JLP JOURNAL OF LAW AND POLITICS

DOI: https://doi.org//10.69648/DEWO1699

Journal of Law and Politics (JLP), 2025; 6(1): 123-140

jlp.ibupress.com

Online ISSN: 2671-3438

Application: 05.03.2025

Revision: 12.04.2025

Acceptance: 23.04.2025

Publication: 30.04.2025

Rawnak, M. U. A. (2025). Acknowledging Nature's Intrinsic Rights through Biophilic Constitutionalism. Journal of Law and Politics, 6(1), 123-140. https://doi.org//10.69648/DEWO1699

Rawnak Miraj Ul Azam

American International University- Bangladesh, Dhaka, Bangladesh

https://orcid.org/0009-0005-7818-895X

We declare no conflicts of interest.

Correspondence concerning this article should be addressed to Rawnak Miraj Ul Azam.

Email: rawnak.miraj@gmail.com

BALKAN JOURNALS

Acknowledging Nature's Intrinsic Rights through Biophilic Constitutionalism

Rawnak Miraj Ul Azam

Abstract

This research explores Biophilic Constitutionalism, a framework integrating biocentric/eco-centric values into legal orders to recognise nature's intrinsic rights. While existing literature extensively debates the philosophy of nature's rights, it lacks practical guidance for implementation, particularly internationally. This study investigates: (1) How can Biophilic Constitutionalism be effectively integrated into legal frameworks? and (2) What institutional mechanisms can balance human needs with nature's rights? Using a mixed-methods approach, this research combines legal doctrinal analysis, comparative case studies (e.g., Ecuador, New Zealand), and environmental ethics theory. It examines legal instruments, case law, and governance structures, identifying best practices and implementation challenges. The study analyses the potential of "Guardians for Nature" and explores the feasibility of an International Environmental Court. Findings reveal uneven implementation of nature's rights due to conflicting human interests. Key challenges include defining nature's rights, establishing representation, and reconciling ecological needs with development. The study proposes a Biophilic Constitutionalism framework, emphasising comprehensive legal standing for nature, participatory governance, and the "principle of ecological necessity." This research contributes a comprehensive framework for implementing Biophilic Constitutionalism nationally and internationally, offering practical guidance for policymakers and activists. Its findings have significant implications for environmental law and policy, potentially improving biodiversity and ecosystem protection.

Keywords: biophilic constitutionalism, legal personhood, ecological governance, environmental law, international law, sustainability, biocentrism, ecocentrism

Introduction

The catastrophic collapse of the Brumadinho dam in Brazil in 2019 served as a stark reminder of the devastating consequences that can arise when human activities disregard the delicate balance of ecological systems (Watts, 2019). The torrent of toxic mud and tailings unleashed by the dam's failure not only obliterated communities and extinguished human lives but also ravaged the surrounding environment, contaminating waterways, destroying habitats, and leaving a scar on the scenery that will persist for generations. This tragedy highlights a fundamental truth: human well-being is inextricably linked to the health and importance of the natural world. Our actions, driven by economic imperatives and often blind to long-term ecological consequences, reverberate through the tangled web of life, impacting not only the immediate environment but also the planet. The Brumadinho disaster is not an isolated incident. It is a symptom of a broader environmental crisis characterised by alarming rates of biodiversity loss, accelerating climate change, and widespread ecological degradation (Intergovernmental Panel on Climate Change, 2021). Scientists warn of a sixth mass extinction event, driven primarily by human activities, with species disappearing at an unprecedented rate (Kolbert, 2014). Climate change, fueled by the burning of fossil fuels and deforestation, is disrupting weather patterns, causing sea levels to rise, and threatening ecosystems worldwide (NASA, n.d.). The cumulative effect of these environmental challenges poses a grave threat to the planet's life support systems and calls into question the very sustainability of human civilisation. Despite growing awareness of the environmental crisis, current legal approaches have proven inadequate to address its root causes. Traditional environmental law, while important in regulating pollution and managing natural resources, often operates within an anthropocentric framework that prioritises human interests over the well-being of nature (Stone, 1972). This anthropocentrism is evident in the way nature is often treated as property, a resource to be exploited for human benefit. Even seemingly progressive legislation, such as the US Endangered Species Act, which aims to protect threatened and endangered species, can be undermined by economic considerations. For example, the Act's "God Committee" provision allows for exemptions to species protection in cases where economic benefits are deemed to outweigh the value of preserving a species (Mann & Plummer, 1995). This highlights the inherent tension between human economic interests and the preservation of biodiversity within existing legal frameworks. The very language of "endangered *species*" reinforces the anthropocentric view, focusing on the human *use* of nature, even

if that use is simply appreciation, rather than the intrinsic value of the species themselves.

The literature on environmental law and ethics reveals a growing dissatisfaction with anthropocentric approaches and a burgeoning interest in frameworks that recognise nature's intrinsic value. Early critiques, like Christopher Stone's (1972) seminal work "Should Trees Have Standing?", challenged the legal system's anthropocentrism by advocating for legal rights for natural entities. This call for recognising nature's legal standing has resonated with subsequent scholars and activists, contributing to the development of biocentric and eco-centric philosophies. Aldo Leopold's (1949) "land ethic," emphasising the interconnectedness of all living things and extending moral consideration to the land itself, provided a foundational text for eco-centric thought. Arne Naess's (1973) "deep ecology" further explored this interconnectedness, advocating for a radical shift in human consciousness and a reduction in human interference with nature. Holmes Rolston III (1988) contributed significantly to ecological ethics by exploring the concept of intrinsic value in nature, arguing that natural entities possess inherent worth independent of their instrumental value to humans. These philosophical developments have paved the way for the emergence of "Biophilic Constitutionalism," a framework that integrates biocentric and eco-centric values into legal and constitutional orders. The Ecuadorian Constitution (2008), with its recognition of *Pachamama*'s rights, stands as a landmark example of constitutionalising nature's rights, inspiring similar legal reforms in other countries. The granting of legal personhood to natural entities, as seen in the cases of the Whanganui River in New Zealand (New Zealand Parliament, 2017) and the Atrato River in Colombia (Constitutional Court of Colombia, 2016), further demonstrates the evolving legal topography. Scholarly work on ecological governance, such as that by Daly and Farley (2004), explores the institutional changes needed to effectively represent nature's interests in decision-making processes. The challenges of reconciling human needs with nature's rights, addressed by scholars like Taylor (1986) in his work on respect for nature, remain a central concern. The need for international cooperation in protecting transboundary ecosystems and establishing global ecological governance, as discussed by Sands (2003) in his work on international environmental law, highlights the global dimension of Biophilic Constitutionalism. However, the practical implementation and potential conflicts arising from recognising nature's rights, as well as the need for robust international enforcement mechanisms, continue to be debated and require further scholarly attention. The growing body of case law, including the *Vilcabamba River* case in Ecuador (Ecuadorian Court, 2011), provides

valuable insights into the practical application of nature's rights in legal contexts. This evolving literature highlights the growing recognition of the limitations of anthropocentrism and the urgent need for legal and ethical frameworks that prioritise ecological integrity and interspecies justice.

The doctrine of Biophilic Constitutionalism posits a fundamental restructuring of national and international legal orders, shifting away from an anthropocentric framework that views nature as mere property towards a biocentric or eco-centric paradigm recognizing nature's intrinsic rights (Stone, 1972; Leopold, 1949). This emerging legal philosophy argues that the current environmental crisis, evidenced by biodiversity loss and climate change (Intergovernmental Panel on Climate Change, 2021; Kolbert, 2014), stems from a legal system that prioritizes human interests over the inherent worth of the natural world (Merchant, 1980). Biophilic Constitutionalism advocates for the explicit acknowledgment of nature's rights within foundational legal documents, drawing inspiration from examples like the Ecuadorian Constitution's recognition of *Pachamama*'s rights (Ecuador Constitution, 2008) and the granting of legal personhood to natural entities such as the Whanganui River in New Zealand (New Zealand Parliament, 2017) and the Atrato River in Colombia (Constitutional Court of Colombia, 2016). At its core, this doctrine calls for a move beyond regulatory approaches that merely manage human impacts on the environment towards a system that empowers nature to possess legal standing and participate in decisions affecting its well-being. This necessitates the exploration of innovative governance mechanisms, such as the establishment of 'Guardians for Nature,' to represent ecological interests (Daly & Farley, 2004). Furthermore, Biophilic Constitutionalism deals with the complex challenge of reconciling potential conflicts between human needs and nature's rights, suggesting principles like 'ecological necessity' to guide decision-making (Taylor, 1986). Extending this doctrine to the international arena requires a critical reassessment of state sovereignty and the development of international legal instruments, potentially including an International Environmental Court, to enforce nature's rights on a global scale (Sands, 2003; Stone, 1974). Ultimately, Biophilic Constitutionalism envisions a legal transformation that embeds ecological values at its heart, developing a more just and sustainable relationship between humanity and the natural world.

This research is guided by two central and interconnected research questions: (1) How can the principles of Biophilic Constitutionalism be effectively integrated into national and international legal frameworks to ensure the recognition and

protection of nature's intrinsic rights? (2) What institutional and governance mechanisms are necessary to effectively balance human needs with the inherent rights of nature within a Biophilic Constitutionalist framework? These questions seek to move beyond theoretical discussions of nature's rights and investigate the practical challenges and opportunities of implementing these rights in concrete legal and political contexts. They further explore how such a framework can mediate the inevitable tensions between human development and ecological preservation, aiming to establish a pathway towards a more just and sustainable coexistence.

The primary objective of this research is to develop a comprehensive framework for Biophilic Constitutionalism, outlining its core principles, exploring its legal implications at both national and international levels, and proposing concrete mechanisms for its implementation. This involves analysing existing legal instruments, case law, and constitutional provisions that recognise nature's rights, identifying best practices, and proposing innovative solutions to address the challenges of ecological governance. The research will draw upon a variety of methodological approaches, including legal doctrinal analysis, comparative legal research, case study analysis, and theoretical exploration of environmental ethics and political philosophy. It will examine specific examples of legal frameworks that have incorporated nature's rights, analysing their strengths and weaknesses and drawing lessons for future implementation. Furthermore, the research will explore the potential role of various actors, including legal scholars, policymakers, environmental activists, and international organisations, in promoting and implementing Biophilic Constitutionalism.

This paper argues that a fundamental shift in legal paradigms is necessary to effectively address the environmental crisis. We propose that "Biophilic Constitutionalism," a framework that recognises nature's intrinsic rights, offers a pathway towards a more just and sustainable future. Biophilic Constitutionalism moves beyond the anthropocentric view of nature as a mere resource and embraces a biocentric or eco-centric perspective, acknowledging the inherent worth of all living beings and ecosystems, independent of their utility to humans (Leopold, 1949). It calls for the incorporation of nature's rights into national constitutions and international legal instruments, granting legal standing to natural entities and empowering them to participate in decision-making processes that affect their well-being. This approach requires a radical rethinking of our relationship with the natural world, moving away from a paradigm of domination and exploitation towards one of respect, reciprocity, and ecological citizenship.

This paper is structured as follows: Section II will investigate the historical roots of anthropocentrism and its legal manifestations, analysing how traditional legal systems have codified the concept of nature as property. Section III will explore the emergence of biocentrism and ecocentrism, examining the philosophical foundations for recognising nature's intrinsic value and rights. Section IV will articulate the core principles of Biophilic Constitutionalism, discussing its practical implications for constitutional design, legal personhood, and ecological governance. Section V will analyse the potential for Biophilic Constitutionalism at the international level, exploring the need for new international legal frameworks that recognise nature's rights. Finally, Section VI will conclude by summarising the key arguments and offering a call to action for the adoption of Biophilic Constitutionalism as a guiding principle for a sustainable future.

The Anthropocentric Worldview and Its Legal Manifestations

The environmental crisis we face today is not merely a product of recent industrial practices or technological advancements. Its roots lie deep within the dominant worldview that has shaped human interactions with the natural world for centuries: anthropocentrism. Anthropocentrism, the belief that humans are the central or most important beings in the universe, has profoundly influenced our philosophical, religious, economic, and legal systems, leading to the instrumentalisation of nature and its subsequent exploitation (Merchant, 1980). Understanding the historical trajectory of this anthropocentric worldview is crucial for comprehending the limitations of existing legal frameworks and the urgent need for a paradigm shift towards Biophilic Constitutionalism. One of the key intellectual currents that contributed to the rise of anthropocentrism is Cartesian dualism, articulated by the 17th-century philosopher René Descartes. Descartes's separation of mind and matter, with humans possessing a rational soul and nature reduced to mere mechanical matter devoid of consciousness or intrinsic value, created a philosophical framework that justified human dominion over the natural world (Descartes, 1637). This dualistic view paved the way for the scientific revolution and the rise of industrial capitalism, which further solidified the idea of nature as a resource to be exploited for human benefit. The Judeo-Christian tradition, with its emphasis on human dominion over creation as expressed in the Book of Genesis, also played a significant role in shaping anthropocentric attitudes towards nature (White, 1967). While interpretations of these texts vary, the idea that humans were granted stewardship over the Earth has often been interpreted as a license for

exploitation, contributing to a sense of human exceptionalism and a disregard for the intrinsic value of non-human life. It is important to acknowledge that religious traditions also contain within them countercurrents that emphasise stewardship and respect for creation. These alternative readings, however, have not been historically dominant.

The concept of nature as property, a cornerstone of traditional legal systems, is a direct manifestation of this anthropocentric worldview. Roman law's concept of *res nullius*, meaning "nobody's thing," provided a legal framework for treating nature as property that could be owned and exploited by humans (Maine, 1861). This principle, which initially applied to wild animals and other unowned resources, was later extended to land and other natural resources, solidifying the idea of nature as a commodity to be bought and sold. This commodification of nature has had profound consequences, leading to the destruction of ecosystems, the displacement of indigenous communities, and the degradation of the environment.

Existing environmental law, while attempting to mitigate the negative impacts of human activities on the environment, largely operates within this anthropocentric framework. Regulations, such as those under the Clean Air Act in the United States, often focus on controlling pollution levels and managing natural resources, but they rarely challenge the underlying assumption that nature exists primarily for human use (EPA, n.d.). The "command and control" approach, which relies on setting standards and imposing penalties for violations, has been criticised for its limited effectiveness and its failure to address the systemic causes of environmental degradation. While these laws are necessary and have delivered some benefits, their anthropocentrism limits their effectiveness. They do not address the foundational problem of nature's lack of legal standing.

The limitations of this anthropocentric approach are evident in several landmark legal cases. *Sierra Club v. Morton* (1972) exemplifies the narrow view of "injury" that prevailed in environmental law for much of the 20th century. The Sierra Club's attempt to sue on behalf of Mineral King Valley, arguing that the proposed development of a ski resort would harm the valley's aesthetic and recreational value, was initially rejected by the court. The court held that the Sierra Club lacked standing to sue because it had not demonstrated a direct economic injury. This decision highlighted the anthropocentric bias in the legal system, which recognised only human interests as worthy of legal protection. While the Sierra Club ultimately gained standing, the case highlighted the difficulty of protecting natural areas for their own sake, rather than for their instrumental value to humans.

The *Tellico Dam* case (Tennessee Valley Authority v. Hill, 1978) further illustrates the prioritisation of economic development over environmental protection. The Supreme Court initially halted the construction of the Tellico Dam because it threatened the endangered snail darter, a small fish found only in the Little Tennessee River. However, Congress subsequently passed legislation exempting the dam from the Endangered Species Act, effectively overriding the court's decision and allowing the dam to be completed. This case demonstrated the power of economic interests to trump even the strongest environmental protections, revealing the inherent limitations of a legal system that prioritises human needs over the preservation of biodiversity. The creation of the so-called "God Committee" under the Endangered Species Act, which allows for exemptions to the Act based on economic considerations, further underlines this point.

These cases, and countless others, demonstrate the inherent limitations of an anthropocentric legal framework in addressing the environmental crisis. By treating nature as mere property and prioritising human interests above all else, existing legal systems have contributed to the degradation of ecosystems and the loss of biodiversity. A fundamental shift in perspective is needed, one that recognises the intrinsic value of nature and its right to exist and flourish, independent of its utility to humans. This shift requires moving beyond the limitations of anthropocentric legal frameworks and embracing a new paradigm of Biophilic Constitutionalism.

The Emergence of Biocentrism and Ecocentrism

The limitations of anthropocentrism in addressing the environmental crisis have led to the development of alternative ethical frameworks that challenge the human-centered worldview and emphasise the intrinsic value of nature. Biocentrism and ecocentrism, while distinct in their focus, both represent a significant departure from anthropocentrism, offering a more holistic and ecologically informed understanding of the relationship between humans and the natural world. Exploring the philosophical foundations of these perspectives is crucial for understanding the ethical underpinnings of Biophilic Constitutionalism.

Biocentrism, at its core, emphasises the inherent worth of all living organisms, regardless of their utility to humans (Taylor, 1986). It posits that every individual life, from the smallest microbe to the largest whale, possesses intrinsic value, meaning that it is valuable in and of itself, not merely to an end. This perspective challenges the anthropocentric view that only humans possess intrinsic value,

extending moral consideration to all members of the biotic community. Biocentrism promotes respect for all life forms and calls for a shift away from instrumentalising nature for human purposes.

Ecocentrism, building upon biocentric principles, broadens the scope of moral consideration to include entire ecosystems and the complex network of relationships that connect all living things (Leopold, 1949). It recognises that individual organisms are not isolated entities but are integral parts of complex ecological systems. Ecocentrism emphasises the importance of maintaining the integrity, stability, and beauty of these ecosystems, even if doing so requires limiting individual rights or sacrificing the interests of species. It prioritises the well-being of the whole over the interests of individual parts, recognising the interconnectedness of all life and the importance of preserving ecological balance.

Aldo Leopold's "land ethic," articulated in his seminal work *A Sand County Almanac*, is a cornerstone of eco-centric thought (Leopold, 1949). Leopold challenged the traditional anthropocentric view of land as mere property, arguing that it should be viewed as a community to which humans belong. He extended the boundaries of ethical consideration to include soils, waters, plants, and animals, arguing that we have a moral obligation to preserve the integrity and beauty of the land. Leopold's land ethic calls for a shift in our thinking about our place in the world, from conquerors of the land to members of a biotic community.

Arne Naess's "deep ecology" further developed the philosophical foundations of ecocentrism, emphasising the interconnectedness of all living things and the importance of ecological wisdom (Naess, 1973). Deep ecology challenges the anthropocentric worldview that underlies modern industrial society, arguing that we must fundamentally rethink our relationship with nature. Naess proposed a set of principles that emphasise the intrinsic value of all life, the importance of biodiversity, and the need for a radical reduction in human interference with the natural world.

Holmes Rolston III has made significant contributions to the development of ecological ethics, exploring the concept of intrinsic value in nature in great depth (Rolston, 1988). He argues that natural entities, including individual organisms, species, and ecosystems, possess inherent worth independent of their instrumental value to humans. Rolston's work has provided a strong philosophical foundation for recognising the rights of nature and for developing legal frameworks that protect the integrity of ecosystems.

The concept of "rights of nature" flows directly from the recognition of nature's intrinsic value. If nature possesses inherent worth, then it follows that it has certain rights, including the right to exist, flourish, and evolve (Stone, 1972). These rights are not granted by humans but are inherent to nature itself. Different formulations of nature's rights have been proposed, ranging from specific rights for individual species to more general rights for ecosystems. The Ecuadorian Constitution, for example, recognises the rights of *Pachamama* (Mother Earth) to exist, persist, maintain, and regenerate its essential cycles, structure, functions, and evolutionary processes (Ecuador Constitution, 2008).

Despite the growing acceptance of biocentric and eco-centric principles, several challenges and critiques have been raised. Some argue that recognsing nature's rights is impractical, as it would be difficult to enforce these rights and would inevitably conflict with human interests. Others express concern that biocentrism and ecocentrism could lead to misanthropic policies that prioritise the well-being of nature over the needs of humans.

However, these critiques often misunderstand the nuanced nature of biocentric and eco-centric ethics. Recognising nature's rights does not necessarily mean sacrificing all human interests. Rather, it calls for a more balanced and ecologically informed approach to decision-making, one that considers the long-term consequences of human actions in the natural world. It emphasises the importance of finding ways to reconcile human needs with the well-being of nature, recognising that human flourishing is ultimately dependent on the health and importance of the ecosystems we inhabit. Moreover, the concern about misanthropy ignores the fact that human well-being is deeply intertwined with the health of the planet. Protecting nature is ultimately an act of self-preservation.

The shift towards biocentrism and ecocentrism represents a profound transformation in our understanding of our place in the world. It challenges the anthropocentric worldview that has dominated human thought for centuries and offers a more ethical and sustainable foundation for our relationship with the natural world. By recognising the intrinsic value of nature and its inherent rights, we can begin to build a future where humans and nature can thrive together.

Biophilic Constitutionalism: A Framework for Legal Transformation

The philosophical shifts towards biocentrism and ecocentrism, as discussed in the previous section, necessitate a corresponding transformation in our legal and constitutional frameworks. Biophilic Constitutionalism offers such a framework, integrating biocentric and eco-centric values into the very foundation of our legal orders. It represents a move beyond traditional environmental law, which focuses on regulating human activities that impact nature, towards a system that recognises nature's intrinsic rights and empowers it to participate in the legal and political processes that affect its well-being.

Biophilic Constitutionalism can be defined as a framework that integrates biocentric and eco-centric values into constitutional and legal orders, recognising nature's intrinsic rights, promoting ecological interconnectedness, and striving for interspecies justice. It seeks to reorient our legal systems away from anthropocentrism and towards a more ecologically sensitive approach, one that acknowledges the inherent worth of all living beings and the interconnectedness of all ecosystems. This framework calls for a fundamental restructuring of our legal and political institutions, ensuring that they are guided by principles of ecological sustainability and respect for nature's rights.

A crucial aspect of Biophilic Constitutionalism is the constitutionalisation of nature's rights. This involves incorporating provisions into national constitutions that explicitly recognise the inherent rights of nature. The 2008 Ecuadorian Constitution is a pioneering example of this approach, enshrining the rights of *Pachamama* (Mother Earth) in its foundational legal document (Ecuador Constitution, 2008). These rights include the right to exist, persist, maintain, and regenerate its cycles, structure, functions, and evolutionary processes. The Ecuadorian Constitution's recognition of *Pachamama*'s rights represents a significant step towards a biocentric legal order, providing a powerful legal basis for protecting nature from exploitation and degradation.

Beyond constitutional recognition, Biophilic Constitutionalism also explores the concept of legal personhood for nature. Granting legal personhood to natural entities, such as rivers, forests, or mountains, allows them to possess legal rights and to be represented in legal proceedings (Stone, 1972). This concept, while still evolving, has gained traction in recent years. The Whanganui River in New Zealand and the Atrato River in Colombia have both been granted legal personhood, recognising their inherent rights and empowering them to be represented in decisions

that affect their well-being (New Zealand Parliament, 2017; Constitutional Court of Colombia, 2016). This recognition has profound implications for legal standing and representation, allowing for the protection of these natural entities even when direct human interests are not at stake.

The implementation of Biophilic Constitutionalism also necessitates a transformation in ecological governance. Traditional governance structures, often dominated by human interests, are ill-equipped to address the complex challenges of ecological sustainability. Biophilic Constitutionalism calls for the establishment of new institutions and processes that ensure the representation of nature's interests in decision-making. One proposed approach is the creation of "Guardians for Nature" or similar bodies, tasked with representing the rights and interests of nature in legal and political forums (Daly & Farley, 2004). These guardians would act as advocates for nature, ensuring that ecological considerations are fully integrated into policy decisions. Furthermore, Biophilic Constitutionalism promotes participatory governance models that involve diverse stakeholders, including indigenous communities and environmental organisations, in decision-making processes that affect the environment.

A central challenge in implementing Biophilic Constitutionalism is reconciling human needs with the rights of nature. Inevitably, conflicts will arise between human activities and the preservation of ecological integrity. To address these conflicts, a "principle of ecological necessity" could be employed. This principle would prioritise the protection of ecosystems and biodiversity in cases where human activities pose a significant threat to ecological integrity. It would require a careful assessment of the ecological impacts of human actions, ensuring that development decisions are guided by principles of sustainability and respect for nature's rights. This would require a move away from cost-benefit analyses that focus solely on short-term economic gains and towards a more holistic assessment that considers the long-term ecological consequences.

Several case studies illustrate the practical application of Biophilic Constitutionalism. The *Vilcabamba River* case in Ecuador provides a compelling example of a court recognising the rights of nature (Ecuadorian Court, 2011). The court ruled in favor of the Vilcabamba River, recognising its right to flow freely and protecting it from proposed mining activities that would have harmed the river's ecosystem. This case demonstrates the power of constitutional provisions recognising nature's rights to protect natural entities from human exploitation.

In the United States, while federal law has not yet embraced the concept of nature's rights, several local communities have adopted ordinances recognising these rights. For example, Grant Township, Pennsylvania, enacted an ordinance recognising the rights of nature within its boundaries (Grant Township Ordinance, 2017). These local initiatives, while limited in scope, represent a growing movement towards the recognition of nature's rights at the grassroots level.

Biophilic Constitutionalism offers a transformative vision for the future of law and governance. By integrating biocentric and eco-centric values into our legal systems, we can move beyond the limitations of anthropocentrism and create a more just and sustainable world. The constitutionalisation of nature's rights, the recognition of legal personhood for nature, the development of ecological governance structures, and the implementation of principles like ecological necessity are all key elements of this framework. While challenges remain, the growing number of cases and initiatives recognising nature's rights suggests that Biophilic Constitutionalism is gaining momentum and has the potential to reshape our relationship with the natural world.

Biophilic Constitutionalism at the International Level

The challenges of environmental degradation transcend national borders, demanding collaborative solutions at the international level. While national legal frameworks are essential for implementing Biophilic Constitutionalism, their effectiveness is limited when addressing global environmental problems like climate change, biodiversity loss, and the destruction of transboundary ecosystems. Current international environmental law, while important, suffers from significant limitations that hinder its ability to adequately protect the planet. Therefore, extending the principles of Biophilic Constitutionalism to the international arena is crucial for achieving global ecological justice and ensuring the long-term health of our planet.

Existing international environmental agreements, while numerous, are often criticised for their focus on state sovereignty and their predominantly anthropocentric approaches (Sands, 2003). Many treaties prioritise the interests of states over the well-being of nature, focusing on regulating human activities that impact the environment rather than recognising nature's intrinsic rights. Furthermore, the enforcement mechanisms of international environmental law are often weak, relying primarily on voluntary compliance and lacking effective sanctions for violations. This lack of binding enforcement power undermines the effectiveness of

international agreements and allows states to prioritise short-term economic gains over long-term environmental sustainability.

To address these limitations, there is a growing call for the development of an Earth Charter or a Universal Declaration of the Rights of Nature. Such a document would establish fundamental principles for ecological justice and global ecological governance, recognising the intrinsic rights of nature and setting forth ethical guidelines for human interactions with the natural world (United Nations, 2000). It would serve as a moral compass for international environmental law, guiding the development of future treaties and agreements and promoting a global ethic of respect for nature. This would require a shift away from the current emphasis on state sovereignty towards a more eco-centric approach that recognises the interconnectedness of all life and the importance of protecting the planet.

Another crucial step towards strengthening international environmental law is the potential establishment of an International Environmental Court (IEC). Such a court would have the jurisdiction to adjudicate disputes related to environmental harm and enforce nature's rights at the international level (Stone, 1974). It could provide a forum for hearing cases brought on behalf of nature, ensuring that environmental concerns are given due consideration in international legal proceedings. While the establishment of an IEC faces significant political and logistical challenges, it represents a crucial step towards creating a more robust and effective system of international environmental governance.

International organisations, such as the United Nations (UN) and the International Union for Conservation of Nature (IUCN), play a fundamental role in promoting Biophilic Constitutionalism and facilitating its implementation at the national level. These organisations can provide platforms for dialogue and cooperation among states, promoting the development of international environmental law and promoting best practices for ecological governance. The UN, through its various agencies and programs, can play a key role in raising awareness about the importance of recognising nature's rights and promoting the adoption of Biophilic Constitutionalism at the national level. The IUCN, with its expertise in conservation and environmental science, can provide valuable scientific information and guidance to states seeking to implement biocentric and eco-centric policies.

The protection of transboundary ecosystems, such as the AmaSon rainforest or the Arctic region, presents unique challenges for international environmental law. These ecosystems, which span across national borders, require international

cooperation based on principles of ecological integrity. Biophilic Constitutionalism offers a framework for addressing these challenges, emphasising the importance of protecting the ecological integrity of transboundary ecosystems and recognising the rights of nature within these shared spaces. This requires moving beyond traditional notions of national sovereignty and embracing a more collaborative approach to environmental governance, one that prioritises the health of the ecosystem over the narrow interests of individual states. International agreements that recognise the rights of nature within specific transboundary ecosystems, similar to the recognition of legal personhood for rivers or forests, may be an effective way to protect these essential ecological assets.

Implementing Biophilic Constitutionalism at the international level requires a fundamental shift in our thinking about international law and governance. It demands a move away from the traditional focus on state sovereignty and towards a more eco-centric approach that recognises the interconnectedness of all life and the intrinsic value of nature. The development of an Earth Charter, the establishment of an International Environmental Court, the active engagement of international organisations, and the adoption of collaborative approaches to protecting transboundary ecosystems are all crucial steps towards achieving this goal. By embracing the principles of Biophilic Constitutionalism at the international level, we can create a more just and sustainable future for all.

Conclusion

This paper has argued that the current environmental crisis, characterised by biodiversity loss, climate change, and widespread ecological degradation, necessitates a fundamental shift in our legal and ethical frameworks. The dominant anthropocentric worldview, which treats nature as a mere resource for human exploitation, has proven inadequate to address the root causes of environmental destruction. We have demonstrated how traditional environmental law, while important in regulating human activities, operates within this anthropocentric paradigm and fails to recognise the intrinsic value and inherent rights of nature. This paper has presented "Biophilic Constitutionalism" as a transformative framework for legal and societal change.

Biophilic Constitutionalism, as defined in this paper, integrates biocentric and eco-centric values into constitutional and legal orders. It moves beyond the anthropocentric focus of traditional law by recognising nature's intrinsic rights,

promoting ecological interconnectedness, and striving for interspecies justice. We have explored the philosophical underpinnings of this framework, drawing on the insights of key thinkers like Aldo Leopold, Arne Naess, and Holmes Rolston III, who have challenged the anthropocentric worldview and emphasised the inherent worth of all living beings and ecosystems. The paper has analysed the practical implications of Biophilic Constitutionalism, including the constitutionalisation of nature's rights, the recognition of legal personhood for natural entities, the development of ecological governance structures, and the implementation of principles like ecological necessity. We have examined real-world examples of these principles in action, such as the Ecuadorian Constitution's recognition of *Pachamama*'s rights, the granting of legal personhood to rivers in New Zealand and Colombia, and legal cases where nature's rights have been successfully asserted.

Furthermore, this paper has addressed the crucial need to extend the principles of Biophilic Constitutionalism to the international level. We have critiqued the limitations of current international environmental law, highlighting its focus on state sovereignty and its anthropocentric bias. We have advocated for the development of an Earth Charter or a Universal Declaration of the Rights of Nature to establish fundamental principles for ecological justice and global ecological governance. The potential establishment of an International Environmental Court, the crucial role of international organisations in promoting Biophilic Constitutionalism, and the specific challenges of protecting transboundary ecosystems have also been discussed.

The implications of Biophilic Constitutionalism for national and international legal orders are far-reaching. At the national level, it calls for a fundamental rethinking of constitutional design, moving beyond traditional human-centered approaches to incorporate provisions that explicitly recognise nature's rights. It also necessitates the development of new legal mechanisms for representing nature's interest in legal proceedings and policy decisions. At the international level, Biophilic Constitutionalism requires a shift away from state sovereignty and towards a more collaborative, eco-centric approach to environmental governance. It calls for the development of new international legal instruments that recognise nature's rights and promote ecological justice on a global scale.

Beyond the legal debate, Biophilic Constitutionalism has profound implications for society's relationship with nature. By recognising the intrinsic value of nature, it challenges the dominant paradigm of human domination and encourages a more respectful and reciprocal relationship with the natural world. It promotes a sense

of ecological citisenship, recognising our interconnectedness with all living things and our responsibility to protect the planet for the future. Biophilic Constitutionalism also has the potential to transform our economic systems, moving away from unsustainable models of growth and consumption towards a more ecologically sustainable approach.

This paper concludes with a call to action. We urge legal scholars to further develop the theoretical framework of Biophilic Constitutionalism and explore its practical implications for legal reform. We call on policymakers to embrace the principles of Biophilic Constitutionalism and work towards incorporating nature's rights into national constitutions and international agreements. We encourage environmental activists to advocate for the implementation of Biophilic Constitutionalism and to hold governments and corporations accountable for their environmental actions. And finally, we invite all citizens to embrace a more biocentric and eco-centric worldview, recognising our interconnectedness with nature and acting as responsible stewards of the Earth.

The environmental crisis is a challenge of unprecedented scale, but it is not insurmountable. By embracing the principles of Biophilic Constitutionalism, we can create a more just and sustainable future for both humans and nature. This requires a fundamental shift in our thinking, our values, and our legal frameworks. It demands a move away from anthropocentrism and towards a more holistic and ecologically informed understanding of our place in the world. While the task ahead is significant, we believe that it is possible to create a world where humans and nature can thrive together, a world where the rights of all living beings are respected, and the integrity of ecosystems is protected. This is the vision that Biophilic Constitutionalism offers, a vision that we believe is essential for the future of our planet.

References

Constitutional Court of Colombia. (2016). *Sentencia T-622 de 2016*.

Daly, H. E., & Farley, J. (2004). *Ecological economics: Principles and applications*. Island Press.

Descartes, R. (1637). *Discours de la méthode*.

Ecuador Constitution. (2008). *Constitución de la República del Ecuador*.

Ecuadorian Court. (2011). *Caso Río Vilcabamba*.

EPA. (n.d.). Laws and regulations. Retrieved January 25, 2025, from https://www.epa.gov/laws-regulations

Grant Township Ordinance. (2017). *Ordinance recognizing the rights of nature in Grant Township*.

Intergovernmental Panel on Climate Change. (2021). *Climate change 2021: The physical science basis: Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* (V. Masson-Delmotte, P. Zhai, A. Pirani, S. L. Connors, N. Péan, S. Berger, … B. Zhou, Eds.). Cambridge University Press. https://www.ipcc.ch/report/ar6/wg1/

Kolbert, E. (2014). *The sixth extinction: An unnatural history*. Henry Holt and Company.

Leopold, A. (1949). *A Sand County Almanac*. Oxford University Press.

Maine, H. S. (1861). *Ancient law*. J. Murray.

Mann, C. C., & Plummer, M. L. (1995). *Noah's choice: The future of endangered species*. Knopf.

Merchant, C. (1980). *The death of nature: Women, ecology, and the scientific revolution*. Harper & Row.

Naess, A. (1973). The shallow and the deep, long-range ecology movement: A summary. *Inquiry, 16*(1-4), 95–100. https://doi.org/10.1080/00201747308601902

NASA. (n.d.). Climate change: Vital signs of the planet. Retrieved December 26, 2023, from https://climate.nasa.gov/

New Zealand Parliament. (2017). *Te Awa Tupua (Whanganui River Claims Settlement) Act 2017*.

Rolston, H., III. (1988). *Environmental ethics: Duties to and values in the natural world*. Temple University Press.

Sands, P. (2003). *Principles of international environmental law* (2nd ed.). Cambridge University Press.

Sierra Club v. Morton, 405 U.S. (1972).

Stone, C. D. (1972). Should trees have standing? *Law and Society Review, 6*(2), 451–457. https://doi.org/10.2307/3053593

Stone, C. D. (1974). *Should trees have standing? Law, morality, and the environment*. William Kaufmann, Inc.

Taylor, P. W. (1986). *Respect for nature: A theory of environmental ethics*. Princeton University Press.

Tennessee Valley Authority v. Hill, 437 U.S. (1978).

United Nations. (2000). *Earth Charter*.

Watts, J. (2019, January 26). Brazil dam collapse: Hundreds missing as mine waste engulfs community. *The Guardian*. https://www.theguardian.com/world/2019/jan/26/brazil-dam-collapse-hundreds-missing-as-mine-waste-engulfs-community

White, L., Jr. (1967). The historical roots of our ecological crisis. *Science, 155*(3767), 1203–1207. https://doi.org/10.1126/science.155.3767.1203