Essays

Environmental Collective Memory: Decolonizing the Environment Through Deanthropocentrization

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ABSTRACT: This paper aims at proposing a critical framework addressed at the environmental justice movement: a deanthropocentrization of the subject – through the recognition of the intrinsic worth of nature, and its procedural shades – may lead to the decolonization of the environment itself. Through examples such as the Ecuadorian recognition of Pachamama, and the acknowledgement of Maori lands as right-bearing entities in New Zealand, the framework builds on the adaptation of collective memories theories, intended as environmental collective memories, to operationalize Eric Yamamoto's "4Rs" approach, based on Recognition, Responsibility, Reconstruction, and Reparation, in a nature-related context.

KEYWORDS: environmental justice; collective memory; post-colonialism; legal personhood; environmental collective memory

1. Introduction

In 2022, the term "colonialism" made its way into the Intergovernmental Panel on Climate Change. The report, discussing the interplay between environment and colonialism, shed a light on the ongoing issues on the field, showing a clear propensity of academia to deal with the dismantling of colonial settings world-wide. The decolonial process is facing the risk of ending up being performative rather than transformative: it is clear that the traditional legal framework, inherent to Western environmental settings, is not enough to sustain the current debates related to extractivism, empowerment of indigenous communities and even about the relational aspects of our society's bonds with "nature". Nature may be even conceived as an, almost, active, but certainly legal, subject: it cannot argue in a court, nor can speak for itself, but multiple jurisdictions have been recognizing some features of it as right-bearing. This paper grounds its premises on this framework, represented by Ecuador, Bolivia, and New Zealand: through a full understanding of how, and why, nature can be a legal subject, we can reach a complete assessment about the role the environment, and related actors, are playing.

The methodology adopted is diachronic and comparative, with the aim of defining also the instruments to be used to actualize a similar theoretical framework. A key role will be played by memories, through which the different ontological conceptions of nature, as well as the relational value of different

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components of a globalized society can be understood. Here, Eric Yamamoto's system of "4Rs" can support nature,[1] if we manage to conceive nature as a subaltern, due to the treatment that colonial ties destined to it. Recognition, responsibility, reconstruction, and reparation find a way to be affirmed by memories held collectively, and grounded in the environment, thus the "ecological collective memory".[2] The first section will examine the theoretical foundation for said memories to be respected and asserted, comprising an analysis of Western flaws and filters, related to the environment, and how such a condition shaped non-Western policies, in the context of both South America and Oceania. The following sections draw examples from these two continents, showing that a different ontological conception of nature as a legal subject is possible, particularly: the case of Pachamama, in the Andean region, and the Whanganui River in New Zealand. With a clear picture of how these outcomes were reached, the next chapters will treat respectively ecological collective memory, and how it is accessed and documented, and a way to operationalize it in an actual framework, along with an explanation of why it is needed. The critical framework this project is building, aims at contributing to the literature focused on the dismantling of colonial practices, striving for an understanding of decolonial justice that remains conscious of both the roots and the needs of non-Western frameworks, using a contradiction essential to reconcile two sides of a shattered relational bond with the environment and the people living in contact with it, both religiously and materially. Thus, colonial legal tools, as legal personhood or in court litigation, may live a new life to deanthropocentrize the environmental framework, marking the central contribution of this paper to the subject treated.

2. Bridging the Gap: The Need for New Legal Categories

The concept for which our moral umbrella, dividing "worthy" and "unworthy subjects", is not a fixed element, nor stuck to some watertight compartments, is not a new one. It was 1972 when Christopher D. Stone opened his cornerstone essay "Should Trees Have Standing?",[3] comparing this attitude to Darwinian stances: just as species evolve, moral and law follow. Our daily – moral – routine has been established through centuries of social struggles, with the status of each living being finding its way in the current hierarchy. In this powerplay for who is worthier, mankind's footprint has been undeniably strong, sparking the debate about a newfound status for the environment during a time of ecological breakdown, the

[1] The system by Eric Yamamoto is a framework of interracial justice, central to the fourth chapter, based on a complete understanding of how the injustice, lying at the heart of the social (and racial) issue, took place and how to overcome it. See R. CHANGE, *Facing History, Facing Ourselves: Eric Yamamoto and the Quest for Justice*, in *Michigan Journal of Race and Law*, 5, 1999, 111-131.

[2] The field of memory studies has shifted its attention to the environmental subject after focusing on groups that, by definition, go through a selective – even if collective – process of remembering. The basis of the subject originates in the '20s, with the Maurice Halbwachs' theories, later finding a way to establish themselves as a pillar of sociology of law. For a complete overview of the influence collective memory has on society, See R.W. OCASIO, M. MAUSKAPF, C.W.J. STEELE, *History, Society and Institutions: the Role of Collective Memory in the Emergence and Evolution of Societal Logics*, in *Academy of Management Review*, Research Paper No. 2015-909, 2016, 676-699.

[3] C.D. STONE, *Should trees have standing? Toward legal rights for natural objects*, in *Southern California Review*, 45, 1972, 450-501.

Anthropocene.[4] It was at this stage that the global policies got involved, mainly in the process of limiting the damage done to the land and sea, even adopting paradigms essential to our society, as per the Sustainable Development Goals, or the effigy of "green policies". Among the strongest stances adopted at international level, we can find the Declaration of 28 July 2022, by the United Nations General Assembly, related to the "access to a clean, healthy and sustainable environment". It must be quoted, since codified environmental protection as a universal human right. Sustaining the rising wave of environmental justice, the end has been seen as honourable and as reflecting what society is demanding, but one doubt shall arise in a similar context. The right to a "clean, healthy and sustainable environment", is a guarantee proposed in function of the human world? This case exemplifies the dogma lying at the heart of a paradox. Even the most progressive environmentalist policies are not exempt from what is, essentially, an anthropocentric bias. Said bias has been tangible for centuries. Whether it was the religious perspective of Aquinas, affirmed and supported by the Bible,[5] or in the Age of Privatization, where individualistic policies denied even the existence of a "society", making the possibility of affirming a general duty toward a non-human entity impossible – the human being has been as a central unit.

Such approach is rooted in an all-encompassing way, even in systems that are, apparently, unwilling to do so,[6] due to the underlying Western philosophical foundation: rationalism and reductionism are nothing more than tools of human use, in place to recognize an environmental "stewardship".[7] The prevailing legal and political trend appears to be closely intertwined with the contemporary global debate on the Sustainable Development Goals (SDGs) and their underlying conceptual foundation. These safeguards, setting a standard for the policies to be implemented, represent a framework that can, once again, be described as too anthropocentric, or, better to say, not ecocentric enough. Notably, within the paradigm of

[4] Crutzen's intuition has been discussed for years: the Anthropocene is the epoch of human beings, but most importantly of the impact produced on the planet. The "crisis" must be meant as a need to overcome certain traditions, even from a moral perspective, as the ones that will be presented in the following chapters. Giddens discusses a reflexivity proper of "modernity", and of "modern individuals": in a world changing rapidly, the tendency is to constantly evaluate and adjust one's own attitude, departing from the tradition to which each society is usually bound. See P.J. CRUTZEN*, The "Anthropocene",* in E. EHLERS, T. KRAFFT, *Earth System*, Berlin, 2006, 13-18; A. GIDDENS, *The consequences of* modernity, Cambridge, 1990.

[5] R.A. SIMKINS*, The Bible and anthropocentrism: putting humans in their place*, in *Dialectical Anthropology*, 38(4), Unsettling Anthropocentrism, 2014, 397-413. The Bible is a playground for discussing anthropocentrism: the foundation of the Western religious thought on the subject is enshrined from the Genesis: the man is in God's image, he has dominion "Over the fish of the sea and over the fowl of the air", and "over the cattle, and over all the earth and over every creeping thing that creepeth upon the earth". The hierarchy is clear the man shapes his anthropocentrism also through religious means, affirming a dominion due to which the earth is at men's disposal – "God said unto them, Be fruitful and multiply, and replenish the earth and subdue it: and have dominion".

[6] N. HOEK, I. KASTSTEEN, S. VAN GILS, E. JANSSEN, M. VAN GILS*, Implementing Rights of Nature: An EU Natureship to Address Anthropocentrism in Environmental Law*, in *Utrecht Law Review*, 19(1), 2023, 72-86. The European Habitat Directive of 1992, has an anthropocentric structure: it focuses on the ecological situation established arbitrarily in 1992, "a minor blip on a historical scale", but also fails to address invertebrates, and fungi, rather than "charismatic mammals". A good example, provided by the authors, is the protection, in the Wadden Sea, of seals, despite the lack of protection for phytoplankton, at the bottom of the ecosystem.

[7] *Ibid.* Stewardship is an approach related to a degree of "care for nature", but at the same time, allowing an exploitative dimension. Ecocentrism, on the other hand, advocates for humanity as a participant rather than a master, the Habitat directive is used as an example of a legal instrument favoring stewardship, without reaching the goals of ecocentrism, since it presents many "blind spots", as the adoption of human-centric timelines and priorities – as the establishment of a total annual catch when dealing with fishes, disregarding their value.

sustainable development, the notion of "future generations" is consistently construed as referring exclusively to future human generations. For instance, there is little to no mention of animals, unless the discourse deals with the welfarist approach, not falling far from the aforementioned stewardship. Thus, to overcome similar shortcomings, we must consider the hypothesis of finding an answer detached from the traditional Western standard, namely through a comparison with other models, providing an answer to similar, if not the same, matters. Strong examples, that will be presented in depth in the next section, are the South American and Pacific states – leading actors in the recognition of the environment's worth.

Giddens' reflexivity is the ethical ground on which the ethical analysis will move: never as much as in these days of media, and disruptive technologies, the global society had a chance to scrutinize one's own actions. This scrutiny operates also on the sciences and their conception: they end up being "open to revision",[8] with a constant need to be updated. Similarly, the philosophical foundation of a society must be redressed: in this context it is necessary to understand how utilitarianism is not suitable anymore. In itself, a call for a model recognizing nature's intrinsic worth, thus ecological value over human-centric benefits, means a rejection of traditional utilitarianism, being a philosophical stance prioritizing short-term economic gains, while imposing disproportionate costs on vulnerable populations.[9] Furthermore, in the traditional utilitarian context, the value of nature must be read as an economic one: it is assumed to be determined by the role played in sustaining human well-being.[10] Utilitarianism is not the only legal filter proper of the Western system, it must be read along anthropocentrism and green-economics,[11] three elements entangled by an interplay relegating nature as an object. A reconceptualisation through the definition of its right-bearing character, affirming its ontological worth and difference, is a solution challenging these three factors that have been imposed ever since the Doctrine of Discovery[12] became the first method of claiming lands for European colonizers. The decolonization of the environment, still subject of a green colonialism, emerges as both a foundational objective and an ongoing process, a prerequisite to achieve meaningful environmental protection, or at least its recognition, no matter the benefits it brings to mankind. As the third chapter will present, the instruments to do so are cultural ones: a mnemonic exercise, through collective memory, will recognize the human roots of a damaged relation with the environment, on a societal level, but also the expansion of the moral umbrella to new legal categories. This is the keystone: a similar approach has been proposed, and constitutionally crystallized by Ecuador, Bolivia, New Zealand and more countries, even in the Western realm.

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[8] See Note 6. The law is not exempt from this discourse.

[9] Sustainability Directory, *What are the limits of utilitarianism?* in *Sustainability Directory*, available at https://energy.sustainability-directory.com/question/what-are-the-limits-of-utilitarianism/ (last visited 02/01/2026).

[10] M. ROLDAN, E. GOMEZ-BAGGETHUN, *Beyond ecosystem services and nature's contribution: Is it time to leave utilitarian environmentalism behind?*, in *Ecological Economics*, 185(1), 2021.

[11] H. WASHINGTON, M. MALONEY, *The need for ecological ethics in a new ecological economic*s, in *Ecological Economics*, 169, 2021. The strong anthropocentrism of neoclassic economics lives under the assumption of an "endless growth", detrimental when the damages to the environment are merely treated as "externalities", underlying its ethics based on preferences. Even when the economy becomes "ecological", nature is commodified.

[12] The Doctrine of Discovery lies on the assumption that "empty" or "uncivilized" lands were to be treated as possession of the colonizers (terra nullius). For a complete account of the subject, see S. SHAH, *The Doctrine of Discovery and Terra Nullius*, in *The Indigenous Foundation*, 2022, available at https://www.theindigenousfoundation.org/articles/the-doctrine-of-discovery-and-terra-nullius (last visited 02/01/2026).

3. Pacha Mama y el Buen Vivir

The conception of nature as a service-provider has been entrenched in the majority of legal systems, from a global perspective, for centuries. If we were to eradicate such a foundation, we would be compelled to envision a society based on a plural system. Since the state-centric approach would lose ground in favor of a "new" source of power, nature-related, a new normative order would be established: the recognition of a different ontology, meant broadly as world-view, would entail a reshaping in the general societal relations, toward both the power and the subjects – human and not – to it.[13] Pioneers under such an approach were Ecuador and Bolivia, main characters in the so-called Latin American neo-constitutionalist wave. Both of them recognized Rights of Nature[14] in their constitution: what matters, for this project, is the foundation of such important legal, and political, choices. Particularly, Bolivia was re-founded in 2009, when it was proclaimed as a "Estado Unitario Social de Derecho Plurinacional Comunitario" – "Unitary Social State, of Law and under the Rule of Multinationality and Community": the novel constitution, contains an extensive array of guarantees for natives of the land, along with a strong moral foundation propelled by Evo Morales, the first indigenous president of Bolivia's history. The preámbulo states that the Constitution is strengthened by "our Pachamama",[15] but also with the goal of pursuing the good living, the "vivir bien".[16] To this new legal basis other constitutional guarantees, such as equality and inclusion, have been reinterpreted through this framework. The holistic approach, enshrined through the vision of a "sociedad plural", a plural society, is clarified, in its multiple character, in Article 8: the state adopts the indigenous languages to explain its newly found role, pursuing the "good life", the "land without evil",

[13] H. DANCER, *Harmony with Nature: towards a new deep legal pluralism*, in *The Journal of Legal Pluralism and Unofficial Law*, 53(1), 2021, 21-41. The recognition of indigenous ontologies, legally translated as Rights of Nature, means having an "hybrid" system, mixed between Indigenous and Western beliefs: it decenters the state, the power results shared. The division of responsibilities, and the resulting power is needed to avoid a "double colonization" process, resulting from the mere incorporation of Rights of Nature into a normative order.

[14] GARN, *What are the Rights of Nature?* in *Global Alliance for the Rights of Nature*, available at https://www.garn.org/rights-of-nature/ (last visited 02/01/2026). Rights of Nature are a crystallization into a legal system of the different environmental conceptions: "it is the recognition that our ecosystems – including trees, oceans, animals, mountains, have rights just as human beings have rights". Nature is not property anymore, but rather a subject with inalienable rights.

[15] Aymara identity, connected to their history on the Andes, must be understood as a "lived experience of an interrelated whole, encompassing geographical, political, economic and social spheres". They have no direct term for "environment", whose closest concept is Pachamama, translated as "sacred Mother Earth". In her "Non-Western Epistemology, and the Understanding of the Pachamama (Environment) Within the World(s) of the Aymara Identity", Huanca did a marvelous job in reconstructing, and explaining, through traditional stories and cultural concepts the epistemological value of Pachamama: even in the understanding of the bias, still anthropocentric, that the Constitution holds, as the "anonymity of identities", where people of Bolivia are seen together, although having different conceptions of Mother Earth. See Y.K.A. HUANCA, *Non-Western Epistemology, and the Understanding of the Pachamama (Environment) Within the World(s) of the Aymara Identity*, in *International Journal for Crime Justice and Social Democracy*, 8(3), 2019.

[16] *Ibid.* The "vivir bien" has roots in the original Aymara paradigm, the *Suma Qamaña*, representing the interrelated identity in an "harmonious pluriverse", constituted by the political, economical, and social spheres. It calls for territorial reconstitution, political autonomy and a biocentric relationship with nature: the human being is not the most important part of nature.

and the "harmonious life",[17] all essential in this framework. The legislation later developed on the subject through secondary laws, as the Law of the Rights of Mother Earth of 2010, and the 2012 Law of Mother Earth and Integral Developments for Good Living,[18] and later complemented by the establishment of an ad hoc court, the Tribunal Agroambiental, where – through the constitutional dispositions of Article 187 and Article 189 – the judicial authorities are to be elected directly by universal suffrage, ensuring a fair democratic, and omnicomprehensive, system. Such a system cannot be seen as static, by definition: the "vivir bien" is an ongoing struggle, its "busqueda", the pursuit, calls for "a constant path of construction through its persistent research".[19]

Similarly, the year previous the Bolivian Constitution, Ecuador proposed a new Constitution, in 2008:[20] the new text, proposed by the then-new President Raffael Correa, established rights for particular communities, with an intercultural, and multinational, approach. It carried the weight of being the first Constitutional text strongly favoring the environment: if compared to Bolivia, it has a far more explicit approach. The paradigm of *buen vivir*, for instance, is strongly affirmed: it is clear by analyzing the second chapter, titled "Rights of Good Living". From Article 12 to Article 33, it is possible to trace an affirmation of a right to: water, food, healthy environment, free communication and cultural identity, elements, consequently, entailed by such a latus principle as the buen vivir. Once again, the preámbulo celebrates "la Pacha Mama", Mother Earth, that Article 71, identifies as a legal subject: "Nature, where life is reproduced and realized, has the right to be respected, in its existence, its maintenance, and in the regeneration of its life cycles". The stewardship toward the new legal entity becomes universal for Ecuadorian nationals: "Every person, community, people or nationality may ask public authorities to enforce nature's rights". Furthermore, Nature has a right to reparation, the "Restauración", entailing a need to compensate whole populations, as Article 72 reads. The same goes for specific animals or entire eco-systems, a precept codified in Article 73. Rights of Nature found a subsequent application in their individual dimension in front of national courts,[21] with legal specificities for animals – a detail not to be underestimated for a country which is home to 9% of all known terrestrial vertebrates, while counting only the 0.2% of total land area

[17] These concepts are derived from the different languages, made official, and spoken by the different populations living the region. The harmonious life, for example, is the well known "ñandereko", or the "good life" translates as "teko kavi". See K.G.A. BEDRIÑA, B.A.H. UMAÑA, J.A.R. MARTIN, "*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*", in *International Journal of Environmental Research and Public Health*, 17(8), 2020.

[18] See Note 16, despite being idyllic in the conception, the issues arising with these two important pieces of legislation must be underlined: Huanca identifies a problematic anthropocentrism inclination, the legislation allowed the state in its aggressive policies of extraction, nor pushed for a development economy, thus setting aside the Aymara cosmovision.

[19] C.G. BARIE, *Nuevas narrativas constitucionales en Bolivia y Ecuador: el buen vivir y los derechos de la naturaleza*, in *Latinoamérica. Revista de Estudios Latinoamericanos*, 59, 2014, 9-40.

[20] Y.A. LUGO, *Postdevelopmentalist legal pluralism*, in *Montecristi Constitution*, 34, 2020.

[21] The Constitutional Court of Ecuador reconciled the broad category of Rights of Nature, and the individual one, related to the subjects part of it, as wild animals, in the "groundbreaking judgement concerning a woolly monkey named 'Estrellita'". Rights of Nature and animal rights were conceived as two sides of the same coin: the Court conceptualized animal rights differently than the Western standard, based on sentience, but rather as another reading of Nature's rights, something intrinsically existent, that must be valued as such. E.B. KEMPERS, *Estrellita and the possibility of nature-based animal rights,* in *Global Journal of Animal Law*, 12(4) – Special Issue, *Biodiversity and Animal Law*, 2024.

on Earth.[22] In reading the Ecuadorian text, a shared trait, with the Bolivian, is the passage containing provisions rejecting colonialism. For instance, in the premises, Ecuador "and its sovereign people", are defined as "heirs of the social struggles and liberation from all forms of domination and colonialism". Again, referring to the premises, despite considering another text, namely the Bolivian one, the Constitution says to be "inspired by the fights of the past", as well as in "the anticolonial uprisings and independence". In both cases, the role of language, historically the battleground for colonial powerplay, is key. *Ama qhilla*, *ama llulla*, *ama suwa, teko kavi, ivi maraei, qhapaj ñan* in the Bolivian text,[23] , and the sumak kawsay (the good, old, "good living") are Ecuadorian indigenous words, strictly related to a specific ontological understanding of Nature. Adopting as official a different language than the state's one, centers Indigenous peoples and their lands, in an attempt to "decolonize their minds". If "colonial mentality refers to the psychology of inferiority, perpetuated by oppressive language policies and unequal sociopolitical structures",[24] the uplift of Indigenous peoples' stances is an accomplishment of said goal, or at least a step toward such an end. Beyond the rejection of colonial semantic structures, the principles introduced are capable of affirming a collective dimension, able of making nature morally worthy, "dismantling the idea of a universal goal for all societies",[25] opposing the individualistic and utilitarian ideals Western-promoted, without confusing such principles with a process born in a political opposition. The concepts presented have been floating around the Andean region for quite a long time, making them an alternative perspective on nature's role, capable of questioning our relationship with the surrounding environment. Although, a similar process must be put in practice without considering all that glitters as gold. The weakness of a similar legal development has been lying in its practical aspects, due to the misalignment with the philosophical grounds and its actual implementation, often clashing with economic approaches focused on extractionism or the so-called problems of development.[26]

[22] K. SWING, J. CHAVES, S. DE LA TORRE, L. SEMPERTEGUI, A. HEARN, A. ENCALADA, E. SUAREZ, G. RIVERA, *Outcomes of Ecuador's Rights of Nature for Nature's Sake*, in *Advances in Environmental and Engineering Research*, 3(3), 2022, 1-16.

[23] As the official website of the Bolivian State, el Estado Plurinacional de Bolivia, reads: "Ama Qhilla, Ama Llulla, Ama Suwa" can be translated as: "Do not be weak, do not lie, do not be a thief" – in Spanish, "No seas flojo, no seas mentiroso, ni seas ladron", principles contained in the 8th article of the Constitution. "Teko kavi" means "good life", "ivi maraei", "land with no evil", and "qhapaj ñan" "noble way" – Similarly to the previous principles, these ones are listed in the same Constitutional provision.

[24] P.J. MEIGHAN, *Decolonizing Language Education*, in *Encyclopedia of Applied Linguistics*, 2nd Edition, 2012.

[25] A. COSTA, M.M. ABARCA, *"Buen Vivir": An Alternative Perspective from the Peoples of the Global South to the Crisis of Capitalist Modernity*, in *The Climate Crisis: South African and Global Democratic Eco-Socialist Alternatives*, 2019.

[26] M.M. ABARCA, *The Many Voices of Buen Vivir*, 2019, available at global dialogue, https://globaldialogue.isa-sociology.org/ (last visited 02/01/2026). The implementation of essential ideals as the "buen vivir", led to different interpretation of its meaning itself: what intellectual and scholars of Latin American left intended would have been a "radical antithesis of market society's modes of valuation". Although it tried to disprove the main state logics, the result was a subordination of Indigenous ideas to the governments, pushing into extensive extractivist agendas, alongside authoritarian practices and a "string of corruption scandals", calling for a "necessary self-critique". See also E. Gudynas, *Seis puntos clave en ambiente y desarrollo,* in A. ACOSTA, E. MARTINEZ, *El Buen Vivir: Una via para el desarrollo*, 2009, 39-50. Often the main figures involved in a similar context are state-owned companies, producing the same harmful environmental practices that the previous transnational corporations were occupying, under a same flag: efficiency and global competition.

4. Aotearoa

Anthropocentrism may be intended as "human-centeredness", a sort of "egoism of the human species".[27] This ethical stance is clearly reflected in the arbitrariness adopted when deciding who is feasible of a certain moral treatment or otherwise. The most common, and at this point traditional, counter has been the argument of marginal cases: nonhuman animals have been denied moral patiency, whereas human beings proper of certain conditions, such as cognitively disabled people or children, are seen as intrinsically "more valuable". This hierarchical arbitrariness has been traceable in discourses extending beyond nonhuman animals, related to matters way more entrenched in the daily reality of our global society than the animal rights one: if the criterion amounts to a discriminatory character, and the reasoning was to be applied on human peers, where we were to decide that the discriminatory character was to be a "difference", or the being "less worthy", even "less-human" than others, we would end up with nothing more than racism. A similar, dehumanizing structure, resulted, for a long time, in impaired (legal) condition of categories as children, women and slaves,[28] progressively recognized as legal subjects, with the focus of such a movement shifting toward animals in the last decades. New Zealand seems to be a good case in point when dealing, specifically, with this shift from traditional paradigms to a model "expanding the scope of legal rights and interests".[29] 0. Aotearoa, Māori name for New Zealand, became the first country to extend the right to vote for women, in 1893,[30] but also the first one to recognize the intrinsic worth of ecosystems, and, once again, the first to legally recognize nonhuman hominids as a legal category.[31] It is in a similar context that the Whanganui River (Te Awa Tupua) was affirmed as a subject of the law, as a right-bearing entity, through the Te Awa Tupua Act. The river, called through the Act with its original name, once again testifying the importance attributed to the language in the post-colonial settings, becomes a "legal person" in Article 14, with "all the rights, powers, duties and liabilities" implied. Due to a relational and ontological conception of the river differing from the idea of a mere natural resource, Māori people played a crucial role in the process leading to its recognition. In constructing Māori's leadership collective memory about indigenous' leadership, Wolfgramm, Pouwhare and Tuazon[32] proposed how the affirmation of local tribal chiefs, Iwi, was expressed through both a personification of the river in them, and a deconstruction of their being human: "We of Whanganui say the river is me, I am the river". The connection of Maori with their taonga (treasures) comes from a spiritual entrenchment of wetlands: water "is the life giver", "it represents the blood of Papatūānuku, the Earth Mother, and the tears of Ranginui,

[27] J. NOLT, *Anthropocentrism and Egoism*, in *Environmental Values*, 22(4), 2013. Nolt defines ethical anthropocentrism as human-centredness, making of ethical anthropocentrism, human centeredness in ethics.

[28] For instance, Brown proposed a comprehensive analysis of the intersections between animal exploitation and the societal oppression of women: a hierarchic system has been consistent throughout the centuries, tolerating racism and classism. See K. BROWN, *A Feminist Analysis of Human and Animal Oppression: Intersectionality Among Species*, in *Scholars Week*, 2, 2016.

[29] K. BOSSELMANN, T. WILLIAMS, *The River as a Legal Person: The case of the Whanganui River in New Zealand*, in *Heinrich Boll Stiftung*, available at https://www.boell.de/en/2025/01/29/river-legal-person-case-whanganui-river-new-zealand (last visited 02/01/2026).

[30] *Ibid.*

[31] *Ibid.*

[32] R. WOLFGRAMM, R. POUWHARE, G.F. TUAZON, *Investigating collective memory in the enactment of Māori leadership identities Ko te kōputu pūmahara hei whakatinana i ngā tuakiri hautū*, in *Leadership*, 18(5), 2022.

the Sky Father".[33] These places are felt as a manifestation of tupuna, the ancestors, living the natural word,[34] but also many taniwha (spiritual beings), in charge of looking after people, for spiritual and physical protection.[35] A damage to a river, equals a damage to the tribes themselves.[36] It is exactly from a damage, or better to say – from a series of constitutional violations, that the case traces its roots. For instance, the founding document of New Zealand, Te Tiriti o Waitangi, the Treaty of Waitangi, has a disputed legacy, since it allowed the settlement of the British Crown, though the establishing of some obligations. Most of them have been breached, as the prohibition or obstruction of "food gathering areas and practices, navigation and ceremonial uses by Crown-authorised activities [...] as agriculture, urbanisation, river transportation, resource extraction and hydroelectric development". Hence the claims: the breaches have been recorded by the Waitangi Tribunal, predisposed in 1975 to hear cases related to historical injustice,[37] although the claims date back to the 1870s. The original owners of the land kept resisting the post-colonisation, as shown by the many court cases and Tribunal inquiries on the subject.[38]

The long-lasting struggle found a way to be reconciled in the Western-category of legal personhood, "as means to reconcile" the Maori conceptualisation "of rivers as more-than human actors" with Western legal tradition.[39]

Beyond the recognition of the river, the discourse must be centered around its affirmation in being a decolonial action. As Brownlie explains through Mercier: the colonial heritage may be addressed by "adopting an inclusive approach, that embraces a wide range of cultural concepts: 'decolonisation seeks to embody pre-colonial, indigenous, and colonial paradigms, it unearths and addresses colonial thinking'".[40] In a certain sense, it would mean to restore indigenous cultures and traditions, something particularly relevant in the context of a land perceived, lived, and felt collectively completely different when it is about its ontological dimension. Being a provision containing official apologies, along financial redress measures, the Act can still be criticized for its "Western" character: we still deal with concepts proper of the British legal heritage, as the law of property,[41] ruling on the ownership of natural elements. Despite the legal model on which it is builds, it manages to acknowledge the value of the local Iwi: an element of

[33] Waikato Regional Council, *Māori and wetlands, Waikato Regional Council*, in *Waikato Regional Council*, available at https://www.waikatoregion.govt.nz (last visited 02/01/2026)

[34] K. EVANS, *The New Zealand river that became a legal person*, in *BBC*, available at https://www.bbc.com (last visited 02/01/2026).

[35] See note 34.

[36] M. PARSON, K. FISHER, R.P. CREASE, *Legal and Ontological Pluralism: Recognising Rivers as More-Than-Human Entities*, in *Decolonising Blue Spaces in the Anthropocene*, Cham, 2021.

[37] S. BROWNLIE, *How to Live Together with Incommensurable Ontologies: The Case of the Whanganui River Settlement*, in *NaKan Journal*, 3, 2024.

[38] *Ibid.*

[39] See *supra* note 37.

[40] *Ibid.*

[41] Te Wai Maori, *How can hapū or iwi have rights to water?*, in *Te Wai Māori*, available at https://www.waimaori.maori.nz. The main example of divergences in the conception of "property": the interests Māori want to have recognized are not the same as the concept of "ownership". The linguistic issues have been related also to misinterpretation and the lack of specific terms to describe concepts environment-related, proper of the Iwi heritage, absent in the British language.

novelty was the establishment of a two-person committee of local Iwi, the Te Pou Tupua,[42] allowing the affirmation of Iwi themselves, on behalf – and through – the voiceless Te Awa Tapua. What from one perspective may seem a renunciation, in favor of an agreement proper of a Western (legal) conception, may be considered, instead, as the coexistence of different ontologies, with strong consequences found in a clear balance: the "disruption and destabilisation of the privileging of Western ontologies and epistemologies" as well as "allowing space for different ways of thinking and being", fundamental in a decolonial context.[43]

5. Environmental Collective Memory

In a decolonial setting, a discourse about memory, and its importance, cannot be excluded. "Decolonizing memory" means affirming other narratives, voices that once were kept silent.[44] In both cases presented – indigenous knowledge systems, and their understanding of nature – was severed by colonial rule, although these experiences have, with no doubt, a strong correlation with the spatial dimension in which they take place. The Cox, Dobbelaar, Meeter and van Ast study on this subject[45] proved that, even for the simplest happenings, memory is influenced by the surrounding context. When we deal with the environment we ought to understand it in mainly two memory-related dimensions: one of which is the spatial environment, whereas the other is the temporal environment, a well-established concept in the field of psychology. Both are variables that must be clear to fully picture how a memory was influenced by the circumstances. When the memories are linked to the environment-meaning "environment" as "nature", and every aspect related to it- we end up with a sort of "environmental memory", similar in conception to an application of Proshansky's place-identity.[46] The interplay between nature, beyond its mere spatial dimension, and society must be intended in a collective perspective, shaping not anymore individuals' identities, but rather societies, in their cultures, histories or strivings; the necessary co-existence paves a

[42] Te Pou Tupua, *Te Pou Tupua, A New Way of Strategic Thinking*, Tepotupua, in *Te Pou Tupua*, available at https://www.tepoutupua.nz. The Office of Te Pou Tupua was established in 2017, ensuring a Crown appointee and an Iwi appointee, sharing the role on behalf of the Whanganui River: they serve as "face and voice" of the River. The Office has a small team, composed of Advisors and Assistants, working closely to the Post Settlement Governance Entity for Whanganui Iwi, people of the local government and a team dedicated to the relationship with the Crown.

[43] See supra note 37.

[44] F. SOSTA, *Decolonizing Listening to Decolonize Memory*, in *European South*, 11, 2022, 10-23. The process of listening is a political framework: decolonizing memory means unpacking official historical records, beyond the dominant position. Among the possibilities, we have the "storytelling as resistance", listed among the critical methodologies analyzed by the author – black methodologies or feminism – to debunk well-established hierarchies. A good example of "how" is the analysis proposed in Lisbon; Golemo's experience tells us about two different monuments, one related to the Eurocentric image of Portuguese exploration, and exploitation, whereas the other was proposed by Afro-descendants to keep alive the legacy of Enslaved Persons. To deconstruct such a problematic past and accord the spaces for history and its darker pages, the initiatives may be many: as, for instance, the re-mapping of the city, done digitally and explaining both colonial and anti-colonial elements that the city holds. See K. GOLEMO, *Decolonizing Memory and Spaces: Contemporary Narratives About Portugal's Colonizing Past*, in *Politeja*, 20(3), 2023, 3-84.

[45] W.R. COX, S. DOBBELAAR, M. MEETER, V.A. VAN AST, *Episodic memory enhancement versus impairment is determined by contextual similarity across events*, in *Proceedings of the National Academy of Sciences of the U.S.A.*, 118(48), 2021.

[46] J. PENG, D. STRIJKER, Q. WU, *Place Identity: How Far Have We Come in Exploring Its Meanings?*, in *Frontiers in Psychology*, 11(294), 2020.

way for what has been defined as "social ecological memory"[47]. The latter concept is an extremely useful starting point to operationalize the memories of peoples central to the case studies previously analyzed. Ecological memory can be intended as the "comprehensive assemblage of information encoded in relic resources that can reflect the historical disturbance, current situation, and future trajectory of the community or ecosystems"[48] – whether it is biotic or abiotic, material or immaterial, and found internally or externally to the system.[49] Every insight on the subject leads to a natural overlap with such an essential component of our society as memory can be, clearly key in this framework. More specifically, it is in its "social" component that we can shed a light on the relational role of the broad category we define as environment. The shared history of a land, the "living library of a community's relationship with its environment",[50] and everything that took a part in shaping a specific conception, shareable, but not necessarily shared. The subjectivity, never intended as something individualistic, lies in the collective side of memory, making it what characterizes the concept of collective memory: after a selective process, a community, often, tacitly agrees to keep a certain legacy alive. What we could define as "collective ecological memory", becomes the umbrella for a shared and selective environmental-related process of a group of people, which has a clear link with the stances of both Indigenous groups of the Amazon and natives of Aotearoa. A direct application of this framework can be traced to the Hellman study,[51] proposing a comprehensive study of Aotearoa's "collective memory and connectedness with nature, showing how people, and their memories, are strongly connected to the environment they lived and cherished. The main reasons for which New Zealand is an useful example are the drastic shift in environmental change, and the mnemonic battles over the colonialist legacy.[52] In the over 1.100 interviewed, Hellman made clear that the existence of a common understanding is founded on environmental changes, but also on a blame-related level.[53] Identities are defined by these memories: Maori people blame colonizers for the disruption of nature, strengthening their environmental-identity, similarly to Pakeha, the New Zealanders of European ancestry, who perceived more and more their environmental identity as the self-blame started rising.

Starting from the Oceanic study, we can trace some parallels with examples available in the Andean region – although a comprehensive study is lacking, due to the different actors involved in the remembering process and the transnational character of the land, divided not anymore by tribes, but by national states. A common element is the character of a non-anthropocentric cosmovision, which is not just a merely romanticized wisdom, but rather one dimension of a complex reality marked by colonial trauma, across the entire Rainforest. The "transcultural" approach, embraced by the Messina et. al group,[54] when trying

[47] A.R. Cardoso, C. Fernandes, J.P. Honrado, *Social-ecological memory: From concepts and methods to applications*, in *Geographical Research*, 63(2), 2024.
[48] *Ibid.*
[49] *Ibid.*
[50] Sustainability Directory, *Collective Ecological Memory*, in Sustainability *Directory*, 2025, available at https://www.sustainability-directory.com (last visited 02/01/2026).
[51] O. Hellman, *Collective memory of environmental change and connectedness with nature: Survey evidence from Aotearoa New Zealand*, in *Memory Studies*, 17(2), 2022.
[52] *Ibid.*
[53] *Ibid.*
[54] M. Messina, F. Bento Da Silva, L. Porto Ribeiro, J. De Araujo Souza, *Towards Amazon-centred memory studies: Borders dispossessions and massacres*, in *Memory Studies*, 16(6), 2023.

to define a path toward a collective memory study for the Amazon, are replaced, by the same authors, with the concept of "decoloniality", where memories allow to epistemically de-link Western categories from the land. Reframing the context exposes how collective memories have been a battleground, often environmental-related: borders are a side of conflict,[55] where indigenous people's portrayal is often negative or, willingly, misinterpreted. The "othering" policy simply consists of tools that kept the colonial legacy alive, and relegated the environment and its ontological conception, to a material and functional human-centered view.

5.1. Operationalizing Memories

If the "othering" process can be extended beyond the human level, and the environment was to be regarded as a legal subject, the table would turn from nature being considered not anymore an object, to its treatment as a subaltern group.[56] The hierarchical relation of mankind over nature has been largely affirmed through, first of all, an exclusion of nature, intended as a part of society: the colonial attitude toward the environment is deeply rooted in our society – let us consider the influential stances of the empiricist Francis Bacon and his dominion over the environment. If a similar treatment were reserved to a group of subjects, it would not fall far from racism, in which we can see similar mechanisms: strict hierarchies, denial of agency, and a constant justification through civilizing narratives. It is through such a process that a discourse related to subaltern categories can be enabled. Spivak brought her subaltern discourse in a context of epistemic violence of imperialist law: if "subaltern" means what "it is not élite", the "marginalized"[57] nature would perfectly fit. The goal, considering the status of nature as a subaltern subject, would be to mediate, and restore, what the colonial period managed to break: colonial violence not only did damage the individual relationship between natives and their land, but also collective recognition of nature's ontological dimension, the harm was both epistemological and material. Here, Yamamoto's framework of racial reconciliation[58] becomes a guide to understand how to reach environmental decolonization, and if doing so is possible through a process of deanthropocentrization.
Nature, not being an object anymore, is still not able to speak, if not through the memories of those who experienced said relational damage, as Indigenous people and local inhabitants, alongside the whole

[55] *Ibid.* Borders define, and are defined, by social struggles: they are a "pluriverse", where the coexistence of "heterogeneous spatial conceptions" is key. The complex landscape is created by the different cultural and historical "plates" clashing, even going beyond anthropocentrism, since the perspective of the border human-non-human is included.
[56] S. VON REDECKER, C. HERZIG, *Can nature speak? A peasant perspective on decolonizing the human-nature relationship multispecies communication*, in *From The European South*, 13, 2022; S. FRENNING, *Nature as a subaltern – The colonial power of corporations over the environment and humans*, in *University of Lund*, 2020.
[57] G.C. SPIVAK, *Can the Subaltern Speak?*, in C. NELSON, L. GROSSBERG (Eds.) *Marxism and the Interpretation of Culture*, 1998.
[58] E. YAMAMOTO, A.K. OBREY, *Reframing Redress: A "Social Healing Through Justice" Approach to United States-Native Hawaiians and Japan-AInu Reconciliation Initiatives*, in *Asian American Law Journal*, 16(5), 2009; E. YAMAMOTO, *Rethinking Alliances: Agency, Responsibility and Interracial Justice*, in *Asian Pacific American Law Journa*l, 3(1), 1995. For a complete analysis of Yamamoto's theories, see R.S. CHANGE, *Facing History, Facing Ourselves: Eric Yamamoto and the Quest for Justice*, in *Michigan Journal of Race and Law*, 111, 1999.

movement beyond their claims.[59] The racial reconciliation would demand a series of steps, starting from the recognition. Acknowledging the harm[60] occurred has not been recorded as an effective method *per se*,[61] but it paves the way for identifying accountability of colonial settings, which managed to destroy both the ecological relationship and the identities of communities tied to the places we are dealing with. By itself, once again, the identification without a formal operationalization would be meaningless: the need is to understand the structural causes of the harm on a systemic level, with a clear assignment of the responsibility, calling for action. From there, reconstruction seems possible, through "active steps toward healing the social and psychological wounds resulting from disabling group constraints": a damaged relationship with nature, that is on a completely different ontological ground, as per the cases analyzed, needs a last effort in the reparation, with material redress. Monetary compensation is another means that has been proved inadequate, although the most common one: land return, institutional changes and, most importantly, a focus on education, may complete the action.

The role of collective memory is clearly to be the founding ground for such a reasoning: the relational damage that communities had to go through has been historically documented, and cannot be disproved. Memories are key in providing an understanding of what is nature beyond the traditional conception, but also what damage it suffered, and even what a "damage" amounts to. Considering this theoretical framework in applied settings, New Zealand followed an identical path: the century-long memories about the legal querelle related to the Whanganui, allowed to assign responsibility to the Crown, guiding toward reconstruction, understood as a model of co-governance on the traditional guardianship, concluding with a reparatory movement, through legal personhood, financial settlement and the return of the, once taken, power on the issue at stake. The use of an anthropocentric element during the last steps of the iter, but more generally on the outcome of the procedure, as the legal personhood, is almost a mandatory requirement in a Western-centric legal setting. Since the reconciliation comes from an agreement between two distinct parts of society, with different interpretations of the ontological value of different subjects, the adaptation of a colonial tool is essential. It is in the overcoming of its exclusory character, once capable of relegating every "Non-A" group to an inferior level, that we can prove how every subaltern ensemble, even those who are not able to speak for themselves, can find a way to be affirmed.

[59] The discourse does not entail just the academia, but also the Indigenous people that fought for centuries, the main element to be taken into account. The daily struggle that people went through, and still go through, is to have their rights, their culture, and their knowledge recognized, respected and affirmed. Something that cannot be left out in an environmental justice dialogue. To understand which rights are at stake, see Amnesty, *Indigenous Peoples' Rights*, in *Amnesty*, available at https://www.amnesty.org (last visited 02/01/2026).

[60] When dealing with the environment the matter touches the discourse about subjecthood, but also the constant extractive violence, still perpetuated, keen to the severed relationship between nature and Indigenous people, but also the epistemic violence proper of the colonial, and post-colonial, era.

[61] I.F. TAPU, *How To Say Sorry: fulfilling the United States' trust obligation to native Hawaiians by using the canons of construction to interpret the Apology Resolution*, in *NYU Review of Law and Social Change*, 44(445), 2020. A good example is the Hawaiian case, where the U.S. officially apologized, without any significant change brought forward by a similar political move. Despite the scarce effectiveness, it opened a path for a reconciliation process.

6. "Unless…"

Let us conclude as the paper started: taking into account a symbol in the environmentalist discourse, characteristic of the '70s. Just one year before Stone's seminal essay, another work related to the (lack of) capability of trees "to speak for themselves" was published: Dr Seuss' "The Lorax",[62] in 1971.[63] The "giant-furry-peanut"[64] appears as a dreadful reminder to the champions of the anthropocene: in the novel, the one who cuts trees, and destroys the landscape, must face the consequences through their guardian, which, although largely symbolical, serves the purpose of giving voice to the trees. Not only that: the orange-creature, resembling patas monkeys,[65] speaks for a whole ecosystem, managing to incarnate what the law has not yet achieved: personality for the environment. Despite his disappearance when defeated by industrialization, represented by a constant degradation of the landscape and an extreme loss of biodiversity, his role is essential. The Lorax speaks "for the trees", "for the trees have no tongues": he is the metaphor of speaking for those subaltern groups, as animals, and the newly defined nature, as a legal subject. What we could define as a Seussian guardianship[66] could not find a more concrete affirmation in the memories of those who experienced the damage previously defined.

The book lends itself to different interpretations,[67] among which the Matthew and Abraham one, where the name of the Guardian of the Trees is derived from "lore-ax", according to the definition given in the "Narrative Glossary": Lorax would mean "lore-axe", implying the end of a lore, where the axe has severed its entire history and tradition, which is about a "distinct civilization of plenitude and bliss". The whole point of the narrative is for younger generations to remember this "lore", ensuring the environmental well-being: the thread here would create a whole memory-related Thneed,[68] to keep up with the tale.

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[62] DR. SEUSS, *The Lorax, Random House Children's Books*, 1971. The story tells about a young boy on the tracks of the Lorax. Upon reaching the outdoors of the town, he is faced with the Once-ler, responsible for the damage to the environment. The Once-ler cut down all of the trees to create the "Thneed", a utensil made of cotton from local trees. The greed of the Once-ler destroyed the whole wood: the Lorax, who tried to defend the wood without succeeding, disappears, while leaving behind a word, key in the future developments, "Unless".

[63] N. ÇETİNER, *Landscapes of the Anthropocene in The Lorax by Dr. Seuss*, in *The Journal of International Social Research*, 13(74), 2020. Dr. Seuss was "observant and sensitive to the environmental changes", and experienced by first-hand the rise of the anthropocene, alongside the effort to tackle climate change. It was the 1st January of 1970 when the National Environmental Policy Act was passed by the American government, and only a few months later when the first Earth Day, April 1970, was celebrated. He wrote the book while visiting Kenya, potentially an inspiration for the aesthetic presented.

[64] C. RENAUD, *Dr. Seuss' The Lorax, Universal Picture*, Illumination Entertainment, 2012. "Giant-furry-Peanut" is the derogatory term adopted in the movie to describe the Lorax. The movie expands the scope of the story, by adding a strong background, always drawing from the images that accompany the Dr. Seuss' text. The main character is now a boy seeking to re-establish a natural system, since the society where he lives has been corrupted by a structural industrialization process.

[65] See Note 63.

[66] The term "Seussian guardianship" could be adopted in this context to refer specifically to the role of the Lorax as a guardian of the environment, capable of speaking for them and possessing an ecological memory, on which the later actions, as the deployment of the last Truffula-trees seed. Similarly to the role of tribes in New Zealand, and the constitutional actors behind the preámbulo in the Latin-American neoconstitutionalism, the Lorax allows nature, as a subaltern subject, to be affirmed.

[67] The tale relates to the anthropocene, but also to the role of capitalist societies in a similar framework, as well as the legal personhood of nature and the issue of intergenerational justice.

[68] See Note 63.

Memories carry a weight, and in the catastrophic scenario in which the tale unfolds, there is only one way out: listening to the Lorax. Its last word was a simple “Unless”, explained by the narrator in the last pages: “unless someone cares a whole awful lot, nothing is going to get better”. This paper has tried to confront the issue of caring, not just about trees, but about the ontological value of the environment, that still cannot speak for itself, nor finds a legal route to be followed, although it carries both a relational and cultural value, often forgotten. Unless someone cares a whole awful lot.