

Kevin Rittberger

Lawscapes

(Lecture Performance)

Presented at Gallery 400 as part of "Anthropocene Consequences", on October the 23rd 2025.

Organized by the Anthropocene Lab Chicago, Anthropocene Commons, Environmental Arts & Humanities Lab. Institutional Support: Goethe Institut Chicago, Institute for the Humanities, Department of Germanic Studies at the University of Illinois Chicago. Special thanks to Beate Geissler, Oliver Sann und Heidi Schlipphacke. More info: <https://ac-chicago.org/>

The “Rights of Nature” movement was a response to the ineffectiveness of existing environmental law. Since the RoN were enshrined in Ecuador's constitution in 2008, related legal concepts are exchanged and adapted between different legal systems around the world. The abundance of transplanted RoN in different forms is giving rise to planetary legal landscapes (“lawscapes”).

Even in Germany, RoN appeared in a ruling by the Erfurt Regional Court dated August 2, 2024:

“The inherent rights of nature, which arise from the Charter of Fundamental Rights of the European Union, serve to strengthen protection. These rights of nature must be taken into account, as is the case in numerous other legal systems, for example in South America.”

My initial questions were:

What would have to happen for the “rights of nature” to attain constitutional status in Germany?

Who could be the non-human legal entity involved in a legal dispute with a company that is causing harm to that entity? Is such a non-human legal entity represented by a lawyer, just like a company?

Is there a mammal that can speak for itself?

“Having rights does not mean getting justice.”
(Jens Kersten)

More info: mothrights.org

<https://verfassungsblog.de/mingas-rights-of-nature/>

0 Click Codas

We hear a conversation between sperm whales. Clicks and more clicks.

1 Leni Peickert

South of Rhodes, Crete and the Peloponnese lies the Hellenic Arch of Islands, home to the sperm whale in the Mediterranean. Leni Peickert, a former actress, is concerned about the dwindling population.

- Hello, yes, I'm calling from the island of Gavdos, southwest of Crete. Yesterday we were again able to observe how the ships did not adhere to the speed limits. This is life-threatening for the whales! And please stick to the changed routes!

Peickert can observe how whales, including sperm whales and beaked whales, are slashed by ship propellers and sabred by ship hulls. Peickert becomes a member of an association for the protection of whales.

She now calls herself a diplomat. She translates a lot. Between the interests of the whales, the interests of the Greek islands, the shipping companies and the companies that have acquired the oil drilling rights.

Peickert often stays with the whales for days as the drilling in the Hellenic arc approaches; only at night does she go on shore just to return to the water after a few hours of sleep. She becomes particularly friendly with a whale, whom she calls Puya.

- Yes I understand your concern, sir, and the concessions were indeed purchased legally, too, but the legal status of the whales has now changed, as well. Now, whales have officially received the status of the United Nations ambassador. That means they are not only legal persons but also are in the position to take responsibility for the regeneration of maritime ecosystems. In my function as a diplomat, I would like to... Hello? Yes. Let me briefly read to you from the "Declaration for the Ocean": "...which recognizes whales as legal persons with inherent rights, including the right to freedom of movement, the ability to thrive alongside humanity, in a healthy environment, in an ocean teeming with life, where the songs of whales continue to resonate." Furthermore, it states in the Helsinki Declaration of 2024:

"Every individual whale has the right to life." We are all one ecological class!

Hello? Are you still there?

Peickert wonders how she can have more impact. She starts working for CETI, the Cetaceans Translation Initiative.

„Mom, we hear everything, every syllable. The whole ocean is microphoned. Hydrophoned, we say. We can now distinguish every metric dolphin click from the jazz of the beluga whale. Recently I was able to steer robot fish. They swim around between the whale families and help us to distinguish who is talking. Sperm whales are so clever. Yes, the first conversations have started. And here in the Mediterranean, the whales even speak a different dialect from that of the North Atlantic sperm whales. Mom. The whale language that we now want to create ourselves must be dialect-free, high whale, so to speak, yes. I'm careful to say that, but the people I work with are firmly convinced that it's conversational. I don't know how I feel about that. And there is still so much that is unclear. But then there is also so much that is reminiscent of our own language.

Mom, think of it like this: The codas of the whales contain two vowels, a and i. It's what AI found out. Yes or confirmed, exactly, some things whale researchers already knew beforehand. And when the frequencies increase, it sounds like diphthongs, eeeeeii, aaaaaaaau. More like a door buzzer in old buildings. It's the combination of the clicks and the frequency of vowels and the spacing between them that makes it a language, they say. Yes, they click in a certain sequence and repeat it, just like we form letters into words. For example, “kluk, klok, klick-klick-klick” is probably three letters, then we look at the situation in which it is said, who says it and so on. And taking everything into account, it could then be “we”. Or maybe it means “Go!” Well, I feel a bit stupid for imitating that. Maybe it's not about imitating? On the other hand, I'm really relating my body to this other body. I'm trying to resonate with that other being. Sometimes it's crazy loud when I'm close to the whale, my whole body vibrates. And it actually clicks all the time. Yes. Excuse me? Yes, it's all recorded. Every single click. For decades. Sure, that's quite a bit of data. I don't know how much electricity. No, I can't do the math, Mom. Hmm? I have no idea. You've already worked it out! Oh. Okay, now I'm curious. A whale stores 35 tons of CO₂, yes. And the AI that translates the whales has the same emissions? That would be... Yes, a bit absurd, yes. Okay, yes. And then we want the whale population to grow and we want to understand exactly what each individual whale is saying. And at the same time we cause more harm? Yes, you're saying something. We wiped out 3 million whales in the last century and now we want to have a chat with them.“

Brief interruption:

Part of my research was to learn more about *the Cetaceans Translation Initiative*. Understand what whales are saying? CETI says we will have decoded the language of sperm whales as early as this year. Founded in 2018 by biologists and computer scientists and cryptography experts from the Massachusetts Institute of Technology (MIT), the interdisciplinary organization is probably the largest interspecies communication project in history. Here, millions upon millions of whale clicks are evaluated by experts using artificial intelligence.

more info: <https://www.projectceti.org/>
<https://www.nature.com/articles/s41467-024-47221-8>

2 Hans-Joachim Mustermann

Back to the play. Meet Hans-Joachim Mustermann (a former constitutional judge)

“The most important ruling I was involved in was probably the climate ruling of 2021, that I just quoted, when we called for an “intertemporal safeguarding of freedom”. What does that mean? It is the “safeguarding of freedom protected by fundamental rights over time” and the “proportionate distribution of opportunities for freedom across generations”. In other words: if we consume the future now, we are stealing our children's freedom. Or as Paul Hawken put it in his seminal New York times bestselling book "regeneration": “Do we heal or steal our future?”

And what have we been doing ever since? We continue to steal. Our resolution, the climate ruling of 2021, has achieved nothing! I mean, there are some climate lawsuits in the courts from young and old people, but the government doesn't care.

After my time at the Federal Constitutional Court, a total of 12 years, I am working on new laws.

Our German Basic Law dates back to 1948 and cannot legally represent the ecological crises of the present. On the other hand, the law is the only thing that can still avert destruction.

Let me tell you something. Property rights are the problem! Our sophisticated societies have legalized themselves into the climate crisis with property rights.

Yes, why are environmental rights toothless? Why is existing nature conservation incompetent? Ok, look at the so-called marine protected areas between Germany and the UK! Whales are dying because fishing is allowed to continue, despite nature conservation. Corporate interests always prevail.

So: Property... Does everyone have an old law? Let's start with one legal provision, Article 14. And now let's read the new law: “Property and its use shall be devoted in particular to the social **and ecological** good of the community.”

Did you notice? There is only two more words. “...and ecological”.

Let's read it again. “Property and its use shall be devoted in particular to the social and ecological good of the community.”

And now I would like to quote two great thinkers, the first is Jean-Jacques Rousseau and the second is John Locke. So, who do you want to hear first? You can make your choice! So, hands up for Rousseau! Good! That's the majority!

“The first who fenced off a piece of land,” says Rousseau in his 1755 “*Treatise on the Origin and Foundations of Inequality Among Men*”, “the first who fenced off a piece of land, who took it into his head to say: This is mine, and found simple-minded people who believed him, was the true founder of bourgeois society. How many crimes, wars, murders, how much misery and horror would he have spared humanity, if he had torn out the stakes, filled up the ditch and called out to his people: “Do not believe this deceiver; you are lost if you forget that the fruits belong to all, but the soil to no one.”

Anyways. Now the other great man: John Locke. Yes, John „we the people“ Locke. In 1689, he wrote that man first has property in his own person, and then acquires property in objects that he has “mixed with his labor”.

Ah I am sorry, I have to take this call for a moment.

-Yes, this is the land registry.

-I'm glad you call!

-You asked me to call you back.

-Yes, that's right. I'm here with my students in the lecture and we're wondering to what extent nature belongs to us if we own property.

-What nature?

-So if we own a piece of land, how deeply do we own that piece of land? Or the air above it? The earth is not a disk, so the land under the ground should belong to me, right? Is that recorded in the land register?

-The owner's right extends to the space above and below the surface.

-But how much? How many meters?

-As long as no expropriation takes place, the Basic Law allows other laws to determine the content and limits of property.

-Yes, I can look that up myself. But I would like to get precise information, something concrete.

-Groundwater, for example, is a matter for the public, not a private interest. Mineral resources are subject to the Mineral Resources Act. Land use is regulated by the Federal Soil Protection Act.

And your neighbor can enter your property if he needs to repair something on his own. And with the ladder law, he can put up a ladder.

-He can put up the ladder on my ground? So I don't own the land at all.

-Well, for most people a piece of land is a dream.

-And the air?

- In most federal states, your airspace extends upwards to the so-called "flight altitude". This varies depending on the location and can be between 30 meters and several kilometers. In Germany, this is usually 100 meters.

-As the owner, am I allowed to extract and sell the airspace?

-As the owner, you can freely dispose of your property. If you want to suck in the air and sell it, you should find out about the legal framework. I would consult a specialist lawyer for real estate law.

-And don't birds also own the air? When they sing, they mark a soundscape. Birds would mark out properties differently, wouldn't they? Or bats and moths!

-That's not my area of expertise.

-Wouldn't you say that nature would be the better owner? It would take better care of itself than we humans?

-You need to talk to the forester!

-Have you ever listened to trees? Have you ever hugged one?

-Pardon me?

-Thank you very much!

Detour:

When I was working on “Shredding Laws” I read Leah Pennimans book “Black Earth Wisdom”, that weaves together the voices of many environmentalists.

In the book Savi Horne, Executive Director of the North Carolina Association of Black Lawyers, writes:

„We could never trust the white lawyers in the local community, or the white courts, but we trust our families. So that family was the bridge to the future to continue the legacy of land stewardship.“

„Unfortunately, Western law makes so-called heirs' property very vulnerable. .. when a climate disaster hits, you need a clean property title to access federal programs or disaster relief“ (holding a land title collectively, „tenancy in common agreements“ to own land together... is not a clear title)

And Savi Horne goes on:

„Heal the breach; stop the destruction of your planet home; there is still time to protect and restore the planet through regenerative practice, to stop raw exploitation of resources...”

3

Back to the island of Gavdos. Back to Leni Peickert:

Puya, the eldest of the whale family, is dead. She was found on the beach yesterday evening. Her injuries suggest a collision with a ship.

Peickert asks herself:

Is the welfare of the whales worth as much as the welfare of the people? Shouldn't we first and foremost fight for universal human rights? Isn't it cynical to stand up for the rights of whales while human rights are being trampled underfoot?

Do you ask yourself the same question?

But why do we ask ourselves these questions? Why are we pitting the interests of humans against the interests of non-human beings all the time?

Response-ability is an embodied relationship, isn't it?

Cut. We'll skip through the play. Now we are back in the lecture. Musterman goes on:

We 'll now talk about Article 19. The new Article 19.

Paragraph 3 now reads: "Fundamental rights shall also apply to ecological and domestic legal persons."

We have only changed two words again. "to **ecological and** domestic legal persons..."

This means that all fundamental rights, including Article 14, apply to nature as an ecological person. This means that nature is a legal entity, a legal subject, it can now take legal action itself. Whether it's a forest, a pod of whales, or a river.

Let's take a look at an example: The Ecuadorian constitution mentions "La Pacha Mama" 70 times. That's just another word for "rights of nature". Ecuador was the first country to recognize the rights of nature in its constitution in 2008. In Article 71 it says:

"Nature, referred to as Pacha Mama, has the right to exist and thrive. It must be respected holistically to maintain and regenerate its life cycles, structure, functions, and evolutionary processes."

Since then, individuals or communities have been able to file lawsuits on behalf of nature to prevent or remedy environmental damage. There are numerous cases in which the rights of nature have been asserted. A cloud forest has filed a lawsuit. Two frogs have sued. And there have been important victories. The cloud forest "Los Cedros" was able to win over a powerful copper company, which then had to stop digging for copper. That was in 2021. Last year, in 2024, it was the turn of the Río Machángara in Quito to file a lawsuit. In the courtroom, the Machángara herself was present in the form of a glass of contaminated river water and was accompanied by an extra, environmentalists, artists, social collectives, lawyers and former constitutional judges such as Ramiro Ávila Santamaría, as well as members of the Kitu Kara indigenous pueblo people who still live in Quito. And the river won the case and is now being cleaned up by the city and the polluters responsible.

And these examples were followed by several rivers worldwide. A multitude. A lawscape.

Back to Germany. Back to the German Basic Law. Back to Article 19. What happens when nature has its own rights? Exactly, then it also has basic rights. Then Article 14 also applies to it. That is our freedom of ownership. Nature can also become an owner. Owner of itself. Right?

Yes! In 1689 John Locke wrote: "The labor of his body and the work of his hands are, we may say, in a proper sense his property." In Locke's view, you own what you have "mixed with your labor". And why shouldn't that also apply to nature? Yes, that's turning "Natural Rights" into "rights of nature". Life (of all), liberty and property (of all natural beings).

We say: bees work with diligence. Then they should own the honey, shouldn't they? What do you think a jar of honey would cost if we paid every single bee a minimum wage? 300.000 Dollar. By the way, the International Monetary Fund has measured the ecosystem service of a whale at 2 million dollars.

Another quick side note:

It should be free, Robin Wall Kimmerer says, in a Serviceberry Economy. A gift economy. And Angelique Eaglewoman, Dakota law professor and co-director of the Native American Law and Sovereignty Institute at Mitchell Hamline School of Law, writes: “Rights of nature are aligned with stewardship and reciprocity in Indigenous legal traditions”.

5

We'll jump to the end of the play.

Musterman goes on: As a former constitutional judge, I chair a commission of experts that investigates and evaluates law suits from non-human legal entities on the international stage. Today we have invited Leni Peickert, a whale expert. We are investigating a case off the Greek coast. A Spanish oil company, Repsol, has acquired drilling licenses to drill for oil off the coast of Greece. And this is in the exact same place where the whales have their breeding grounds in the Mediterranean. And now Repsol says: “We have reached an agreement with the whales! Yes, we have met with the whales and made them an offer. And they accepted the deal and moved on, swam on. And now they are living off the coast of Malta with an account full of money.” That's what Repsol says.

As I said, we have invited a whale expert. We wanna understand what's going on.

What does this mean for us in Germany? What lawsuits are expected? Can a whale now appear in court like a glass of water? Where does the trial take place then? I mean, AI has now translated the language of the whales! So will we understand what they are saying?

Detour:

Jenny García Ruales and Andreas Gutmann, who have been working in the field of the rights of nature for many years now, told me that last year, in 2024, it was the turn of the Río Machángara in Quito to file a lawsuit.

So how are we giving voice to absentees?

In my reading, at least in Ecuador or Colombia, RoN is based on the fact that the complexity of natural processes and systems can never be comprehensively mapped. According to such an understanding, what nature wants or what its interests are can never be determined “objectively” and with absolute certainty. Rather, it is about making different perspectives visible and democratizing the discourse on nature. In this sense, Bruno Latour calls for the monopoly of Western natural scientists to be overcome so that we can speak authentically for nature. Or would it be more authentic not to have a word for nature, like most peoples do? The Ojibwe certainly don't. Ralph Cintron from the UIC reminded me of the old greek word “phusis” (φύσις) - “growing” or “becoming” -, that actually precedes the notion of nature.

Jenny: Maybe you should add what was this court case in Erfurt about?

Kevin: Right. A major German car manufacturer manipulated the exhaust emission values of vehicles in order to meet environmental standards. And now an individual car owner

was suing for damages. And the judge not only ruled in his favor, he also ruled in favor of nature. Because nature had also been damaged and had rights of its own. Now you can call that a “reverse legal transplant” - as the rights of nature are now being “transplanted” to Europe. So we are living in “lawspaces”, legal landscapes. In southeast England, a new charter that has just been approved by Lewes district council a couple of weeks ago officially recognises the river Ouse as a legal entity. Based on the Universal Declaration of River Rights, the charter gives the waterway eight rights, including the right to flow, to be pollution-free, to have native biodiversity and to undergo regeneration and restoration. Like the river Machangara. Jenny, here is my question: Is the boomerang from the former colonies now flying back to old Europe? Is this then the reverse movement to cultural appropriation? This time on purpose? On a purpose like climate justice?

Jenny: Yes, I don't think this is an extractivist practice to transplant the rights of nature.. I think it's a nice move. Usually the constitutions and the European legal framework were transplanted and imposed in Latin America and elsewhere. The rights of nature are now a nice example of this legal transplantation in reverse. Perhaps this is a good example of the Curacene.

Kevin: The Curascene! Yes. Like anthropocene. But this time we focus more on cure and care and regeneration. And epistemic justice.

Being an earthling, a terrestrial being, a being interconnected with the land, with “ecological compassion” for the soil, means to learn the “grammar of animacy”, how Robin Wall Kimmerer put it.

So how to translate, when you situate a cosmology somewhere else? How do lawscapes resonate in certain landscapes?

6 (Final scene)

Ms. Peickert, I am very pleased that you are here today! You know the new laws from your practice, don't you? You are a whale expert, right?

A diplomat.

What are your skills?

I translate the interests of cetaceans for the public, i.e. human sphere. I work for an association for the protection of whales, “Cetaceans United”. I also work for the cetacean translation initiative CETI. In addition, I am an employee of the owner company “Hellenic Archipelago Ecosystems”.

What does that mean exactly?

I am the personal assistant to the spokesperson of the whale population in the Hellenic Arch, i.e. the eastern Ionian Sea.

You mean a whale?

Yes, a female whale.

Ms. Peickert, as an expert commission on behalf of the German government, we want to know what we in Germany can expect if non-human legal entities file lawsuits. The case of sperm whales versus Repsol has also caused quite a stir in this country. Two legal entities, here a company, there a sperm whale population.. Together with a few activists, you stood in front of the whales when the drilling work was due to begin. Do you say you stood?

Our view is still anthropocentric.

Why couldn't the animals protest themselves? After all, they are legal persons. They now enjoy the right of assembly, legal protection and so on.

Despite everything, a binational court ruled that the concessions were legally valid. Drilling was allowed to begin.

And you did not accept that. But Repsol said that the dialog with the whales was consensual.

It was not a dialog.

You could read what the sperm whale said: "Thank you for your generous offer, we will now leave the Hellenic Arch and settle off the coast of Malta."

Repsol asked rhetorical questions. The machine learns what we tell it to do. There are still far too high error rates. Whale languages differ from our human ones in many areas. We won't get any further with the human blueprint. If AI only imitates what we tell it to do, AI becomes AS, artificial stupidity. Drilling for oil off the coast of Crete has nothing to do with intelligence. What about the intelligence of whales? Their brains are seven times bigger. We should learn our human language with the intelligence of whales, then we would realize how much whale potential is lying fallow. It is the whale gaze that matters today.

It was reported that you organized a whale funeral and invited the captain, who in your opinion was responsible for the collision, as well. Aren't you going a bit too far with your human-animal conspiracy?

Isn't this division into legal entities repeating the separation that we humans repeatedly make? Are we not separating nature from ourselves again? They have a head start on us. And we have created AI that is supposed to understand what they say? But what we are feeding AI is not knowledge but prejudices and beliefs that we confuse with knowledge. That's pathetic.

Ms. Peickert. What do you know about the language of whales? How can we prepare for dialog? How much dialog is good anyway?

How are we supposed to know what they are saying to each other down there at a depth of 3000 meters?

During the pandemic, shipping traffic decreased significantly. This had a measurable effect on the whales' stress hormones. Whales became calmer again. We would first have to stop shipping traffic to enable a dialog. We don't need AI. We need to spend time with the whales, engage with them.

Celebrate these brief moments when they come to light to catch their breath. They are real people, even before they are legal entities. You can get to know them personally. You can't say that about Repsol.

Can you tell us about the investments of the whale-owning company of which you are an employee of? Can we expect whales to know what they are doing? I read that the whales are already filthy rich. Yes, they are now paid for their ecosystem service. We can now see the nature cycle of krill, whale excrement, phytoplankton, oxygen, carbon, etc.! These whales produce more than half of the oxygen we breathe. But how are we going to price each of the many complex ecosystem services in this country?

My friend Ruth from Mexico, a well-known climate researcher, says: "I am hopeless. The facts have been known for so long. Now we will probably have 3 degrees of warming. In many places it won't cool down below 100 degrees at night. Lots of deaths, on land, in the water. And what is the reaction to this? Are people now more or less interested in animals and their ecosystems? Does it really make sense to monetize nature?

We should go swimming with whales. From a depth of 20 meters, the brain enters a meditative state. If you think less, you use less oxygen.

We really don't have the time for that.

Can I go now?

You know. I'm much more interested in how rich the whales are getting now. Listen! To offset the CO₂ emissions from car traffic in Chicago, which amount to 5.8 million tons per year, we can calculate the number of whales needed. So its 5,8 millions divided through 33 tons that each whale compensates. Right? So, approximately 175 thousand whales would be required to compensate for these emissions. If now each whale is valued at 2 million dollars, like the IMF says, and we would need approximately 175000 whales to offset the CO₂ emissions from car traffic in Chicago for one year, the total cost would be: 351.5 billion dollars. And we are now transferring this to the whales' bank account!

Good bye.

Mrs. Peickert! I'm just trying my best! My human best! People need laws! Or some form of currency. A concrete blueprint to guide their actions. Right?

7

The play ends with her placing the instrument in his hands, the same instrument she used at the beginning to try to establish a dialogue with the whales. And he tries it. It clicks. And the stage grows darker. We hear the sound of sperm whales, just like at the beginning. It clicks and clicks. And then blackout.

"Shredding Laws" was translated by Prof. Elizabeth Loentz's class at UIC. Thank you very much!

Shownotes (selection):

Jens Kersten, *Das ökologische Grundgesetz* (The Ecological Basic Law)

Andreas Gutmann, *Rechtshybridität*

Leah Penniman, *Black Earth Wisdom*

Jenny Garcia Ruales/Luis Eslava/ Viviana Morales Naranjo, *Legal "heartfelt" thinking*

David Abram, *The Spell of the Sensuous*

Eduardo Kohn, *How Forests Think*

"Theater" comes from the ancient Greek word "theastai."

It means to watch, to behold, to marvel.

Other-than-humans, too.