., *Animism* (Berlin: Sternberg Press, 2010); Bruno Latour, *We Have Never Been Modern*, trans. Catherine Porter (Cambridge, MA: Harvard University Press, 1993); and Levi Bryant, Nick Srnicek and Graham Harman, eds., *The Speculative Turn: Continental Materialism and Realism* (Melbourne: Re:Press, 2011).



Fig. 1: Allora & Calzadilla, *Hose Petrified Petrol Pump*, 2012 (foreground); Subhankar Banerjee *Caribou Migration I*, 2001 (background)

In the exhibition, the icy-blue photographs of Subhankar Banerjee show the majestic mountains and snowy expanses of Alaska’s Arctic National Wildlife Refuge, an area riven by conflict between, among others, Indigenous Gwich’in people, who hunt caribou in the area, and oil-drilling interests. While corporate-friendly politicians position the Arctic as a vast white nothingness unthreatened by proposed development, Banerjee’s images, populated with Caribou migrations, dramatize the fragile biodiversity of this ecosystem, even while it remains distinct in his work from the “wilderness” used historically by conservationists to dispossess Indigenous peoples of their rights to hunt on such lands. Nearby in the gallery is the petrified Petrol Pump of Allora & Calzadilla, where the ubiquitous fossil-fuel technology has itself been fossilized, appearing as if a frozen totem delivered to us from a post-carbon future. It figures as a hopeful sign that the nature appearing in Banerjee’s imposing portrayals will ultimately overcome the industrial threats to its “right to regenerate its bio-capacity and to continue its vital cycles and processes free from human disruptions,” as the Universal Declaration of the Rights of Mother Earth defines it.

In the IPCC’s Fifth Assessment Synthesis Report, 2014, we learn that: “Continued emission of greenhouse gases will cause further warming and long-lasting changes in all components of the climate system, increasing the likelihood of severe, pervasive and irreversible impacts for people and

ecosystems.”⁶ As we’ve heard repeatedly from global scientific consensus in recent years, we’re headed toward a series of ecological tipping points, which, when crossed, will bring a catastrophic future marked by the destruction of life-supporting natural environments. As we enter the Anthropocene—an historically unprecedented geological era when human activity determines Earth’s natural systems—the dark irony is that this new epoch is named after a species—ours—that is driving geology toward a state inhospitable to our very survivability (even though the so-called term *anthropos* tends to problematically generalize humanity, when environmental change, as we know, has been largely caused by industrially developed countries⁷). There is thus an urgent need to change course, and to realize a radically different world, one released from centuries of the domination of nature, a nature historically relegated to the status of “natural resources” available to infinite exploitation. That exploitation, going back to the very origins of Western civilization (as Marx reminds us in his studies of classical Greek ecology), accelerated during post-Enlightenment modernity, and, as we know, accompanied a colonialism that violently internalized people as colonial subjects, or eliminated them from the reigning order, dispossessing them of their lands and their relationship to the environment, both people and environment made to serve the epic project of primitive accumulation over the last 500 years.⁸ That history has set the stage for the obscene wealth inequalities of the present day—when we learn, according to a recent Oxfam report, that the world’s richest 80 people own as much as the bottom half of the population combined (about 3.5 billion people), just as a similar number of corporations is responsible for running the fossil-fuel economy.⁹ In this regard, political ecology is integrally connected to colonial history, just as colonization entailed destructive climate change.

This situation has led to the need for what some have termed “the Great Transition” (as discussed, for instance, in Klein’s *This Changes Everything*).¹⁰ It refers first and foremost to a necessary transformation that will eliminate the causes of catastrophic climate change—by the immediate reduction of greenhouse gas emissions. More broadly, it will initiate a shift in our political economy away from the fetishization of growth beyond all else, and toward a new democratic politics (including

⁶ Rajendra K. Pachauri, Leo Meyer, and the Core Writing Team, eds, *Intergovernmental Panel on Climate Change 2014 Synthesis Report: Summary for Policymakers* (2014), at: <http://www.ipcc.ch/>, 8.

⁷ For a critique of the term “Anthropocene,” and proposals for alternatives, see Donna Haraway’s presentation, “Anthropocene, Capitalocene, Chthulucene: Staying with the Trouble,” at Anthropocene: Arts of Living on a Damaged Planet, the conference at University of California, Santa Cruz, May 8, 2014, at <http://anthropocene.au.dk/arts-of-living-on-a-damaged-planet/>.

⁸ On these interconnected histories, see William M. Adams and Martin Mulligan, *Decolonizing Nature: Strategies for Conservation in a Post-colonial Era* (London: Earthscan, 2003), and John Bellamy Foster, *Marx’s Ecology: Materialism and Nature* (NY: Monthly Review Press, 2000).

⁹ *Democracy Now!* Report: “Oxfam: World’s Richest 80 People Own as Much as the Bottom Half,” (January 20, 2015), at: <http://www.democracynow.org>; and Suzanne Goldenberg, “Just 90 Companies Caused Two-thirds of Man-made Global Warming Emissions,” *The Guardian* (20 November 2013), at theguardian.com.

¹⁰ Paul Raskin et al., “Great Transition: The Promise and Lure of the Times Ahead,” Report of the Global Scenario Group, Stockholm Environment Institute and Tellus Institute, 2002. Also see, Stephen Spratt, Andrew Simms, Eva Neitzert, and Josh Ryan-Collins, “The Great Transition,” The New Economics Foundation (June 2010), at: www.neweconomics.org.

recognizing Indigenous and human rights), energy system, and relationship to the Earth, supporting land, food, and water sovereignty.¹¹ In other words, it turns ecology into a complex and multidimensional project. Needless to say, such a vision runs counter to the prevailing doctrine of Green capitalism, which believes that environmental crisis can only be solved through further market mechanisms—carbon offset credits, debt-for-nature swaps, ethical consumerism, green design, and financializing nature—according to which the very cause of our dysfunctional ecology is repeatedly and falsely offered as the only possible “solution.”¹²

But how to ignite this Great Transition, no doubt massively challenging in political terms alone? The legal innovation of rights of nature provides one key mechanism, representing nothing less than a cultural-social-political revolution in jurisprudence, and more broadly in philosophical worldview. It replaces a property-based conception of nature with biocentric integration, in which legal standing and personhood extend to nonhuman agents. As such, it proposes a means to hold industry—whether agribusiness, logging, or mining—accountable for what are currently considered “externalities,” the negative environmental and social impacts its activities generate but from which corporations are currently able to renounce all responsibility. Doing so, rights of nature aims to protect the cohesion of ecosystems that support the world’s biodiversity.¹³ While earlier formulations of rights of nature stressed environmental ethics, as found in the first articulations of the concept in the 1990s, now they are linked directly to Indigenous struggles for human rights and environmental protections in the global South.¹⁴ (Similarly, in the exhibition, Félix Guattari and Vandana Shiva appear in the soil-graphite drawings of Claire Pentecost, implicitly indicating an additional genealogy of ecology from the former’s 1989 book *Three Ecologies*, in which he saw psychology, social life, and environment threatened by “integrated world capitalism,” to Shiva’s political ecology articulated from Southern concerns, detailing what she calls the “biopiracy” and “corporate control of life” that is proving disastrous for Indian farmers and Indigenous populations.) As the Bolivarian Alliance for the Peoples of Our America (ALBA) claim, “In the 21st Century it is impossible to achieve full human rights protection if at the same time we do not

¹¹ That said, for a recent inspired critique of the politics of recognition that reinforce settler colonialism, see Glen Coulthard, *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition* (Minneapolis: University of Minnesota Press, 2014).

¹² See Richard Smith, “Green Capitalism: The God That Failed,” *Truthout* (9 January 2014), <http://www.truth-out.org/news/item/21060-green-capitalism-the-god-that-failed>.

¹³ Cullinan invokes Aldo Leopold’s *A Sand County Almanac* of 1949 for the basic principle involved here: “a thing is right when it tends to preserve the integrity, stability, and beauty of the biotic community. It is wrong when it tends otherwise.” “A History of Wild Law,” in *Exploring Wild Law: The Philosophy of Earth Jurisprudence*, 19.

¹⁴ At the exhibition’s “Nature of Rights” conference, Subhankar Banerjee mapped out a useful genealogy of rights of nature—from an environmental ethics of the North (as in the 1990 book of Roderick Nash, *The Rights of Nature: History of Environmental Ethics*), to more recent engagements in the global framework attuned to what Ramachandra Guha calls the environmentalism of the poor. The video recording of Banerjee’s presentation can be found here: <http://www.nottinghamcontemporary.org/event/rights-nature-conference>.

recognize and defend the rights of the planet earth and nature. Only by guaranteeing the rights of Mother Earth can we guarantee the protection of human rights.”



Fig. 3: Ursula Biemann & Paulo Tavares, *Forest Law*, 2014, Video installation, 41 min 52

In Rights of Nature, Ursula Biemann and Paulo Tavares present Forest Law, a multi-media installation offering a researched analysis of the Ecuadoran Amazon as a site of conflict between the Kichwa people of the Serayaku and the oil industry (Chevron and Texaco in particular). The piece explores how these Indigenous people have turned to courts of law, such as the Inter-American Court of Human Rights, to press for environmental protections. The researchers find a key point of reference in The Natural Contract, the prescient 1990 book by Michel Serres, written at the same time as the beginning of Indigenous uprisings in Ecuador (including those of the recently formed CONAIE, the Confederation of Indigenous Nationalities of Ecuador). In his text, Serres calls for a post-anthropocentric and non-violent relation to nature, paralleling the aims of the rights of Mother Earth, as articulated in Ecuador’s recent Indigenous-supported constitution. Near to their installation, GIAP: Grupo de Investigación en Arte y Política contributes an archive of Zapatista visual culture, amplifying and reinforcing the Chiapas-based struggle for Indigenous sovereignty, anti-globalization self-sufficiency, and sustainable agroecology. The archive includes the political prints of Escuela de Cultura Popular Mártires del ’68 (ECPM68), and the colorful paintings by Beatriz Aurora that depict traditional Mayan culture mixed with revolutionary forms of life. Whereas Forest Law invokes rights of nature as the object of activist constitutionalism carried out in courts of law (and thereby depends on political systems for legal implementation and enforcement, which have been inconsistent at best), the Zapatistas have seized their own geographical autonomy and instituted their own legal codes beyond the rule of the Mexican state and its support for NAFTA’s chemical-intensive and GM-based agribusiness trade arrangements.



Fig. 4: GIAP: Grupo de Investigación en Arte y Política, Zapatista Visual Culture Archive, Detail of painting by Beatriz Aurora, c. 2014

The rights of nature concept is thus more than a Western legal development; rather, it's embedded in long histories of Indigenous movements in the Americas, movements that situate legality within diverse cultural traditions related to what is commonly termed *buen vivir*, or living well, in Andean cultures of South America (including Bolivia, Ecuador, Peru, and parts of Columbia). As such, *buen vivir* forms a multidimensional concept, comprising a critical negation of classical Western development theory (that of corporate globalization, advanced by the World Bank and WTO, supporting NAFTA policies and current TTIP proposals to draw Europe into the sphere of ever greater multinational corporate power). In addition, it offers an alternative modeling of living emerging from Indigenous traditions, philosophies, and legal codes. The concept emerges from *sumak kawsay*, Kichwa for the fullness of communal life—including the set of rights to health, education, shelter, food, and healthy environment.¹⁵ *Buen vivir* designates a multi-layered construction, one articulated at the

¹⁵ The term also relates to the Aymara concept of *suma qamaña*, Guaraní ideas of social harmony (*ñandereko*), the Shuar's notion of the good life (*shiir waras*), and harmonious living of the Mapuches of Chile (*küme mongen*). See Eduardo Gudynas, "Buen Vivir: Today's Tomorrow," *Development* (2011) 54(4), 442-443, for further discussion and also differentiation between these different Indigenous philosophies. Also see: Arturo Escobar, "Latin America at a Crossroads," *Cultural Studies* 24/1 (January 2010), 1-65, for a deep analysis of the complexity of historical and contemporary Latin American geopolitics, including one attentive to the differences between the conservative modernization of Mexico,

intersection of local beliefs and practices, international political theory, and specific policies (including legal reforms, environmental accounting, tax regulations, degrowth economics balanced with poverty alleviation, and regional autonomy), and is fundamentally supportive of a harmonious relation to nature, the environment commonly being the location of sacredness according to Amerindian, Mesoamerican, and North American Indigenous cosmologies.¹⁶ As such, it offers “a common ground where critical perspectives on development, originated from different ontologies, meet and interact,” as Eduardo Gudynas notes.¹⁷

In other words, when Bolivia and Ecuador institutionalized the rights of nature in their constitutions and legal systems; and when the International Rights of Nature Tribunal (including Indian eco-activist Vandana Shiva, South African environmental lawyer Cormac Cullinan, Ecuadoran Kichwa leader Blanca Chancoso, Ecuadoran economist Alberto Acosta, and Tom Goldtooth of the Diné/Dakota nations, among others), initiated hearings against Condor Mirador Mining in Ecuador, BP’s 2010 Deepwater Horizon oil spill in the Gulf of Mexico, the Belo Monte Dam project in Brazil, Chevron-Texaco activities in Ecuador, oil drilling in Ecuador’s Yasuni National Park, and hydraulic fracturing in Argentina; and when the World People’s Conference on Climate Change and the Rights of Mother Earth, meeting in 2010 in Cochabamba, Bolivia, proposed the Universal Declaration of the Rights of Mother Earth to the UN, in which it’s written, “Mother Earth is a unique, indivisible, self-regulating community of interrelated beings that sustains, contains and reproduces all beings”—in all these articulations, we find a repeated emphasis upon the fact that this legality has deep roots in Indigenous cultural and religious traditions.¹⁸

Peru, and Columbia, the pragmatic reformism of Brazil, Chile, and Uruguay, the popular nationalism of Venezuela and Argentina, and the Indigenous plurinationalism and neo-developmentalism of Bolivia and Ecuador.

¹⁶ For further literature on *buen vivir*, see: Julien Vanhulst and Adrian Beling, “*Buen Vivir*: Emergent Discourse Within or Beyond Sustainable Development?,” *Ecological Economics* 101 (2014), 54-63; Regina Cochrane, “Climate Change, *Buen Vivir*, and the Dialectic of Enlightenment: Toward a Feminist Critical Philosophy of Climate Justice,” *Hypatia* vol. 29, no. 3 (Summer 2014), 576-598; Ricardo Jiménez, “Recovering and Valuing Other Ethical Pillars: *Buen Vivir*,” Working Paper for the International Workshop (2011), 1-15; and Craig M. Kauffman and Pamela L. Martin, “Scaling up *Buen Vivir*: Globalizing Local Environmental Governance from Ecuador,” *Global Environmental Politics* 14:1 (February 2014), 40-58.

¹⁷ Gudynas, “*Buen Vivir*: Today’s Tomorrow,” 447. In the same way Vandana Shiva sees “Earth democracy” as not just a “concept,” but “shaped by the multiple and diverse practices of people reclaiming their commons, their resources, their livelihoods, their freedoms, their dignity, their identities, and their peace.” See *Earth Democracy: Justice, Sustainability, and Peace* (Cambridge, MA: South End Press, 2005), 5.

¹⁸ For studies of Indigenous ecologies, see: Anne Ross, Kathleen Pickering Sherman, Jeffrey G. Snodgrass, Henry D. Delcore, Richard Sherman, *Indigenous Peoples and the Collaborative Stewardship of Nature* (Walnut Creek, CA: Left Coast Press, 2011); Melissa K. Nelson, ed., *Original Instructions: Indigenous Teachings for a Sustainable Future* (Rochester, VT: Bear & Company, 2008); Daniel R. Wildcat, *Red Alert!: Saving the Planet with Indigenous Knowledge* (Golden, CO: Fulcrum, 2009); Lewis Williams, Rose Roberts, and Alastair McIntosh, eds., *Radical Human Ecology: Intercultural and Indigenous Approaches* (Surrey: Ashgate, 2012); and Pedro García Hierro and Alexandre Surrallés, eds., *The Land Within: Indigenous Territory and the Perception of the Environment* (Copenhagen: International Work Group for Indigenous Affairs, 2005).

This recognition, however, does not mean that embracing *buen vivir*, or positioning rights of nature as a viable counter-narrative to Western developmentalism, means returning to some idealized and mythical pre-Columbian origin. Rather, as many critical commentators make clear, “living well” defines a decolonizing project articulated in the present at the convergence of Indigenous activism, environmentalist social movements, politico-ecological theory, Earth-centric legal philosophy, and human and non-human rights claims, all networked in solidarity and open to local and regional particularities. As such, this convergence designates an intersectionalist politics of plurinational communities, interdisciplinary actors and interspecies agents, forged in centuries of dispossession and struggles for justice, and directed currently against corporate globalization and its ongoing colonization of nature.¹⁹



Fig. 5: Jimmie Durham, *La Malinche*, 1988–1991; with *Cortez*, 1991 (background); and Miguel Angel Rojas, *El Nuevo Dorado (The New Eldorado)*, 2012 (on wall to right).

¹⁹ For one example of such an intersectionalist and international articulation, see Chris Williams and Marcela Olivera, “Can Bolivia Chart a Sustainable Path Away From Capitalism?,” *Truthout* (28 January 2015), www.truth-out.org, which offers a critical overview of Bolivia’s mixed record in relation to ecology, extractivism, and Indigenous rights. They write: “The best form of solidarity we can show to Bolivians still struggling for *buen vivir* is to forge a more powerful movement of resistance to our own leaders, in the United States and elsewhere. We must also seek to emulate Bolivia’s example by pursuing freedom from capitalism and the freedom to decide our own future, collectively and democratically, sometimes through mass uprisings against our governments.”

In a third gallery, the sculpture of Native American expat Jimmie Durham presents portraits of La Malinche, referencing the native Nahua translator, intermediary, and lover of Spanish Conquistador Hernán Cortés, who is depicted in a nearby work. Composed of reused metal piping, natural elements, and plastic kitsch, these pieces' very heterogeneity allegorizes intercultural conflict, colonial domination, and treacherous intercultural negotiation. Nearby is the mural of Colombian artist Miguel Angel Rojas, showing the colonization of nature, where square sections of powdered coca leaves display the topography of the Amazon River delineated in gold leaf. Conjugating materiality and form, the piece translates how this biodiverse habitat suffers informal drug-related coca farming and gold mining. Meanwhile, Abel Rodríguez, of the Nonuya people of Colombia's Amazon rainforest, creates detailed drawings of his native flora and fauna, regenerating his people's traditional biological environmental literacy as a counter to the logic of commercial exploitation. Durham's is a critical allegory of postcolonial Indigeneity-in-process, precarious and resistant, irreducible to contemporary forms of exoticism, essentialism, and objectification; Rojas's is one of cultural revival based in a eco-ethnic knowledge of local nonhuman life.



Fig. 6: Abel Rodríguez, *Las plantas cultivadas por la gente de centro en la Amazonia colombiana* (The Plants Cultivated by the People from the Center in the Colombian Amazon), 2012.

In retaining the term “nature,” *Rights of Nature* in effect declares an allegiance to the intersectionalist politics of *buen vivir*, one that declines the calls to a post-natural condition, as

formulated by sociologist-philosopher Bruno Latour and ecocritic Timothy Morton.²⁰ While nature is surely a complex term, historically reinforcing patterns of ideological naturalization, and supporting objectifying ontological divisions between humans and nature—as if nature signifies a pure realm apart from the human—what we need is not terminological abandonment, as in Morton’s call for an “ecology without nature,” but rather conceptual reinvention, as we find in rights-of-nature discourse.²¹ This conceptual reinvention of nature, moreover, should also bear in mind warnings concerning the Western academy’s history of unacknowledged appropriations and omissions of Indigenous knowledge in its theoretical inventions, particularly in relation to current non-anthropocentric philosophy, object oriented ontology, and notions of ecological interdependence with nonhumans—the conceptual origins of which can also be traced in the long histories of diverse First Nations’ cultural and religious traditions. As Indigenous feminist (of the Métis people of Ontario) Zoe Todd has recently observed, invoking the words of Caleb Behn, it’s imperative to avoid the situation whereby “first they came for the land, the water, the wood, the furs, bodies, the gold” and now, they take “our laws, our stories, our philosophies.” Todd specifically references the “ontological turn,” or the realization that “animals, the climate, water, ‘atmospheres’ and non-human presences like ancestors and spirits are sentient and possess agency, that ‘nature’ and ‘culture’, ‘human’ and ‘animal’ may not be so separate after all,” a realization made without typically referencing the cosmologies and legal philosophies, for instance, of the Inuit, Anishinaabe, or Nehiyawak.²² Rather than claiming conceptual originality or fetishizing theoretical innovation, we need to develop more complex genealogies that register the significance of Indigenous bases of these concepts, as an act of intellectual and political allegiance that works toward decolonizing our research methodologies.²³

²⁰ Bruno Latour, *Politics of Nature: How to Bring the Sciences into Democracy*, trans. Catherine Porter (Cambridge, Mass.: Harvard University Press, 2004); Timothy Morton, *Ecology Without Nature: Rethinking Environmental Aesthetics* (Cambridge: Harvard University Press, 2007). Also see Erik Swyngedouw, “Whose Environment? The End of Nature, Climate Change and the Process of Post-Politicization,” *Ambiente & Sociedade* XIV/2 (July-December 2011), 67-87.

²¹ That said, there is in fact a confluence in the conceptualizations of humans’ internalization within the environment shared by these diverse strands of thinking, despite their different terminology. For more on this issue, see my forthcoming book, *Decolonizing Nature: Contemporary Art and the Politics of Ecology* (Berlin: Sternberg Press, 2015). For analysis of the hybridity and dynamism of nature, as in the increasing significance of “natural-cultural” composites, see Donna Haraway, *When Species Meet* (Minneapolis: University of Minnesota Press, 2007).

²² Zoe Todd, “An Indigenous Feminist’s Take on the Ontological Turn,” posted October 24, 2014, at <https://zoeandthecity.wordpress.com>. Todd specifically responds to Bruno Latour’s consideration of the climate as of “common cosmopolitical concern,” as he discussed in a talk in Edinburgh in 2013. She writes: “I waited, through the whole talk, to hear the Great Latour credit Indigenous thinkers for their millennia of engagement with sentient environments, with cosmologies that enmesh people into complex relationships between themselves and *all* relations, and with climates and atmospheres as important points of organization and action. It never came.”

²³ For a useful model here, see Jessica L. Horton and Janet Catherine Berlo, “Beyond the Mirror: Indigenous Ecologies and ‘New Materialisms’ in Contemporary Art,” *Third Text* 120 (January 2013). Also see: Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (London: Zed Books, 2008), which Jean Fisher importantly referenced at the Nottingham Rights of Nature conference.

For what neocolonial violence is done when Slavoj Žižek imperiously declares “there is no Mother Earth watching over us,” or when Alain Badiou proclaims that the “rights of Nature is a contemporary form of the opium of the people”—both on the basis of major misunderstandings of *Pachamama* reverence and rights of nature politics?²⁴ For Andean beliefs have it that Mother Earth doesn’t so much look over us as demand that we watch out for her; and rights of nature is not at all a discourse of “depoliticization,” in Badiou’s terms, but rather a site precisely of political subjectivation. Yet despite the suppression of Indigenous wisdom in such voices, these detractors do point out a crucial challenge to rights of nature—as did David Harvey when he moderated a recent conference on rights of nature at New York’s City University of New York in 2011, and that is: Rights of nature risks being mere legal idealism without social movements to back up its revolutionary aims. Yet has this not been the case so far? Even Ecuador’s and Bolivia’s uneven track record in implementing Earth law in the face of extraction and oil drilling prospects has been contested at every turn by Indigenous activism and international environmental struggles, especially in that the legal framework in Ecuador remains ever precarious, challenged with governmental hypocrisy, institutional corruption, and legislative ambiguity, all of which must be resolved if such law is to gain the enforceable power of governance.²⁵ Still, rights of nature has indeed been propelled forward by the energies of interconnected social movements, such as Ecuador’s Pachamama Alliance, which is supporting a referendum to reinstate the Yasuní-ITT Initiative that would protect one of the most bio-diverse regions of the Amazon, and Canada’s Idle No More, which “seeks to assert Indigenous inherent rights to sovereignty and reinstitute traditional laws and Nation to Nation Treaties by protecting the lands and waters from corporate destruction.”²⁶

Also challenging for implementing rights of nature is the reliance on law as a tool of social transformation, as it is admittedly “usually shaped and wielded most effectively by the powerful,” as Cormac Cullinan notes. “Consequently, law tends to entrench a society’s fundamental idea of itself and of how the world works.”²⁷ But laws can also change and support transformative justice, as when slavery or South African Apartheid were rendered illegal (precedents that Earth jurisprudence theorists often point to), or during the 1970s era of environmental protection legislation. The current day presents a similar context, when after decades of corporations gaining legal advantage by being considered

²⁴ Slavoj Žižek, “O Earth, Pale Mother!” (2010), at: www.inthesetimes.com; and Oliver Feltham, *Alain Badiou: Live Theory* (London: Continuum, 2008), 139. Rancière too sees no potential in extending rights to nonhuman persons, or including nonhumans in the construction of a post-anthropocentric *demos* or political community. See Graham Harman, “Autonomous Objects,” *New Formations*, 71 (2011), 129.

²⁵ See Vanhulst and Beling, “*Buen Vivir*”; and Mary Elizabeth Whitemore, “The Problem of Enforcing Nature’s Rights Under Ecuador’s Constitution: Why the 2008 Environmental Amendments Have No Bite,” *Pacific Rim Law & Policy Journal* 20/3 (June 2011), 659-691.

²⁶ <http://www.idlenomore.ca/story>. Idle No More also defines an exemplary networked movement that regularly amplifies other international Indigenous struggles for rights and ecological land use via their electronic newsletter and website. For more on Indigenous politics in Canada, see Glen Sean Coulthard, *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition* (Minnesota: University of Minnesota Press, 2014).

²⁷ Cullinan, “A History of Wild Law,” 232.

“persons” before the law (as in the UK and US), and after centuries of land being classified as “property” and “natural resources” to be freely exploited, a new international system is emerging. That system is advanced by legal associations like the Earth Justice Network and the Center for Earth Jurisprudence, the African Biodiversity Network, and the Community Environmental Legal Defense Fund, along with transnational formations like the Bolivarian Alliance for the Peoples of Our America, and Indigenous social movements such as the Indigenous Peoples Global Conference on Rio+20 and Mother Earth, which issued their Kari-Oca II declaration in 2012, in which they claim: “the world can only “save” nature by commodifying its life giving and life sustaining capacities as a continuation of the colonialism that Indigenous Peoples and our Mother Earth have faced and resisted for 520 years.”²⁸ These movements hold the promise to reconfigure our relation to the natural world, in part by empowering the rights of nature.

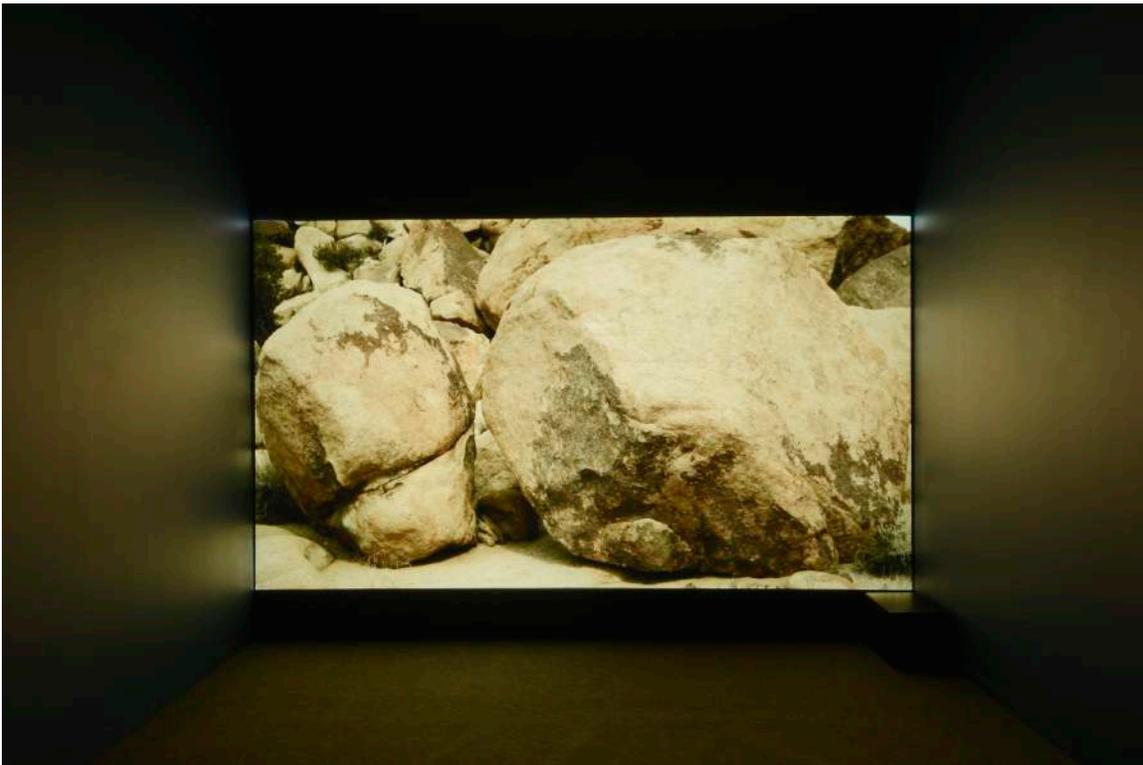


Fig. 7: The Otolith Group, *Medium Earth*, 2013 (HD video, colour, sound, 41 min)

In a further gallery, The Otolith Group presents Medium Earth, a video that explores the murmuring language of the South California desert, whose boulders and rocky mountains, fractures and faults, evoke the geo-symptoms of subterranean trauma. Those environmental images and sounds enter into counterpoint with the voices of “earthquake sensitives,” people capable of decoding coming seismic activity in their bodily sensations, where pains in their limbs index distant geological tremors. If Rights of Nature extends legal subjecthood to nonhuman agents, then the Otolith Group shows experimental ways that such entities might articulate testimony and be heard within the human world of jurisprudence—in this case, an

²⁸ <http://climateandcapitalism.com/2012/06/19/kari-oca-2-declaration/>

aesthetic forum that accepts witnesses speaking Earth languages. Meanwhile Amy Balkin's Reading the IPCC Fifth Assessment Synthesis Report explores the language of the global scientific community by vocalizing the Report's findings regarding anthropogenic climate disruption. Translated into the language of Balkin's voice, the piece vocalizes the warnings concerning present industrial practices and modelings of potential disastrous futures—modelings that some scientists believe are still too conservative. Synthesizing research by thousands of climatologists, astrophysicists, biologists, and other scientific experts, the Report enters into the public realm via Balkin's performance, circulating in ever more channels which might flow together, inspiring publics with the will to act, placing ever needed pressure on policymakers.



Fig. 8 : Amy Balkin, *Reading the IPCC Fifth Assessment Synthesis Report: Approved Summary for Policymakers*, Remade for 2014 (previously 2008), Video, colour, sound, 38 min 53

How, then, finally, might visual culture, artistic and activist practices contribute further to these intersectionalist politics, ontological turns, Indigenous social movements, and that Great Transition, in order to realize new forms of life by recognizing the rights of nature? The aim of this exhibition is to open pathways into experimental artistic engagements with the cultural, philosophical, speculative, political and legal aspects of the paradigm-shift signaled by Earth jurisprudence. It does so by including multiple approaches to this intersection of ecological matters of concern, in a range of mediums, styles, and modes of engagement between art and activism, visual culture and political organization, interdisciplinary research and aesthetic structures. A number of the exhibition's inclusions directly address the situated practices, stakeholder communities, and socio-political and economic conflicts surrounding this ongoing legal transformation, doing so in multiple geographies, from the Arctic to Central and South America. They employ video and photography, documentary and essayistic portrayal, the presentation of forensic evidence, maps, texts, and other related material testimony, which represents

Indigenous struggles, proposes accounts of environments at risk, details new corporate arrangements destructive to communities and natural habitats, and provides research into the history of the colonization of nature and peoples that reaches back hundreds of years. Other contributions are rather more allegorical and speculative, only indirectly related to Wild Law. They opt to creatively investigate the perceptual and affective terms of non-anthropocentric relations to nonhuman subjects and environments, the visual culture of Indigenous cosmopolitics, as well as the animistic transcendence of subject-object and human-nature oppositions. Still other inclusions examine the ecocide practiced by fossil-fuel capitalism, including its human, animal, and environmental costs, and invoke the recycled wreckage of colonial histories of dispossession and violence, sometimes with biting wit and poignant irony.²⁹ There are also crucial references in the show to existing models of community self-organization, ones practicing environmental sustainability and cultural self-determination, from the Gwich'in people of Alaska to the Mayan Zapatistas of Chiapas. These models are by no means examples of romantic Indian environmentalism or exoticization, but rather internationally networked postcolonial struggles for survival and living well amidst continuing neoliberal onslaughts, including GM agribusiness and pharmaceutical biopiracy, fossil-fuel extractivism, and ongoing land grabs.

As such, *Rights of Nature* maps diverse artistic trajectories, and proposes connections to a larger conceptual scaffolding that individual inclusions will extend and complexify, as well as inevitably surpass and transcend, as none are limited to the show's conceptual terms. Still, we hope to contribute to a growing platform of collective learning regarding this vibrant confluence of political commitments, artistic experiments, theoretical positions, legal institutions, collective struggles, and Indigenous movements. Just as the International Rights of Nature Tribunal represents a modeling of Earth jurisprudence for prospective realization at different political scales—local, regional, national, and global—so the exhibition performs the decolonization of nature and glimpses potential futures freed from environmental exploitation and anthropocentric domination. In this regard, we aim to further energize the international struggle toward a transitional political ecology, one that opens alternatives for critical pedagogy in the environmental arts and humanities, and in cultural discourse, and that works toward insuring our future survival—where “our” is extended to Earth's diverse living communities—within a world of environmental justice, sustainability, and rights of nature.

²⁹ On the need for an international law against ecocide as a way of enforcing the rights of nature, see Polly Higgins, *Eradicating Ecocide: Laws and Governance to Stop the Destruction of the Planet* (London: Shephard-Walwyn, 2010).