

Earth jurisprudence in South America: Trends and developments

Bernardo Alfredo Hernández-Umaña^{1,2,*}, Oliver Mauricio Esguerra Ramírez¹,
Karen Giovanna Añaños Bedriñana³

¹ School of Legal and Political Sciences, National Open and Distance University (UNAD in Spanish), Bogota 111511, Colombia

² Institute of Peace and Conflicts (IPAZ in Spanish), University of Granada, 18071 Granada, Spain

³ Department of Private International Law and the Institute of Peace and Conflicts (IPAZ), University of Granada, 18071 Granada, Spain

* **Corresponding author:** Bernardo Alfredo Hernández-Umaña, bernardo.hernandez@unad.edu.co

CITATION

Hernández-Umaña BA, Esguerra Ramírez OM, Añaños Bedriñana KG. (2024). Earth jurisprudence in South America: Trends and developments. *Journal of Infrastructure, Policy and Development*. 8(5): 3515. <https://doi.org/10.24294/jipd.v8i5.3515>

ARTICLE INFO

Received: 4 December 2023

Accepted: 1 February 2024

Available online: 30 April 2024

COPYRIGHT



Copyright © 2024 by author(s).

Journal of Infrastructure, Policy and Development is published by EnPress Publisher, LLC. This work is licensed under the Creative Commons Attribution (CC BY) license. <https://creativecommons.org/licenses/by/4.0/>

Abstract: This article aims to present an analysis of the evolution and contributions developed and integrated into the corpus of Earth Jurisprudence from practice in seven (7) South American countries where 135 records were found between 2005 and 2023. The case study was carried out using the methodological approach of the qualitative approach, the hermeneutic method, and the documentary review technique. The unit of analysis was based on the recognition of rights to nature, the data and information organized according to legal/political provisions, the state, the actor that initiated the action, and the ecological actor involved. Among the most outstanding findings, it is evident that a large number of records are concentrated in Ecuador and Colombia. The first correlates with the constitutionalization of the rights of nature and coincides with the second as they have been part of the stream known as new Latin American constitutionalism. In addition, a notable jurisprudential development recognizes nature as a subject of rights and declares it a victim of the armed conflict. Bolivia, which also joined this emerging denomination, has a different tendency than it had in its beginnings, not as the two countries mentioned above have done. Brazil stands out for its considerable increase in such legislative recognition. Argentina has a stronger emphasis on animal law. Peru has an incipient contribution to some regulatory implementation. Finally, Chile, the most laggard, tries it with a new constitution that recognizes these rights without having the approval at the ballot box. It is concluded the need to elevate the rights of nature and animals to constitutional status, claiming indigenous and ancestral cosmogonies regionally since it includes a legal stability that would facilitate the work of judicial and legislative actors and decision-makers for developing public policies, which would contribute to the practical development of the new Latin American constitutionalism and the Earth Jurisprudence.

Keywords: culture; rights of nature; earth jurisprudence; nature; new Latin American constitutionalism

1. Introduction

Today, it is more common to speak of the Earth Jurisprudence of the land than 20 years ago, when this new denomination was used by Thomas Berry, in that meeting in which some expert professors were invited by the Gaia Foundation in April 2001 to reflect and discuss the possibilities of further development of this emerging approach (Cullinan, 2011).

While it is true, the development of this recent denomination has had its analysis (Berry, 1999; Bell, 2003; Burdon, 2011, 2012; Koons, 2009; Speranza, 2006). And they are preceded by many others (Capra, 1998; Devall and Sessions, 1985; De Waart,

1985; Feinberg, 1980; Leopold, 1948; Lovelock, 1988; Naess, 1995, 1990, 1976; Norton, 1984, 1982a, 1982b; Passmore, 1978; Shiva, 1995; Teilhard de Chardin, 1955) that allowed the arrival of important reflections and theoretical contributions from different sides contributing, indeed, to the problematization of great Western hegemonic legal systems (Lluis and Navas, 2021) and bring with them a clear anthropocentric approach, which allow the discussion from other places of enunciation, such as the decolonial turn of law, legal pluralism, the new Latin American constitutionalism, (Ávila, 2011; Bagni, 2022; Cantillo-Pushaina, 2021; Corrêa Souza and Streck, 2014; Estupiñan et al, 2019; Gargarella, 2015, 2018; Hernández-Umaña et al, 2023; Martínez-Dalmau and Viciano-Pastor, 2010; López-López, 2014; Martínez-Dalmau, 2019; Medici, 2014; Noguera-Fernández and Criado de Diego, 2011; Ramírez-Nárdiz, 2016; Salazar-Ugarte, 2013; Uprimny, 2011; Wolkmer et al, 2019) to these approaches that take as standard the extractivist development model that instrumentalizes, colonizes (Alimonda, 2008; Quijano, 2014), and serves itself at the convenience of all those forms of life that integrate the earth community¹, using Berry's expression (1988), before an inevitable scenario of ecological civilizational collapse (Font, 2022).

The reality is that time is running out and beyond the dynamics of active citizenship, which is accompanied by social, farmers, indigenous, afro-descendants, and civil society movements, and academics committed to the cause who mobilize and call the attention of governments that are indifferent to promote transformations in thought and the materialization of action, there are the new complaint and claiming mechanisms toward socio-environmental justice, such as the well-known Escazú Agreement (CEPAL, 2022), which among other things, those who face reality in those territories where resistance for the defense of nature, becomes a means of struggle, also lose their own lives in the hands of abusive powers that do not renounce to lose control over the earth and the usufructs that emanate from it in this market model. In the last year, as studied by Global Witness (2022), this phenomenon indicates that 200 land defenders and environmentalists have been murdered, the main ones persecuted and killed without ignoring that indigenous leaders are also included.

Therefore, toward these transformations, claimed by the conscious citizenship and the community of the earth, political wills are also called to take this matter of civilizational interest seriously and, consequently, to stop the media and legal maneuvers to avoid responsibilities, but also to assume the moral duty not to continue sponsoring, in some cases openly and others silently, since they continue to hinder the development of actions and practices that represent the Earth Jurisprudence considering that human beings and nature have an interconnected and codependency relationship that becomes indivisible, even though some propose to break it (Berry, 1988).

Hence, opening to new frameworks of reflection that overcome the outdated ways of establishing non-harmonic relationships between humans and non-human living beings, the so-called Earth Jurisprudence arises as an opportunity for action that proposes other possible scenarios. However, to make it possible, the views in law, education, politics, and economics, among many other disciplines, must also be broadened in order to make a multiple approach, as suggested by Morin (2007) with the complex thinking principles (dialogic, recursive organizational, and

hologrammatic)².

That being said, this article does not focus on discussing those frameworks of theoretical understanding (Bell, 2003; Burdon, 2011, 2012; Koons, 2009), which in fact have contributed to the political-legal reflection from a biocentric perspective that claims the Earth Jurisprudence in the field of law and that today has more reasons so even the United Nations Organization in its resolutions and last-tow-decades documents has given an inevitable turn by including the harmony with nature (UN, 2009a, 2009b, 2010a, 2010b, 2011, 2012a, 2012b, 2013a, 2013b, 2014a, 2014b, 2015a, 2015b, 2016a, 2016b, 2017a, 2017b, 2018a, 2028b, 2019a, 2019b, 2020a, 2020b, 2022b, 2022c). A clean, healthy, and sustainable environment has been recognized and declared as a human right. (UN, 2022a, 2021). Indeed, this article analyzes the evolution and contributions developed and integrated into the corpus of the Earth Jurisprudence from the practice in seven South American countries where 135 records were found between 2005 and 2023.

In this sense, a qualitative methodology has been used to achieve the objective. It began with a brief contextualization of the region where the study was conducted, considering, on the one hand, the new Latin American constitutionalism understood as an emerging current of critical thinking that has taken place in the region responding to the hegemonic axis of liberal constitutionalism and allowing those who were not recognized now enjoy rights and freedoms; on the other hand, the relationship with the Earth Jurisprudence in South America was considered. Subsequently, the research results analyzed were presented based on four variables of analysis, this way: 1) Legal/political provision; 2) the status of said legal/political provision; 3) the actor initiating the action; and, 4) the ecological actor protected; they consider the historical evolution in the 2005–2023 period, and the trends and perspectives of the corpus integrating the Earth Jurisprudence studied in that period and region, which will lead to the discussion among the findings indicated that have supported the link between the new Latin American constitutionalism and the Earth Jurisprudence, from a practical perspective. In short, the aim is to contribute to the academic and civil society discussion and reflection concerning the rights of nature.

2. Methodology

This article results of teamwork developed within the framework of the inter-institutional research project entitled *Paz Ambiental desde una Perspectiva Latinoamericana* (Environmental Peace from a Latin American Perspective in English), following a methodology of qualitative approach with a documentary review and the database that has been feed by the Eco Jurisprudence Monitor³ during the last few years of all the decisions and constitutional and regulatory developments of the countries that have been progressing with the integration of a new framework of understanding known as Earth Jurisprudence.

2.1. Materials and methods

2.1.1. Case study

It was decided to conduct this study in seven South American countries (Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador and Peru)⁴, considering two

crucial aspects. The first aspect is justified because it is in this region, mainly in what is known as the Andean region, where the new Latin American constitutionalism has emerged. Consequently, this fact has given rise to many legal transformations, such as the constitutions of Colombia (1991), Ecuador (2008), and Bolivia (2009), without leaving aside the contributions of the other countries that share this South American geography, by having also made significant progress in the second aspect with different legal and public policy progresses in favor of the recognition of nature as a subject of rights by integrating the Earth Jurisprudence.

2.1.2. Methods

The case study was based on a qualitative methodology (Campoy and Gomes, 2009; Hernández et al., Izcarra, 2014; 2010; Rodríguez and Valldeoriola, 2009; Ruíz, 2012; Verd and Lozares, 2016), and to conduct it, different methodological techniques were used, including documentary and bibliographic review and analysis. Likewise, the holistic and hermeneutic methods stand out.

In particular, the study used data collected from reliable, descriptive, multiple, and contrasted sources in the Eco Jurisprudence Monitor database, which organizes the information of all regulatory, constitutional, legal, public policy, and judicial decision bodies in the world on Earth Jurisprudence. For the purposes of this research, information from South American countries was used, particularly from the seven countries where a record related to the reference framework of Earth Jurisprudence was found. In this case, the main selection criterion was the records identified in the sources in the Eco Jurisprudence Monitor database. Countries such as Paraguay, Uruguay and Venezuela, for example, were left out of the scope of this study and were therefore not taken into account, as they did not produce any records.

It should be noted that the data collected there were also cross-checked with information provided by different official sources from the countries included in this case study.

2.1.3. Documentary analysis

The documentary review technique was used throughout the research. Data collection, verification, contrast, and documentary analysis were carried out with 135 records⁵ found in seven South American countries from 2005 to 2023.

The information is organized in a matrix by categories, namely: a) title by which the legal/political provision is known, b) country, c) location, d) type of legal provision, e) status of the legal/political provision, f) starting year, g) type of actor that initiated, h) type of ecological actor, i) synopsis, j) completion year, and k) web link for consultation.

The primary bibliographic sources regarding Earth Jurisprudence were consulted in academic articles and indexed scientific journals in the area and also consulted in the digital media (e.g., search of electronic material on the Internet and access to a variety of current databases).

In this scenario, a documentary and bibliographic analysis of the 135 records identified from the comprehensive framework of Earth Jurisprudence was carried out, using as variables of analysis for this triangulation and comparison exercise, namely: 1) legal/political provision, 2) status of that legal/political provision, 3) actor initiating the action and, 4) the protected ecological actor.

All of the above in order to analyze the contributions made to the Earth Jurisprudence, especially regarding the evolution over time in each country reviewed between 2005 and 2023, as seen in the Figures and Tables. And, thus, the trends and perspectives of the corpus integrating it and which have been studied in the period and region mentioned before can be seen.

Finally, the authors declare that there is no conflict of interest between the researchers and other parties or financial support; neither has an ethical request necessary, according to the methodology developed in the work.

3. Results

As mentioned above, 135 records were identified in this study, followed by a presentation of the findings for each country whose unit of analysis was based on the recognition of the rights of Nature, which made it possible to organize the data obtained into four variables, as follows:

1) legal/political provision consisting of a) case, b) local law, c) Constitution, d) statutory law, e) declaration, and f) policy;

2) status of said legal/policy provision classified by a) approved, b) on appeal, c) revoked, d) rejected, e) initiated, and f) drafted;

3) actor initiating the action, composed of a) government, b) court, c) Non-Governmental Organization (NGO), d) Indigenous peoples, and e) civil society;

and 4) ecological actor comprised of a) freshwater ecosystems, b) marine ecosystems, c) forests, d) mountains, e) moorlands, f) prairies, g) animals, and h) all nature.

In this way, in order to make the analysis per country and in an exercise compared among the different variables, the evolution between 2005 and 2023 was used as a reference framework, together with trends and perspectives identified around the Earth Jurisprudence regionally.

3.1. Argentina

1) Legal/political provision: In the first variable, it has been identified that out of ten records provided by Argentina in this study, five (5) are court cases, one (1) is a local law, one (1) corresponds to a Constitution and three (3) are statutory laws.

2) Status of the legal/political provision: The second variable shows that three (3) of the five (5) court cases have been approved recognizing the right demanded, and the other two (2) have been initiated without resolution. Regarding the local law, it has been approved. The Constitution is currently being drafted, and the three (3) statutory laws are in the application stage.

3) Actor initiating the action: The third variable indicates that non-governmental organizations (NGOs), Indigenous peoples, and civil society have intervened as initiating actors in the five (5) court cases. Further, the local law and the Constitution have been promoted by civil society. The government has promoted two (2) of the three (3) statutory law registered and one (1) by a non-governmental organization.

4) Protected ecological actor: In this last variable, it is identified that from the five (5) cases recorded, different ecological actors are associated with the same case, so for practical purposes, the actors involved are mentioned, namely freshwater

ecosystems, forests, mountains, moorlands, prairies, and animals. In the particular case of the local law, the ecological actor is all of nature and the Constitution, in the drafting stage, and the three (3) statutory laws that have been initiated.

Table 1. Contributions to Argentina’s Earth jurisprudence as of 2023.

Legal provision	State		Actor that initiates the action							Ecological actor									
	Approved	Appeal	Revoked	Rejected	Requested	Redacted	Court	Govt.	NGO	Indig. Pple.	Civil Society	Freshwater Ecosyst.	Marine Ecosyst.	Forest	Mountain	Grassland	Prairie	Animal	Nature
Case	3				2				4	1	1	2		1	1	1	1	3	
Local Law	1									1									1
Constitution						1				1									1
Statutory law					3			2	1										3
Declaration																			
Policy																			
Total	4				5	1		2	5	1	3	2		1	1	1	1	3	5

Source: Data obtained from eco.jurisprudence.org.

Note (*): The dotted line is a trend line that shows that, as time goes by, the subject of the study becomes more prominent in the different scenarios (judicial, legislative, political, social, etc.)

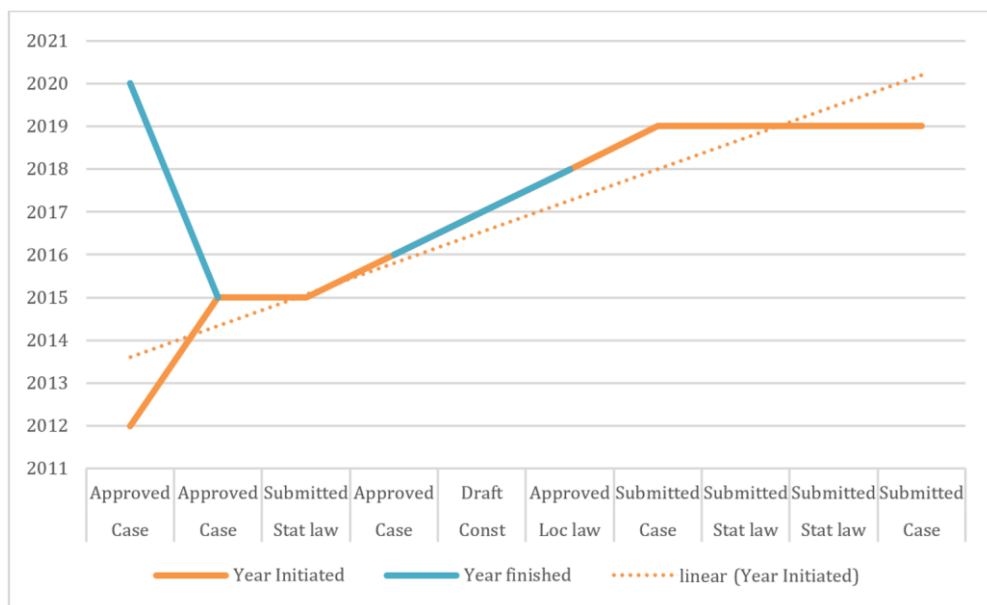


Figure 1. Evolution over time of Argentina’s contributions as of 2023.

Sources: Data obtained from eco.jurisprudence.org.

As shown in **Table 1** and **Figure 1**, since 2012, Argentina has undertaken different legal cases that have been increasing over the last few years with an evident concern for the defense of animals held in captivity at zoos. Indeed, these animals have been transferred to their respective parks and natural sanctuaries; in other cases, although they are still at an early stage, legislative bodies have no known judicial decisions or approvals that imply the recognition of nature as a subject of rights.

Other cases also stand out, such as the recently resolved in the Inter-American Court of Human Rights, known as the dispute between “Indigenous Communities of the Lhaka Honhat (Our Land) Association vs. Argentina,” declaring the latter internationally responsible for violating the rights of more than 132 Indigenous peoples living in the Chaco Salta (province of Salta), by ignoring the Indigenous community property and, consequently, the right to the environment and water with all that implies with the same care for nature.

Along these lines, it is observed that of the ten (10) records, five (5) were initiated between 2015 and 2020, and they are still unresolved. It shows that, despite the progressive trend of actions that have been started over time (seen in the dotted line), this has not yet been correlated with the same actions that have been completed. Therefore, this shows a slowdown in the different bodies of the executive (governments), legislative (parliaments), and judicial branches (courts of law) of the national order by not showing interest in the recognition of nature as a subject of rights and, consequently, the change of paradigm regarding the challenge faced by the inclusion of different provisions, whether legal or political. Despite the preceding, however, the role played by non-governmental organizations, Indigenous peoples, and civil society stands out, emphasizing that the protected ecological actors (most of them) include all of nature, followed by animals, and then other natural ecosystems.

Finally, it must be noted that it is of concern that in the last three years, there has been no pronouncement in this regard in any of the organs of power mentioned above, which indicates a stagnation in time. More significant advances are expected that

would mean contributions to this corpus of the Earth Jurisprudence from practice.

3.2. Bolivia

1) Legal/political provision: Of the fourteen (14) records identified, Bolivia contributes the following to this study: two (2) are local laws, one (1) corresponds to the Constitution of the Plurinational State of Bolivia, seven (7) are statutory laws, three (3) belong to declarations, and one (1) responds to a public policy.

2) Status of the legal/political provision: For the second variable, it is noted that both the two (2) local laws and the state constitution, as well as the three (3) declarations and the public policy, have been approved. On the contrary, of the seven (7) statutory laws, five (5) have been approved, and the other two (2) are in the initiation phase.

3) Actor initiating the action: Here, it has been found that the government initiated the two (2) local laws, the state constitution, the seven (7) statutory laws, the three (3) declarations, and the public policy. Similarly, the non-governmental organizations and Indigenous people have done it in the statutory laws. Indigenous peoples' participation in the declarations and public policy has also been highlighted, and finally, civil society with the declarations.

4) Protected ecological actor: In this last variable, it has been identified that of the fourteen (14) records, thirteen (13) have as the protected ecological actor all of nature, while only one (1) focuses on the ecological actor of freshwater ecosystems.

Likewise, both **Table 2** and **Figure 2** show that Bolivia, on the one hand, has been quite an active and committed country to recognizing nature as a subject of rights, (as seen in the dotted line, which projects an increasing trend). Although nature was not incorporated as such in the 2009 Constitution of the Plurinational State of Bolivia, it was incorporated in subsequent legislative developments, both in local and statutory laws, in one public policy and declarations that claim the change of paradigm from the extractivist development model to one of solidarity and "living well." However, it is noteworthy that there are two (2) statutory laws initiated since 2021 are not yet been approved or rejected.

Table 2. Contributions to the Bolivian’s Earth Jurisprudence as of 2023.

Legal provision	State	Actor that initiates the action							Ecological actor											
		Approved	Appeal	Revoked	Rejected	Requested	Redacted	Court	Govt.	NGO	Indig. Pple.	Civil Society	Freshwater Ecosyst.	Marine Ecosyst.	Forest	Mountain	Grassland	Prairie	Animal	Nature
Case																				
Local Law	2							2												2
Constitution	1							1												1
Statutory law	5				2			7	1	1										7
Declaration	3							3		1	1	1								2
Policy	1							1		1										1
Total	12				2			14	1	3	1	1								13

Source: Data obtained from eco.jurisprudence.org.

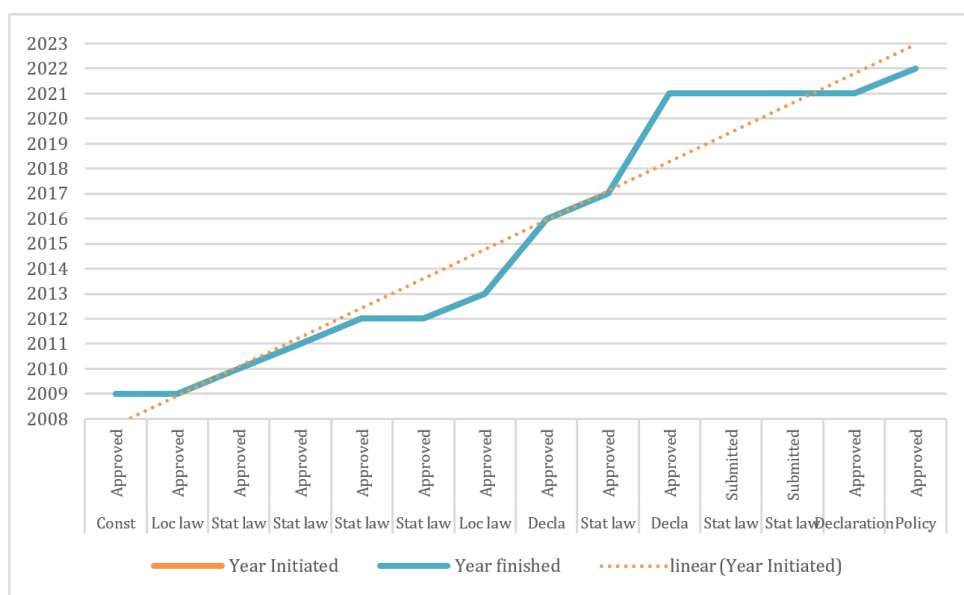


Figure 2. Evolution over time of Bolivia’s contributions as of 2023.

Sources: Data obtained from eco.jurisprudence.org.

On the other hand, it should be noted that recently, at the end of 2022, a public policy called the Geopolitics of Living Well was approved (Añaños-Bedriñana and Hernández-Umaña, 2019; Añaños-Bedriñana et al., 2020). Furthermore, it should be noted that there are no records of court cases filed and/or resolved related to the Earth Jurisprudence framework. This has an implication that raises concerns in this regard since, on the one hand, it could be considered that there is unequivocal compliance with all the legal provisions in the country and no legal action is necessary; on the other hand, it could be that no legal action is initiated due to ignorance, negligence, or lack of interest.

In contrast, Bolivia has fourteen (14) registrations, twelve (12) approved between 2009 and 2022. Thus, these significant advances, integrated into the Earth Jurisprudence corpus by explicitly recognizing the claim for the rights of nature, achieve to demonstrate consistently and progressively in an upward line their contribution despite the coup d’état of 2019. In this way, it shows, among other things, that in all the initiatives recorded, leadership and commitment of the government in office stands out, followed by the Indigenous peoples, farming communities, and civil society.

3.3. Brazil

1) Legal/political provision: In Brazil, fourteen (14) records that contribute to this study have been identified, of which three (3) are cases, ten (10) are local laws, and one (1) is statutory law.

2) Status of the legal/political provision: It has been identified that the three (3) cases and the ten (10) local laws are approved, while the statutory law is in the initiation phase.

3) Actor initiating the action: In this third variable, it has been identified, on the one hand, that in the three (3) cases, the non-governmental organizations, Indigenous peoples, and courts were the actors who initiated and intervened. Moreover, the

government has taken the initiative in nine (9) local laws, jointly in two (2) opportunities with non-governmental organizations, and in one (1) time with civil society. And, finally, the government has done the same with the registered statutory law.

4) Protected ecological actor: In this variable, it was identified that of the fourteen (14) records, nine (9) have all of nature as a protected ecological actor, three (3) have freshwater ecosystems, one (1) has forests, and one (1) has animals.

As shown in **Table 3** and **Figure 3** and on the dotted line, which projects an increasing trend. Brazil has made significant progress since 2015, highlighting that of the fourteen (14) records, thirteen (13) are approved and only one (1) is in the initiation phase. It provides a positive outlook on the evolution and development of the legal corpus that recognizes nature as a subject of rights. Along the same line, it is worth noting that the most favorable years for such recognition have been 2017 (1), 2018 (4), 2022 (2), and 2023 (2); nine (9) local laws promoted mainly by the government in office and on three (3) occasions with non-governmental organizations and civil society.

Table 3. Contributions to Brazil’s Earth jurisprudence as of 2023.

Legal provision	State	Actor that initiates the action							Ecological actor											
		Approved	Appeal	Revoked	Rejected	Requested	Redacted	Court	Govt.	NGO	Indig. Pple.	Civil Society	Freshwater Ecosyst.	Marine Ecosyst.	Forest	Mountain	Grassland	Prairie	Animal	Nature
Case	3						2		1	1		1		1					1	
Local Law	10							9	2		1	2								8
Constitution																				
Statutory law						1			1											1
Declaration																				
Policy																				
Total	13					1	2	10	2	1	1	3		1					1	9

Sources: Data obtained from eco.jurisprudence.org.

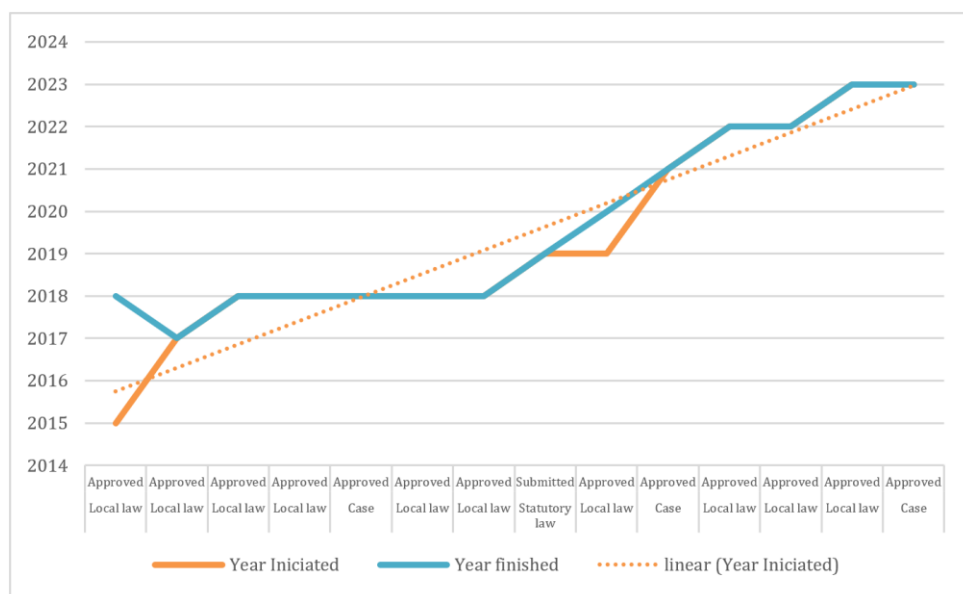


Figure 3. Evolution over time of Brazil’s contributions as of 2023.

Sources: Data obtained from eco.jurisprudence.org.

Consequently, the above represents a valuable contribution of legal regulations that different Brazilian municipalities have seen the opportunity to align with the declarations given by the United Nations, aiming to achieve harmony with nature.

Thus, Brazil has positioned itself as an important ally in the production and modification of legal regulations that previously did not recognize the rights of nature. Now, under these adjustments, it is taking a significant place in its contributions to the corpus of Earth Jurisprudence in the region, which is represented in a significant and sustained increase that would expect further growth also in judicial decisions, considering the importance of the socio-environmental conflicts of the Brazilian Amazon (part of the lungs of the planet).

3.4. Chile

1) Legal/political provision: Chile’s case is a special one since it has only two (2) records, one (1) of which is a court case, and the other (1) is the Political Constitution of the Republic of Chile.

2) Status of the legal/political provision: In this particular case, the court case and the proposed Political Constitution were both rejected in 2022.

3) Actor initiating the action: In the first place, the court case was initiated by a Chilean non-governmental organization through a habeas corpus in favor of an orangutan called Sandai. In the second place, to include the recognition and defense of the rights of nature in the Political Constitution of the Republic of Chile, the NGOs Earth Law Center and Defensa Ambiental, together with the Chilean civil society, were included as actors. It should be noted that both actions were initiated in 2022.

4) Protected ecological actor: In the court case, it was intended to protect the orangutan called Sandai, while with the standards incorporated in the proposed Political Constitution, it was aimed to protect all of nature.

Table 4. Contributions to Chile’s Earth jurisprudence as of 2023.

Legal provision	State	Actor that initiates the action							Ecological actor												
		Approved	Appeal	Revoked	Rejected	Requested	Redacted	Court	Govt.	NGO	Indig. Pple.	Civil Society	Freshwater Ecosyst.	Marine Ecosyst.	Forest	Mountain	Grassland	Prairie	Animal	Nature	
Case					1					1										1	
Local Law																					
Constitution					1					1		1									1
Statutory law																					
Declaration																					
Policy																					
Total					2					2		1								1	1

Sources: Data obtained from eco.jurisprudence.org.

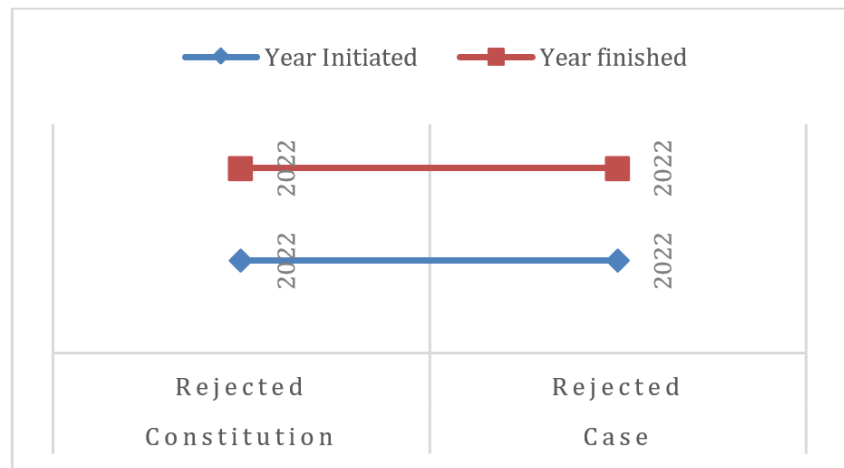


Figure 4. Evolution over time of Chile's contributions as of 2023.

Sources: Data obtained from eco.jurisprudencia.org.

Both **Table 4** and **Figure 4** show that of the seven countries studied, Chile is the furthest behind, according to the records consulted and associated with the purposes of this study. In fact, there is no landmark that allows identifying a different pattern to contrast the findings. In this light, the pair of initiatives promoted and buried in 2022 corroborate the interest of non-governmental organizations and civil society in general that try to channel efforts for claiming and defending nature as a rights holder from a broad perspective, and animal rights in a more specific scenario. The two recorded refusals attest to this.

Therefore, the challenge goes through generating public consciousness and transformation proposals on different fronts that allow giving place in a way reciprocated with the socio-environmental realities society lives. The Chilean society is already warning it with the sacrifice zones and the contamination of underground aquifers and the environment, among many others, without the existence of public policies promoting the change of paradigm contributed by a legal development in accordance with the problem, i.e., the reproduction of the nature exploitation in exchange for the loss of rights and freedoms that imply the imminent risk of facing a planetary ecological collapse; opens a crucial path. Thus, the role of the public power branches becomes meaningful as they are jointly responsible for their actions and omissions.

3.5. Colombia

1) Legal/political provision: Of the twenty-one (21) records identified in Colombia, nineteen (19) correspond to court cases, one (1) to a local law, and one (1) to a declaration.

2) Status of the legal/political provision: On the one hand of the nineteen (19) court cases, eighteen (18) have been approved with a favorable decision recognizing the right claimed, and only one (1) has been rejected. On the other hand, both the local law and the declaration have been approved.

3) Actor initiating the action: In Colombia, a plurality of actors who have initiated and participated in the emerging claim for rights and recognition of nature as a subject

of rights can be identified. Indeed, in court cases, the most prominent actor has been civil society, the government, courts, and tribunals, followed by, Indigenous peoples and non-governmental organizations. In the local law, the government has done the proper, and in the declaration, the same was done by the Indigenous peoples.

4) Protected ecological actor: On the one hand, eleven (11) are for freshwater ecosystems, four (4) correspond to moorlands, two (2) to animals, one (1) to forests, and one (1) to nature. It should be noted that the aforementioned ecological actors have been involved in court cases. On the other hand, mountain ecosystems have been the ecological actors in a declaration and the recognition of all of nature as a subject of protection and rights through local law.

As can be seen in **Table 5** and **Figure 5**, Colombia has begun its evolution and contribution to the corpus of Earth Jurisprudence since 2011, when a legal action was undertaken for protecting three freshwater ecosystems; and in 2019, the Combeima and Cocora River basins, part of the Coello River Major Basin in the department of Tolima, that after a long process were recognized as individual entities, subject to rights of protection, conservation, maintenance, and restoration by the state and the communities by the Administrative Court of Tolima.

Table 5. Contributions to Colombia’s Earth jurisprudence as of 2023.

Legal provision	State	Actor that initiates the action						Ecological actor												
		Approved	Appeal	Revoked	Rejected	Requested	Redacted	Court	Govt.	NGO	Indig. Pple.	Civil Society	Freshwater Ecosyst.	Marine Ecosyst.	Forest	Mountain	Grassland	Prairie	Animal	Nature
Case	18			1			5	3	2	2	13	11		1					2	1
Local Law	1							1												1
Constitution																				
Statutory law																				
Declaration	1														1					
Policy																				
Total	20			1			5	4	2	2	13	11		1	1	4			2	2

Sources: Data obtained from eco.jurisprudence.org.

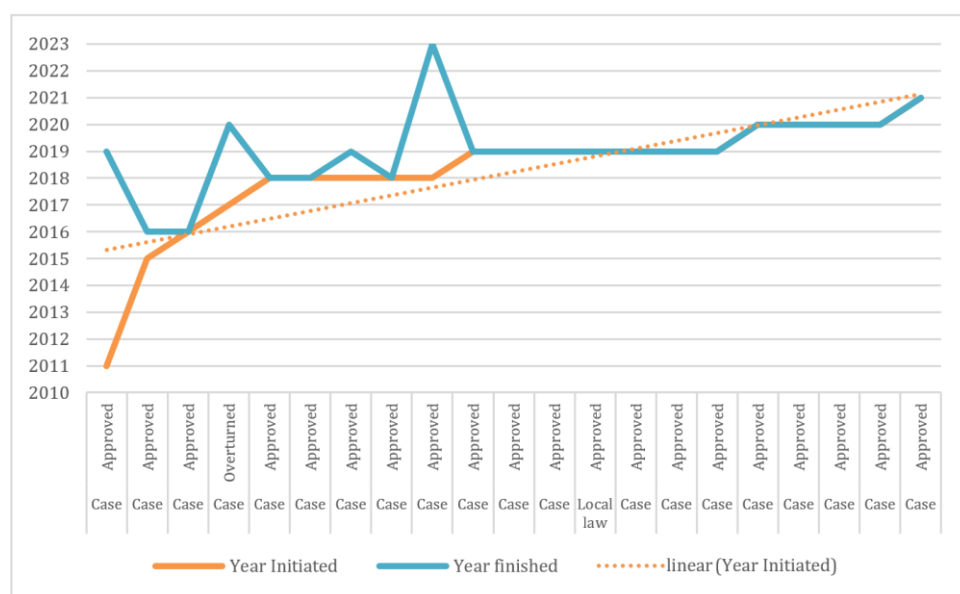


Figure 5. Evolution over time of Colombia’s contributions as of 2023.

Sources: Data obtained from eco.jurisprudencia.org.

That said and considering that the Sentence T-622 of 2016 of the Constitutional Court was the first court decision in Colombia that concluded a proceeding initiated in 2015 and recognized a natural ecosystem, Atrato River and its tributaries, as a subject of rights. This ruling became a reference for different constitutional actions that claimed the same recognition for other ecosystems that demanded urgent protection from the threats posed by extractive industry practices such as mining and deforestation.

It is emphasized that from the findings in Colombia, all decisions were favorable; they protect freshwater ecosystems and moorlands, which evidence concern for protecting such a precious common good as water. In addition to the above and derived from the landmark sentence of the Constitutional Court, other rulings began to be reasoned and argued in which the ecosystems mentioned above throughout Colombia’s most important hydrography are protected but also opened an essential path on the recognition of biocultural rights, where an attempt is made to maintain and safeguard relations of balance and interdependence that have existed between ethnic communities and Indigenous peoples as guardians of these ecosystems that allow them, in turn, to be provided and benefit from the bounties of Nature, Añaños-Bedriñana (2022, pp. 293-294).

It is of total interest that in Colombia, there has not been a notable development of public policy and legal regulations that recognize nature as a subject of rights; however, there has been notable development in judicial matters, especially with greater emphasis in 2018, 2019, and 2020, and is observed on the dotted line projecting such a trend, among other things, with an outstanding participation of civil society, Indigenous peoples, and non-governmental organizations initiating actions in favor of such recognition. In 2023, the Special Jurisdiction for Peace (JEP in Spanish), created to implement the Colombian Peace Agreement, has recognized the Cauca River as a subject of rights and a victim of the armed conflict to which it has been subjected.

However, it should be noted that the only case that has been revoked by the

Constitutional Court that recognized Atrato River as a subject of rights in the boom years mentioned above, that court decided to declare that the habeas corpus protection measure in favor of a spectacled bear named Chucho could not be recognized and processed because the nature of the action invoked was applicable only to human beings and could not be extended to animals. In this context, the above is not very coherent, considering the broad regulatory implementation that has existed in favor of the protection and progress recognizing the rights of animals in Colombia as sentient beings.

Therefore, despite the decrease in legal actions filed, there are no recent records of rejecting rulings showing a setback or reversal in recognition of the rights of nature; consequently, this represents stability in legal terms that has consolidated a jurisprudential line that today makes Colombia one of the reference countries in the region, by having a clear position of judicial recognition of nature as a subject of rights and, as indicated above, as a victim of the particular armed conflict that it has painfully lived. Ultimately, the actions taken by Colombia highlight its leadership in this area, contributing with its judicial activism to the corpus integrating the Earth Jurisprudence in practice. However, such progress may be threatened by the lack of a regulatory implementation in its Political Constitution and legislation act that expressly establishes such recognition. Similarly, no work has been done in building a public policy oriented toward the same path the judicial branch has been effectively carried out.

3.6. Ecuador

1) Legal/political provision: Of the seventy (70) records identified in Ecuador, sixty-two (62) correspond to court cases, one (1) to the Political Constitution of Ecuador, three (3) to statutory laws, three (3) to declarations, and one (1) to a local law.

2) Status of the legal/political provision: Of the sixty-two (62) court cases, forty-five (45) have been approved with a favorable decision recognizing the right claimed. Also, two (2) of the three (3) statutory laws and the three (3) declarations were registered in the Political Constitution of Ecuador. Three (3) court cases are on appeal, one (1) has been revoked, and twelve (12) have been rejected. One (1) statutory law, one (1) local law, and one (1) court case are in the initiation phase.

3) Actor initiating the action: In Ecuador, a plurality of actors has been found who initiated and participated as pioneers in the emerging claim for rights and recognition of nature as a subject of rights. The outstanding role of the civil society, Indigenous communities, government, non-governmental organizations, and courts and tribunals in court cases is highlighted. Regarding local law, Indigenous peoples and civil society have done the necessary. Likewise, the government, non-governmental organizations, and Indigenous peoples led a constituent process that resulted in the first Political Constitution, which embodied the rights of nature. It should be noted that the government has been active with the three (3) registered statutory laws and the three (3) declarations. In the latter, civil society has also been active.

4) Protected ecological actor: This variable highlight that of the seventy (70)

records found, thirty-eight (38) are court cases claiming the protection of all nature; in the same order, seven (7) do so in favor of freshwater ecosystems, seven (7) of forests, six (6) of animals, and four (4) of marine ecosystems. In another proportion, six (6) records in favor of all nature were identified within the framework of two (2) statutory laws, two (2) declarations, one (1) Political Constitution, and one (1) local law. Likewise, one (1) statutory law is in the initiation phase for protecting the moorlands. Finally, one (1) record and another (1) in the framework of a declaration were made for the forest ecosystems.

Ecuador is internationally recognized as the first country to incorporate in its Constitution the recognition of the rights of nature. Making it an obligatory point of reference in the development of its legislation and judicial rulings, which, in turn, makes it a significant reference in the region and world, as can be seen in **Table 6** and **Figure 6** and in the dotted line projecting its increasing trend.

Table 6. Contributions to the Earth jurisprudence of ecuador as of 2023.

Legal provision	State						Actor that initiates the action					Ecological actor							
	Approved	Appeal	Revoked	Rejected	Requested	Redacted	Court	Govt.	NGO	Indig. Pple.	Civil Society	Freshwater Ecosyst.	Marine Ecosyst.	Forest	Mountain	Moors	Prairie	Animal	Nature
Case	45	3	1	12	1		4	18	13	17	36	7	4	7				6	38
Local Law					1					1	1								1
Constitution	1							1	1	1									1
Statutory law	2				1			3									1		2
Declaration	3							2		1	1			1					2
Policy																			
Total	51	3	1	12	3		4	24	14	20	38	7	4	8		1		6	44

Sources: Data obtained from eco.jurisprudence.org.

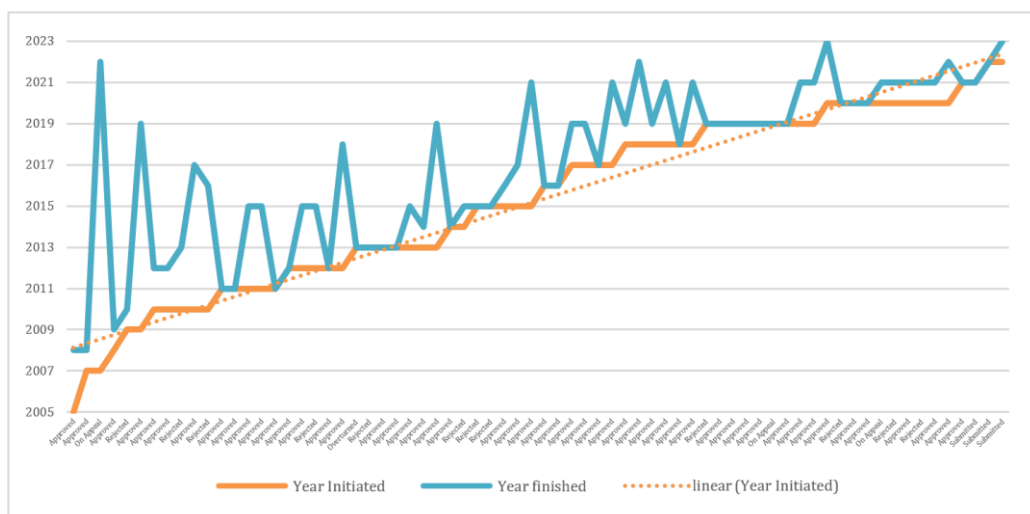


Figure 6. Evolution over time of Ecuador’s contributions as of 2023.

Sources: Data obtained from eco.jurisprudence.org.

The first known legal action passed through the suspension of the environmental license granted by the government in office to Petrobras for the oil extraction project in the Yasuní National Park; it was filed in 2005 and resolved in 2008.

Years later, in a historic referendum held in 2023, Ecuador supported the end of the exploitation of one of the largest oilfields located in the Yasuní National Park in the Ecuadorian Amazon with 59.31%. On the same occasion, the people in the canton of Quito decided to prohibit the exploitation of small, medium, and large-scale artisanal metal mining in the Andean Chocó, preserving the forest and freshwater ecosystems that supply the entire Metropolitan District of Quito. Both manifestations result from a society that advances to preserve life over death, extractivism, and destruction of nature and human beings.

That being said, it is important to highlight several aspects that converge in the progress and evolution over time with the contributions from different scenarios and instances for the practical development of the Earth Jurisprudence in the region.

First, the rights of nature are recognized in the Constitution of Ecuador, and this incorporation makes a significant difference in all the development that has taken place for almost two decades. Second, from this derives the voluminous court cases promoted correlatively for the protection of all nature and, in a smaller but also important order of proportion, are the freshwater, forest, marine, animal, and moorlands ecosystems. Third, the role played mainly by civil society, followed by the government, Indigenous nations and peoples, non-governmental organizations, and courts and tribunals, has been significant in achieving such progress. Fourth, the Constitutional Court of Ecuador has established an evident position in its interpretation of the rights of nature, including animals as subjects of rights and protection. Fifth, although there is not a major regulatory implementation, it has been possible to approve critical and strategic legislation that provides citizens with legal instruments⁶ for protecting nature; this is reflected in the number of legal and constitutional actions initiated and completed. Sixth, 2011, 2012, 2013, 2015, 2015, 2016, 2017, 2018, 2019, and 2020 have been the periods of greatest boom in the filing of actions, which

represents a progressive and sustained increase of actions that have allowed this legal development in favor of the rights of nature, and likewise in the resolution that the years 2019 and 2021 stand out as the most productive.

However, it also faces challenges that have been identified in three scenarios: 1) The vast majority of rejected cases have been due to lack of compliance with formalities or material aspects within the procedures and of course, rejected cases or those that deliberately favor a company or the State, which are detrimental to nature, do not constitute contributions to the corpus of Earth Jurisprudence; 2) time elapsed between the action filed and resolved is not reduced, and in a greater proportion it has been between four and 15 years, which, if addressed, this situation can become an opportunity for improvement for judicial decongestion, and 3) the leading role of the executive branch has also been in the legislative initiatives that have given significant progress, however, promoting public policies that institutionalize in Ecuador what has been achieved through judicial and legislative means is an aspect that could give more development to the articles of the Political Constitution of “Good Living” and its legislation, channeling the notorious support of civil society and Indigenous peoples and nations.

3.7. Peru

1) Legal/political provision: Of the four (4) records found in Peru, one (1) is a court case, two (2) correspond to local laws, and one (1) is a statutory law.

2) Status of the legal/political provision: One (1) case is in the initiation phase, as is the statutory law, and the two (2) local laws are in the approved phase.

3) Actor initiating the action: The participation of the actors in the initiation of these actions is varied; it has been found that the civil society has participated three (3) times in local laws and statutory law, the Indigenous peoples, together with non-governmental organizations have done so in the court case, and the government has also participated in the local laws.

4) Protected ecological actor: Of the four (4) records found, the freshwater ecosystem contributes with one (1) court case and two (2) local laws, and regarding the ecological actor called all of nature, one (1) statutory law was recorded.

As shown in **Table 7** and **Figure 7**, Peru is one of the countries that does not have a significant landmark except for the last four (4) years, from 2019 to 2022, and the only court case it registers has not been resolved despite having been filed in 2021. Along the same lines, the statutory law has not been approved since 2021. The two (2) substantive contributions are given in local laws that recognize freshwater ecosystems as subjects of rights, based on the rights of nature and Indigenous peoples cohabiting these ecosystems; they also protect nature from the threat of extractivist mining practices in those territories.

Table 7. Contributions to the Earth jurisprudence of Peru as of 2023.

Legal provision	State	Actor that initiates the action						Ecological actor												
		Approved	Appeal	Revoked	Rejected	Requested	Redacted	Court	Govt.	NGO	Indig. Pple.	Civil Society	Freshwater Ecosyst.	Marine Ecosyst.	Forest	Mountain	Grassland	Prairie	Animal	Nature
Case					1				1	1		1								
Local Law	2							2			2	2								
Constitution																				
Statutory law					1						1									1
Declaration																				
Policy																				
Total	2				2			2	1	1	3	3								1

Sources: Data obtained from eco.jurisprudence.org.

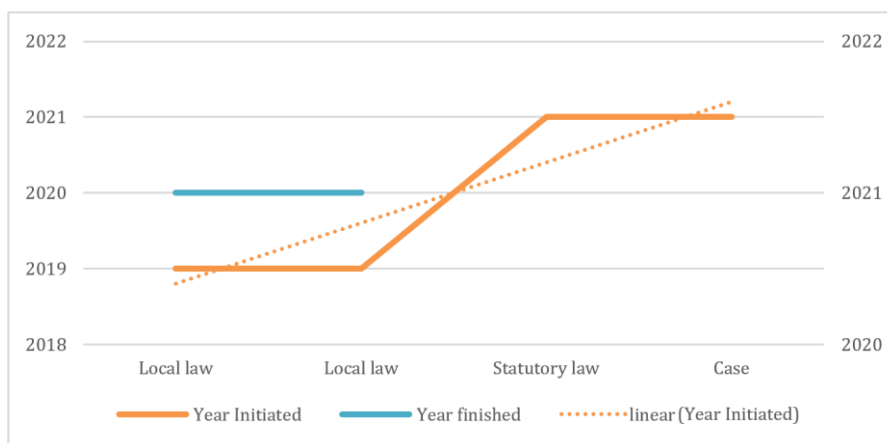


Figure 7. Evolution over time of Peru’s contributions as of 2023.

Sources: Data obtained from eco.jurisprudence.org.

In this context, a dynamic is beginning to emerge in Peru, accompanied by the global reality, and bearing its first fruits, as seen in the dotted line that projects an increasing trend. However, there is still a long way to go, and the challenge is significant, not only because of the history and ancestry of the Indigenous and native peoples that populated this land but also due to the need to promote further regional efforts that, from practice increase the corpus of Earth Jurisprudence. In any case, it could be an opportunity for the executive, legislative, and judicial levels, within the jurisdiction of their constitutional competencies, to take more significant steps toward recognizing nature as a subject of rights.

Finally, although the results show that there is a considerable number of judicial decisions, constitutional provisions, regulations, legislative initiatives, public policies, among others, which, of course, increase the corpus of Earth Jurisprudence in each country analysed, emphasis is placed on some countries that have been relevant and support the contribution made to the Corpus of Earth Jurisprudence. We also consider it necessary to indicate that the number of cases reviewed is correlative to their qualitative impact, given that a subject such as this has aroused the interest of legislators, decision-makers and legal operators in South America, and this is reflected in the increase in the trend line and the expansion of its level of influence in relation to the recognition of Nature as a subject of rights and the duty of protection that corresponds to it.

4. Discussion

After analyzing each of the seven (7) countries that made up the sample of the object of this study, it is necessary to do the same from a comparative perspective that allows connecting, among other things, essential aspects from the new Latin American constitutionalism with the practice of Earth Jurisprudence.

The first comparative scenario is found in the volume of records found.

Thus, from highest to lowest order are Ecuador, Colombia, Bolivia, Brazil, Argentina, Peru, and Chile. Of these, the two countries with the highest number of court cases approved are Ecuador (45) and Colombia (18). Thus, it denotes considerable activity in tribunals and courts of last resort. In contrast, Bolivia and Peru

have no registered court cases, and Chile has only one case, which has been rejected.

On the one hand, Brazil is the country with the highest number of local laws (10), well above Bolivia (2), Peru (2), Colombia (1), and Argentina (1), in contrast to the previous number, and with surprise, it is noted that Ecuador has not passed any local laws.

On the other hand, Ecuador (2008) and Bolivia (2009) are the only countries that have incorporated a political constitution in line with the corpus of Earth Jurisprudence. It is pointed out that the Political Constitution of Ecuador (Acosta, 2010) does recognize the rights of nature explicitly, while Bolivia does not do it explicitly but through the call for the claim of the Andean Indigenous cosmogony (Choquehuanca, 2010) (Yampara, 2011) with the Suma Qamaña (Albó, 2011), Teko Kavi Ñandareño (Heredia, 2017), Vivir Bien (Huanacuni, 2010) in harmony and balance with Mother Earth, Pachamama, nature. Chile's failed attempt with its Constitution, in which the rights of nature were indeed incorporated, has been registered as an effort, but the citizenship rejected it.

It should be noted that the only countries with the highest-ranking or statutory laws are Bolivia (5) and Ecuador (2); and, in terms of declarations, Ecuador (3) and Bolivia (3) are the countries with the highest number, followed by Colombia (1).

Regarding the actors, the role played by civil society stands out in Ecuador (38) and Colombia (13), in contrast to Argentina (3), Peru (3), Bolivia (1), Brazil (1), and Chile (1). Concerning the participation of Indigenous communities, peoples, and nations, Ecuador (20) represents the highest number, followed by Bolivia (3), Colombia (2), Brazil (1), Argentina (1), Peru (1), and Chile with no record. In terms of non-governmental organizations, Ecuador (14) is once again on the top, followed by Argentina (5), Colombia (2), Brazil (2), Chile (2), Bolivia (1), and Peru (1).

The governments that have been most involved in the development of this corpus of Earth Jurisprudence are Ecuador (24), Bolivia (14), Brazil (10), and, to a lesser extent, Colombia (4), Argentina (2), Peru (2), and Chile with no record. Finally, the intervention of the courts or tribunals as initiators of legal action are Colombia (5), Ecuador (4), and Brazil (2). Neither Bolivia, Argentina, Peru, or Chile have no records.

For the most protected ecosystem actors, on the one hand, all of nature stands out with the highest number of records in Ecuador (44), followed by Bolivia (13), Brazil (9), Argentina (5), Colombia (2), Peru (1), and Chile (1). Freshwater ecosystems are on the list, with Colombia (11), Ecuador (7), Brazil (3), Peru (3), Argentina (2), Bolivia (1), and Chile without records. Animals are also on the list, with Ecuador (6), Argentina (3), Colombia (2), Brazil (1), Chile (1), and Bolivia and Peru without records. Forests have (8) records in Ecuador, Colombia (1), Brazil (1), Argentina (1), and Bolivia, Peru, and Chile have no records.

On the other hand, the ecosystems claiming the least protection are moorlands, with Colombia (4), Ecuador (1), Argentina (1), and Bolivia, Brazil, Peru, and Chile without records. Marine ecosystems only have (4) records from Ecuador. Mountain ecosystems have records with Colombia (1) and Argentina (1). Argentina has (1) record for prairie.

Thus, with the results, it is evident that there is a clear correlation between the progress that Ecuador has made in the resolution of its court cases, as well as in its statutory laws in coherence and favor of the rights of nature (in general) and animals

(in particular), giving development to the recognition made in its 2008 Constitution. The volume of participation of the civil society, government, and Indigenous nations and peoples, whose vast majority claim all of nature as an ecological actor to be protected, is also overwhelming; obviously, having such rights embodied in the Political Charter allows them to promote the necessary actions in order to obtain the duty to guarantee that they are entitled to.

Colombia also plays an important role with a considerable number of positively resolved legal actions that, of course, do not exceed those of Ecuador but contribute to the corpus of Earth Jurisprudence. It is also noteworthy that Colombian civil society has a notable participation with claims in defense of the rights of nature and, in particular, freshwater ecosystems and moorlands. It denotes a public consciousness of the care for this common good, which is becoming scarce in some parts of the region, as in Montevideo, Uruguay.

Similarly, Bolivia contributes to this great corpus of Earth Jurisprudence with the Constitution of the Plurinational State of Bolivia, statutory laws, local laws, declarations, and a public policy around the geopolitics of Living Well, along with evident participation of the government for defending all nature and freshwater ecosystems.

These first three countries have one thing in common: their political constitutions have integrated what has become known as the new Latin American constitutionalism. Colombia in 1991, Ecuador in 2008, and Bolivia in 2009.

In light of the above, such constitutionalism converges in three aspects of relevance that cannot fail to be mentioned in the said cases:

First, participatory democracy as a starting point activating the mechanisms established for this purpose in order to claim the rights of nature and its recognition as a subject of rights.

Second, the recognition of ethnic plurality and multiculturalism, which is reflected in the three constitutional texts referred to explicitly and, to date, the jurisprudential interpretations, regulatory implementations, and reasoned arguments in court decisions are aware of integrating culture and nature in a relationship of interdependence and permanent interaction, i.e., biocultural (Hernández-Umaña, 2021), (Boege, 2017), (Bavikatte and Bennett, 2015), and (Chen and Gilmore, 2015). In fact, the Colombian Special Jurisdiction for Peace (JEP, 2023), by recognizing the Cauca River as a subject of rights and a victim of the armed conflict, opens an unprecedented and valuable path to the Earth Jurisprudence (Ramírez and Leguizamón, 2020) (JEP, 2019a, 2019b).

Third, corresponding to the emerging rights claimed, and in the case object of study, these are, in particular, the rights of all nature and animals (De la Torre, 2021; Hernández-Umaña, 2022; Horta, 2009; Regan, 1983; Singer, 1999; Tafalla, 2004; Velayos, 2004). On the one hand, the only Political Constitution that explicitly recognizes such rights is the one of Ecuador; in fact, in its recent regulatory implementation, they have progressed with categorizing ecocide, which strengthens the environmental criminal law. On the other hand, the Constitution of the Plurinational State of Bolivia does it implicitly by claiming the Indigenous Andean cosmogony that has always been demanded and that in its language (Suma Qamaña/TeKo Kavi) means Living Well with the Pachamama/Mother Earth/Nature. It

also makes explicit recognition for Mother Earth in several recent regulatory implementations. And, in the case of the Political Constitution of Colombia, this is done by way of jurisprudential interpretation, classifying it as an ecological or green constitution. It should be noted that Colombia has also advanced in the recognition of animal rights, but unfortunately, it does not link them to the rights of nature.

Brazil is a country that is making positive progress toward the recognition of the rights of nature and living in harmony with it, considering the modifications and regulatory implementation it has been undergoing in the last three years. This will inevitably result in the various stakeholders taking legal action and attempting to claim the rights of nature when violated. To a lesser extent, Argentina does so by reclaiming protection for all nature and animals with the support of non-governmental organizations and civil society.

Finally, the picture is different for Peru and Chile. Results show that they have made little or no progress in claiming the rights of nature, recognizing it as a subject of rights. While in the case of Peru, it has been done in a couple of local laws. In Chile, unfortunately, the proposal for the new Constitution approved to be written in 2020 and drafted in 2021, among other things, gave a voice to the Indigenous peoples historically marginalized through different practices and included the rights of nature in the text, was rejected by a large majority in the compulsory plebiscite by the Chilean society, with a rejection by almost 62% of votes compared with 38% for approval.

It is also clear the influence and correlation that exists between the indigenous worldview of peoples and nations that have always inhabited Andean America, which has permeated social mobilisation and, of course, judicial activism, which in some cases has been reflected in new Political Constitutions, normative developments and public policies, among others, and which, in turn, are integrated in one way or another into the Corpus of Jurisprudence of the Earth.

In fact, the Political Constitutions of Colombia (1991), Ecuador (2008) and Bolivia (2009) represent an important turning point in the region, as they claim the decolonisation of Latin American constitutionalism, inviting us to leave aside liberal, Eurocentric and anthropocentric thinking, for one that recognises its ancestral roots, since it claims the importance of native thought, ethnic plurality and intercultural processes that, among other things, highlight the inseparable relationship between Nature and the Human Being, which is ultimately what the Corpus of the Jurisprudence of the Earth also welcomes and promotes.

5. Conclusions

In closing, five aspects that reflect the points made in the previous sections are highlighted.

First. From a practical perspective, the 135 records identified for the South American region inevitably constitute significant advancements and progress over time for the corpus of Earth Jurisprudence. Thus, the qualitative impact of the cases, as a topic of relevance and interest to legislators, decision-makers and legal operators in South America, is reflected in an increase that tends to increase the number of cases that recognise Nature as a subject of rights in other geographical areas.

Second. Of the countries studied with the most significant contribution to the

Earth Jurisprudence are Ecuador and Colombia, followed by Bolivia, Brazil, Argentina, Peru, and Chile. Unfortunately, countries such as Paraguay, Uruguay and Venezuela do not have records in the Eco Jurisprudence Monitor database that allow us to identify progress in this area. It should also be reiterated that the number of cases generated is a reflection of a qualitative impact that is taking place in social and indigenous mobilisation, in addition to judicial activism and decolonising thinking that vindicates different approaches and ways of relating between Nature and Human Beings.

Third. The new Latin American constitutionalism, despite seeing the three crucial aspects reflected in the constitutions that gave rise to this emerging event is still immersed in the tensions arising in the constitutional texts between the dogmatic and organic, and formality and materiality of actions; it still needs to be explicitly constitutionalized, since they are founded in legal stability for the rights of nature and animals, recognizing them as subjects of rights. All of this comes together in a differentiated commitment to decolonisation that confronts the liberal and European constitutionalism that represents hegemonic thought and ignores the inseparable harmonious relationship that exists between human beings and Nature and that the original and ancestral peoples who have inhabited the Americas never cease to demand.

Fourth. In addition to the constitutionalization of these rights, further regulatory implementations are necessary that explicitly recognize the rights of nature and declare them as subjects of rights, integrating animals in such recognition. This therefore constitutes challenges and opportunities from decolonising thinking, both in law and politics, and, of course, in contributions to the Corpus of Earth Jurisprudence.

Fifth. Finally, make progress in the claim of the Indigenous and ancestral cosmogonies of the Americas, especially South America, so that the harmonious relationship between culture and nature instead of being the exception in court decisions, legislative initiatives, and development of public policies; is the general rule, and that contributes to the practical progress of the new Latin American constitutionalism and Earth jurisprudence.

Authors contributions: Conceptualization, BAHU and KGAB; methodology, BAHU; software, BAHU; validation, KGAB and OMER; formal analysis, BAHU; investigation, BAHU, KGAB and OMER; resources, BAHU, KGAB and OMER; data curation, BAHU; writing—original draft preparation, BAHU; writing—review and editing, KGAB and OMER; visualization, KGAB; supervision, BAHU; project administration, BAHU; funding acquisition, BAHU. All authors have read and agreed to the published version of the manuscript.

Funding: This research was fully funded by the National Open and Distance University, (Colombia), grant number CDP 434, Environmental Peace from a Latin American perspective.

Acknowledgments: B.A. Hernández-Umaña, corresponding author and co-author of this article, gratefully the financial support provided by the following institutions: *National Open and Distance University* (Project reference PSI3702ECJP2023) a special gratefully to *Eco Jurisprudence Monitor* for the

Work in the organization of all the developed in favor of the Earth Jurisprudence and the information shared to carry out this research successfully and also gratefully to *Institute of Peace and Conflicts (IPAZ)*, University of Granada for allow development this research within the framework of the postdoctoral stay.

Conflict of interest: The authors declare no conflict of interest.

Notes

1. It can also be seen as a community of Life in Hernández-Umaña (2017).
2. Dialogic between opposites/antagonistic/different (Humans/Nature), recursive organizational in the cause-effect loop, and hologrammatic in the understanding that the whole is in the part and the part is in the whole (Hernández-Umaña, 2020).
3. eco.jurisprudence.org Eco Jurisprudence Monitor is an online platform that collects environmental and sustainability issues information from different official sources. Through its monitoring, Eco Jurisprudence Monitor allows following legal and public policy trends to understand and analyze how the world's different legal and political systems address and resolve issues related to the rights of nature and, therefore, to the Earth Jurisprudence.
4. After reviewing the corresponding records, the countries that yielded results in relation to the object of this study, in terms of the recognition of Nature as a subject of rights, it was possible to identify that: Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador and Peru were the only countries with records and contributions to the corpus of Earth Jurisprudence.
5. Taken from the Eco Jurisprudence Monitor database www.ecojurisprudence.org.
6. It modified the Code of Criminal Procedure that now categorizes Ecocide as a crime and approved the Organic Code of the Environment of Ecuador, which, in a certain way, is orienting toward an environmental criminal law.

References

- Acosta, A. (2010). Good Living in the post-development path, a reading from the Montecristi Constitution (Spanish). *Policy Paper*, 9, 5-43.
- Albó, X. (2011). Suma Qamaña = live well. How to measure it? In: Farah I, Vasapollo L (editors). *Vivir Bien: Paradigma No Capitalista*. Plural Editores. pp. 133-144.
- Alimonda, H. (2008). The Coloniality of Nature. An approach to Latin American Political Ecology (Spanish). In: Alimonda H (editor). *La Naturaleza Colonizada. Ecología política y minería en América Latina*. CLACSO, Ediciones CICCUS. pp. 21-58.
- Añaños-Bedriñana, K. (2022). The 2030 Agenda and its SDGs in relation to indigenous peoples. In: López-Jacoiste E, Fernández C, Oliva D, Diaz E (editors). *International Law, the SDGs and the International Community*. Dykinson. pp. 285-304.
- Añaños-Bedriñana, K, Hernández-Umaña, B, Rodríguez-Martín J. (2020). "Living Well" in the Constitution of Bolivia and the American Declaration on the Rights of Indigenous Peoples: Reflections on Well-Being and the Right to Development. *International Journal of Environmental Research and Public Health*, 17(8), 2870-2895. <https://doi.org/10.3390/ijerph17082870>
- Añaños-Bedriñana, K y Hernández-Umaña, B. (2019). American Declaration on the Rights of Indigenous Peoples. Another reading, from the perspective of Good Living (Spanish). *Revista de Paz y Conflictos*, 12(1), 251-264. <https://doi.org/10.30827/revpaz.v12i1.9507>
- Asamblea Nacional Constituyente. (2008). Constitution of the Republic of Ecuador (Spanish). Registro Oficial 449 del 20 de octubre de 2008.
- Ávila, R. (2011). The Law of Nature. Fundamentals (Spanish). In: Los derechos de la Naturaleza y la Naturaleza de sus derechos. Ministerio de Justicia, Derechos Humanos y Cultos. pp. 35-73.
- Bagni, S. (2022). The rights of nature in colombian and indian case-law. *Traslator Ariza Charris. Análisis Jurídico-Político*, 4(7), 99-123. <https://doi.org/10.22490/26655489.5519>
- Bavikatte, K., & Bennett, T. (2015). Community stewardship: the foundation of biocultural rights. *Journal of Human Rights and Environment*, 6(1), 7-29. <https://doi.org/10.4337/jhre.2015.01.01>

- Bell, M. (2003). Thomas Berry and an Earth Jurisprudence. *The Trumpeter*, 19(1).
- Berry, T. (1988). *The dream of the Earth*. Sierra Club.
- Berry, T. (1999). *The Great Work. Our way into the future*. Bell Tower Crown Publishing Group.
- Boege, E. (2017). Biocultural heritage and the cultural rights of indigenous peoples, local communities and other similar communities (Spanish). *Diario de campo*, 1, 39-70.
- Burdon, P. (2011). The Jurisprudence of Thomas Berry. *Worldviews*, 15(2), 151-167.
- Burdon, P. (2012). A theory of earth jurisprudence. *Australasian Journal of Legal Philosophy*, 37, 28-60.
- Campoy, T., Gomes, E. (2009). *Qualitative Techniques and Instruments for Data Collection*. Editorial EOS.
- Cantillo-Pushaina, J. (2021). Pluralismo jurídico: avances constitucionales actuales. *Foro: Revista de Derecho*, 36, 193-211. <https://doi.org/10.32719/26312484.2021.36.10>
- Capra, F. (1998). *The web of life: a new perspective on living systems* (Spanish). Anagrama.
- Chen, C. y Gilmore, M. (2015). Biocultural Rights: A New Paradigm for Protecting Natural and Cultural Resources of Indigenous Communities. *The International Indigenous Policy Journal*, 6(3), 1-17.
- Choquehuanca, D. (2010). Towards the reconstruction of Vivir Bien (Spanish). *América Latina en Movimiento*, 452, 6-13.
- Comisión Económica para América Latina y el Caribe (CEPAL). (2022). *Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean (LC/PUB.2018/8/Rev.1)* (Spanish). Santiago.
- Constitución Política de Colombia. (1991). *Gaceta Constitucional* n.º 116.
- Corrêa Souza de Oliveira, F. y Streck, L. L. (2014). The new Latin American constitutionalism: reflections on the possibility of building a common constitutional law (Spanish). *Anuario iberoamericano de justicia constitucional*, 18, 125-153.
- Cullinan, C. (2011). A History of Wild Law. In: Burdon P (editor). *Exploring Wild Law: The Philosophy of Earth Jurisprudence*, 12.
- De la Torre, R. M. (2021). *The fundamentals of animal rights* (Spanish). Tirant lo Blanch.
- Devall, B., Sessions, G. (1985). *Deep Ecology. Living as if Nature Mattered*. Salt Lake City.
- De Waart, P. (1985). The interrelationship between the right to life and the right to development. In: Ramcharan BG (editors). *The right to life in international law*. Martinus Nijhoff Publishers Dordrecht.
- Eco Jurisprudence Monitor (2023). Available online: www.ecojurisprudence.org (accessed on 13th September 2023).
- Estado Plurinacional de Bolivia. (2009). *Political Constitution of the Plurinational State of Bolivia* (Spanish). El Alto de La Paz: Gaceta Oficial del Estado Plurinacional de Bolivia.
- Estupiñán, L, Storini, C., Martínez-Dalmau, R. y Carvalho-Dantas, F de. (2019). Nature as a subject of rights in democratic constitutionalism (Spanish). *Universidad Libre*.
- Feinberg, J. (1980). *Right, Justice and the Bounds of Liberty*. Princeton University Press, Princeton.
- Font, P. (2022). The battle for collapse. Ecosocial crisis and elites against the people (Spanish). Editorial Comares.
- Gargarella, R. (2015). The new Latin American constitutionalism (Spanish). *Estudios Sociales, revista universitaria semestral*, 48, 169-172.
- Gargarella, R. (2018). On the “New Latin American Constitutionalism” (Spanish). *Revista Uruguaya de Ciencia Política*, 27(1), 109-129. <https://doi.org/10.26851/rucp.27.5>
- Global Witness. (2022). *A Decade of Resistance. Ten years reporting on land and environmental activism around the world* (Spanish). Septiembre, Londres.
- Heredia, F. (2017). *Teko Kavi. The Living Well of the Guaraní People*. Foro Andino Amazónico de Desarrollo Rural.
- Hernández, S., Fernández, C., Baptista, L. (2010). *Investigation Methodology*. Mc Graw Hill.
- Hernández-Umaña, B. A., Rodríguez-Rodríguez, C. M. y Enríquez-Sánchez, J. M. (2023). Reflections for rethinking the new Latin American constitutionalism (Spanish). *La Naturaleza importa. Folios*, 57, 197-211. <https://doi.org/10.17227/folios.57-16795>
- Hernández-Umaña, B. A. (2022). What are the fundamentals of animal rights? *Revista Análisis Jurídico-Político*, 4(7), 127-140. <https://doi.org/10.22490/26655489.5594>
- Hernández-Umaña, B. A. (2021). Complex development and biocultural rights of ethnic and indigenous communities: judgment T-622 of 2016 of the Constitutional Court of Colombia (Spanish). In: Añaños K (editors). *El desarrollo humano y la protección de los derechos humanos en poblaciones vulnerables*. Editorial Dykinson. pp. 63-75.
- Hernández-Umaña, B. A. y Duce-Díaz, C. (2020). Final considerations. *Complex thinking harmonizes with Living Well*

- (Spanish). In: B. Hernández y C. Duce (editor). *Buenos (con)vivires en Ecuador y Bolivia*. Ediciones USTA/UVa. pp. 75-79.
- Hernández-Umaña, B. A. (2017). *Development and the Right to Development. From biocentrism and complex thinking* (Spanish). Ediciones USTA. <https://doi.org/10.15332/li.lib.2017.00001>
- Horta, O. (2009). *Animal ethics. Questioning anthropocentrism: different normative approaches* (Spanish). *Revista de Bioética y Derecho*, 16.
- Huanacuni, F. (2010). *Buen Vivir/Living Well. Andean philosophy, policies, strategies and regional experiences* (Spanish). Coordinadora Andina de Organizaciones Indígenas–CAOI.
- Izcara, S. (2014). *Qualitative Research Manual*. Fontamara.
- Jurisdicción Especial para la Paz–JEP. (2023). Order No. 226 of 2023. Accreditation of the Cauca River in Case 05. Chamber of acknowledgment of truth, responsibility and determination of facts and conduct, July 11, 2023 (Spanish).
- Jurisdicción Especial para la Paz–JEP. (2019a). Acknowledges the environment as a silent victim (Spanish). *Boletín de prensa, comunicado 009. Unidad de Investigación y Acusación de la JEP*, 5 de junio de 2019.
- Jurisdicción Especial para la Paz–JEP. (2019b). Case 02: Prioritizes the territorial situation of Ricaurte, Tumaco and Barbaocoas (Spanish).
- Koons, J. (2009). *What Is Earth Jurisprudence: Key Principles to Transform Law for the Health of the Planet*, 18 *Penn State Environmental Law Review*, 47.
- Leopold, A. (1948). *A land ethic* (Spanish). *Libros de la Catarata*.
- Lovelock, J. (1988). *The Ages of Gaia: A Biography of our living Earth*. Oxford U.P.
- Lluis Y, Navas, J. (2021). *The great legal systems of the contemporary age. Comparative study* (Spanish). *Revista general de legislación y jurisprudencia*, 2, 339-392.
- López-López, L. (2014). *Legal pluralism: a paradigmatic proposal for rethinking the Law* (Spanish). *Umbral Revista de Derecho Constitucional, Corte Constitucional del Ecuador*, 4(1), 31-64.
- Martínez-Dalmau, R. (2019). *Foundations for the recognition of Nature as a subject of rights* (Spanish). In: *La naturaleza como sujeto de derechos en el constitucionalismo democrático*. Universidad Libre. pp. 31-47. <https://doi.org/10.18041/978-958-5578-09-8>
- Martínez-Dalmau, R. y Viciano-Pastor, R. (10 de diciembre 2010). *Can we speak of a new Latin American constitutionalism as a systematized doctrinal current* (Spanish). VIII Congreso Mundial de la Asociación Internacional de Derecho Constitucional.
- Medici, A. (2014). *Other nomos: narrativity and legal pluralism for a decolonial turn in law* (Spanish). *Umbral. Revista de Derecho Constitucional*, 4(1), 67-84.
- Morin, E. (2007). *Introduction to complex thinking* (Spanish). Gedisa.
- Naess, A. (1995). *Deep Ecology for the Twenty-First Century*. (Ed. George): Shambhala.
- Naess, A. (1990). *Ecology community and lifestyle*. (Tra. David Rothenberg). Cambridge University Press.
- Naess, A. (1976). *The shallow and the deep, long-range Ecology movement. A summary*. *Inquiry*, 16.
- Noguera-Fernández, A. y Criado de Diego, M. (2011). *The Colombian Constitution of 1991 as the starting point of the new constitutionalism in Latin America* (Spanish). *Revista Estudios Socio-Jurídicos*, 13(1), 15-49.
- Norton, B. (1984). *Environmental ethics and weak anthropocentrism*. *Environmental Ethics*, 6.
- Norton, B. (1982a). *Environmental ethics and nonhuman rights*. *Environmental Ethics*, 4.
- Norton, B. (1982b). *Environmental ethics and the rights of future generations*. *Environmental Ethics*, 4.
- Passmore, J. (1978). *Man's responsibility towards nature. Ecology and traditions in the West* (Spanish). Alianza Editorial.
- Quijano, A. (2014). *Bien vivir: between development and the de/coloniality of power* (Spanish). In: *Des/colonialidad y bien vivir, un nuevo debate en América latina*. Editorial universitaria.
- Ramírez, N. y Leguizamón, W. (2020). *Nature as victim in Colombia's post-agreement era* (Spanish). *El Ágora*, 20 (1), 259-273. <https://doi.org/10.21500/16578031.4296>
- Ramírez-Nárdiz, A. (2016). *New Latin American constitutionalism and participatory democracy: democratic progress or regression?* (Spanish). *Vniversitas*, 65, 349. <https://doi.org/10.11144/Javeriana.vj132.ncld>
- Regan, T. (1983). *The Case for Animal Rights*. University of California Press.
- Rodríguez, D., Valdeoriola, J. (2009). *Investigation Methodology*; FUOC.
- Ruíz, J. (2012). *Qualitative Research Methodology*, 5th ed. Universidad de Deusto.
- Salazar-Ugarte, P. (2013). *The new Latin American constitutionalism (a critical perspective)* (Spanish). In: *El constitucionalismo contemporáneo. Homenaje a Jorge Carpizo*. Universidad Nacional Autónoma de México. pp. 345-387.

- Shiva, V. (1995). *Embrace life Women, ecology and survival* (Spanish). horas y HORAS.
- Singer, P. (1999). *Animal Liberation* (Spanish). Editorial Trotta S.A.
- Speranza, A. (2006). *Deep ecology and self-realization, an introduction to the ecological philosophy of Arne Naess* (Spanish). Editorial Biblos.
- Tafalla, M. (2004). *Animal rights* (Spanish). Idea Book S.A.
- Teilhard de Chardin, P. (1955). *The human phenomenon* (Spanish), 6th ed. Taurus Ediciones.
- United Nations–UN. (2022a). *United Nations General Assembly recognises clean, healthy and sustainable environment as a human right*, 22 de julio de 2022.
- United Nations–UN. (2022b). *Document A/77/244. Harmony with Nature Report of the Secretary-General*. United Nations, New York, on 28 July 2022.
- United Nations–UN. (2022c). *Resolution A/RES/77/169. Sustainable development: Harmony with Nature. Resolution adopted by the General Assembly on 14 December 2022*. United Nations, New York, on 28 December 2022.
- United Nations–UN. (2021). *Human Rights Council declares human right to a clean, healthy and sustainable environment*, on 8 October 2021.
- United Nations–UN. (2020a). *A/RES/75/220 Sustainable development: Harmony with Nature. Resolution adopted by the General Assembly on 21 December 2020*. United Nations, New York, on 21 December 2020.
- United Nations–UN. (2020b). *Document A/75/266 Sustainable development: Harmony with Nature Report of the Secretary-General*. United Nations, New York, on 28 July 2020.
- United Nations–UN. (2019a). *A/RES/74/224 Sustainable development: Harmony with Nature. Resolution adopted by the General Assembly on 19 December 2019*. United Nations, New York, on 19 December 2019
- United Nations–UN. (2019b). *Document A/74/236 Sustainable development: Harmony with Nature. Report of the Secretary-General*. United Nations, New York, on 26 July 2019.
- United Nations–UN. (2018a). *A/RES/73/235 Sustainable development: Harmony with Nature*. United Nations, New York, on 28 December 2018.
- United Nations–UN. (2018b). *Document A/73/221 Sustainable development: Harmony with Nature*. United Nations, New York, on 28 December 2018.
- United Nations–UN. (2017a). *A/RES/72/223 Sustainable development: Harmony with Nature*. United Nations, New York, on 28 December 2017.
- United Nations–UN. (2017b). *Document A/72/175. Harmony with Nature. Report of the Secretary-General*. United Nations, New York, on 19 July 2017.
- United Nations–UN. (2016a). *Resolution A/RES71/232. Harmony with Nature. Report of the Secretary-General*. United Nations, New York, on 21 December 2016.
- United Nations–UN. (2016b). *Document A/71/266 Sustainable development: Harmony with Nature*. United Nations, New York, on 28 December 2016.
- United Nations–UN. (2015a). *A/RES/70/208 Sustainable development: Harmony with Nature. Report of the Secretary-General*. United Nations, New York, on 4 August 2015.
- United Nations–UN. (2015b). *Document A/70/268 Sustainable development: Harmony with Nature. Report of the Secretary-General*. United Nations, New York, on 4 August 2015.
- United Nations–UN. (2014a). *A/RES/69/224 Sustainable development: Harmony with Nature*. United Nations, New York, on 28 December 2014.
- United Nations–UN. (2014b). *Document A/69/322 Sustainable development: Harmony with Nature. Report of the Secretary-General*. United Nations, New York, on 18 August 2014.
- United Nations–UN. (2013a). *Resolution A/RES/68/216 Sustainable development: Harmony with Nature*. United Nations, New York, on 28 December 2013.
- United Nations–UN. (2013b). *Document A/68/325 Sustainable development: Harmony with Nature. Report of the Secretary-General*. United Nations, New York, on 15 August 2013.
- United Nations–UN. (2012a). *Resolution A/RES/67/214 Harmony with Nature*. United Nations, New York, on 21 December 2012.
- United Nations–UN. (2012b). *Document A/67/317 Sustainable development: Harmony with Nature. Report of the Secretary-General*. United Nations, New York, on 17 August 2012.

- United Nations–UN. (2011). Document A/66/302 Sustainable development: Harmony with Nature. Report of the Secretary-General. United Nations, New York, on 15 August 2011.
- United Nations–UN. (2010a). Resolution A/RES/65/164 Harmony with Nature. United Nations, New York, on 20 December 2010.
- United Nations–UN. (2010b). Document A/65/314 Sustainable development: Harmony with Nature. Report of the Secretary-General. United Nations, New York, on 19 August 2010.
- United Nations–UN. (2009a). Resolution A/RES/64/196 Harmony with Nature. United Nations, New York, on 21 December 2009.
- United Nations–UN. (2009b). Resolution A/RES/63/278 International Mother Earth Day. United Nations, New York, on 22 April 2009.
- Uprimny, R. (2011). Recent Constitutional Transformations in Latin America: Trends and Challenges (Spanish). *Revista Pensamiento Penal*, 1-22.
- Velayos, C. (2004). Animal rights: A challenge for ethics (Spanish). In: *Ética ecológica. Propuestas para una reorientación*. Editorial Nordan-Comunidad.
- Verd, F., Lozares, C. (2016). Introduction to Qualitative Research: Phases, Methods and Techniques, Síntesis.
- Wolkmer, A., Wolkmer, M y Ferrazzo, D. (2019). Rights of Nature: for a political and constitutional paradigm from Latin America (Spanish). In: *La naturaleza como sujeto de derechos en el constitucionalismo democrático*. Universidad Libre. pp. 71-108. <https://doi.org/10.18041/978-958-5578-09-8>
- Yampara, S. (2011). Andean Cosmovivencia. Living and coexisting in integral harmony -Suma Qamaña (Spanish). *Bolivian Studies Journal/Revista de Estudios Bolivianos*, 18, 1-22. <https://doi.org/10.5195/bsj.2011.42>