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**AMICUS CURIAE: A TOOL TO ADVANCE
THE RECOGNITION OF NATURE
AS A SUBJECT OF RIGHTS**

Abstract

In recent decades, the recognition of Nature as a subject of rights has gained momentum, especially in Latin America. Ecuador, Bolivia, Colombia, Mexico, and other countries have made significant progress in granting legal personality to ecosystems, rivers, and mountains, defending their existence and well-being as if they were entities with their own rights. One of the most powerful tools that has contributed to this progress is the amicus curiae, or ‘friend of the court’, which allows third parties to intervene in judicial proceedings by providing arguments, information, and perspectives that can influence judicial decisions. This paper will explore how amicus curiae has been fundamental to the recognition of Nature as a subject of rights in Latin America, both in epistemic, judicial, and legislative terms, and how they have helped build the legal frameworks that support the idea that Nature has intrinsic values.

KEYWORDS

amicus curiae, friend of the court, Rights of Nature, well-being, subject of rights

SŁOWA KLUCZOWE

amicus curiae, przyjaciel sądu, prawa natury, dobrostan, podmiot praw

I. EMERGENCE OF BIOCENTRIC EPISTEMOLOGIES: *BUEN VIVIR* OR GOOD LIVING AND HYBRID POLITICAL DISCOURSES IN LATIN AMERICA

Buen Vivir (Good Living) or *Vivir Bien* (Well-Being) encompasses a set of ideas that challenge the dominant logic of ‘development’ as the general narrative of modernity. A central aspect is how we interpret and value Nature. In several of its incarnations, *Buen Vivir* breaks with the traditional anthropocentric worldview of the European Enlightenment and invites the possibility of building an alternative order based on the coexistence of human beings in their full spectrum of diversity and in harmony with Nature.

The origins of the concept date back to the Indigenous communities of Latin America. However, *Buen Vivir* became increasingly prominent in the wake of political debates at the beginning of the 21st century, particularly its inclusion in the constitutional discussions of two Andean countries: Ecuador and Bolivia. Alliances between a transnational Indigenous movement, civil society, and some government actors also contributed to the concept’s growing visibility. Today, the concept is discussed on different continents and in various academic and non-academic spaces.

The meaning of *Buen Vivir* comes particularly from the Quechua and Aymara Indigenous traditions, although it can also be found in the experience of communities in the South American Amazon and in Indigenous worldviews and activist movements in Central and North America. The concept has philosophical similarities with Buddhism and Taoism, as well as the South African notion of Ubuntu: ‘life as mutual support and care for Nature’. *Buen Vivir* is also linked to the creation of a legal framework for the Rights of Nature. Ecuador was the first country in the world to recognise the Rights of Nature at the constitutional level. Moreover, *Buen Vivir* is linked to the European debate on happiness, well-being and the critique of economic growth, which even draws on the spiritualities of Indigenous communities.

Under the gaze of its multiple forms, views and connections, *Buen Vivir* can be understood both as a critique of ‘development’ understood as infinite economic growth, and as a discursive shift that seeks to transcend modernity as a whole. The ongoing debates about well-being, quality of life, and ‘the environment’ take on new meaning in a ‘biocentric turn’, which philosopher Bruno Latour refers to as a way out of environmentalism in crisis. This shift seeks to break with the anthropocentric stance of modernity and assign a new order to the separation of Nature and culture. Consequently, any approach to the ‘environmental question’ must overcome the binary between human beings and Nature by inviting dialogue with other ways of thinking about citizenship.

II. RECOGNITION OF NATURE AS SUBJECT OF RIGHTS IN LATIN AMERICA: CONTEXT BY COUNTRY AND WAYS FORWARD

The recognition of Nature as a subject of rights in Latin America has been a prominent legal and philosophical development, particularly influenced by indigenous worldviews and ecological concerns, responding to alliances between several societal and governmental actors. As a general rule, Indigenous organisations have been highlighting their views that have been silenced due to colonial historical processes. Several countries have nowadays incorporated the principle of Rights of Nature into their legal frameworks, with Ecuador and Bolivia leading the way.

- **Ecuador** (2008): Ecuador made a historic step by recognizing Nature as a subject of rights in its Constitution. Article 71 establishes that Nature has the right to exist, persist, maintain, and regenerate its vital cycles. This turn was the result of a series of social and legal struggles that included interventions by experts and organisations advocating for this approach.
- **Bolivia** (2010): The Law on the Rights of Mother Earth, passed in 2010, granted Mother Earth legal personality, recognising rights to life, biodiversity, and conservation. This step was the result of a mobilisation that included, among other tools, the figure of the *amicus curiae*, with key interventions by environmental groups and indigenous movements.
- **Colombia** (2016): The Constitutional Court granted legal personality to the Atrato River, a vital ecosystem for the region due to its cultural and ecological importance for local populations. This ruling was influenced by *amicus curiae* interventions that argued for comprehensive ecosystem protection.

- **Mexico** (2014–present): strategic litigation has paved the way for greater debate on the recognition of Nature in the Mexican legal system. It has contributed to legislative progress with the recognition of Rights of Nature in the Constitutions of the States of Guerrero (2014), Mexico City (2017), Colima (2019), Oaxaca (2021), and the State of Mexico (2024). Similarly, secondary laws have been proposed, such as the Bill for the Defence and Recognition of the Rights of Rivers and other Water Sources in the State of Oaxaca (2021), and secondary laws proposed for Mexico City and the State of Guerrero (2024–2025), respectively. Another significant advance was the recognition of the intrinsic value of native maize as biocultural heritage in the State of Mexico (2023).

Strategic litigations have also contributed to the recognition of the Rights of Nature in the State of Yucatán. The first one was carried out in February 2022 by the Mayan community of Homún, who began a campaign demanding that the federal government recognise *cenotes* (water sources) as subjects of rights. Their demand arose from a long struggle against pig farms that polluted the local territory. The second litigation case is part of a movement that produced a court ruling recognising bees as subjects of rights, primarily due to their ecological and cultural importance. This initiative has been led by beekeepers and Mayan communities who have fought against deforestation, pesticide use, and other factors that threaten bees.

- **Peru** (2019–present) has been considered one of the least advanced Andean countries in terms of biocentric legislation. However, in recent years, the country has witnessed the beginning of an evolution towards the recognition of Rights of Nature. A. Draft proposal, National Congress (2021). The proposal aims to recognise that Mother Nature, ecosystems, and species are holders of rights and subjects of protection by the State. B. Municipal Ordinance, Province of Melgar, Puno Region (2019): recognises the Llallimayo River basin, tributary of Lake Titicaca, as a subject of rights. C. Municipal Ordinance, District of Orurillo, Province of Melgar, Puno Region (2019): recognises water (in all its manifestations) as a subject of rights within the jurisdiction of the municipality. A recent ruling by the Nauta Court (2024) in Peru recognises the Marañón River (main tributary of the Amazon River) as a subject of rights, and its local representatives as ‘guardians’. The ruling recognises not only the river’s right to exist but also the rights of all life forms to ‘maintenance and regeneration of their life cycles, structure, functions, and evolutionary processes’. This result reflects a trend in the region that recognises nature not only as a common good but also as a collective entity subject to rights that must be legally protected.

- **Argentina** (2015–present): the best-known example recognizing Nature as a subject of rights is the case of ‘Puma Lola Limón’. In this case (2022), a judge declared a specific puma subject of rights, based on the criterion previously established in the case of the orangutan Sandra (2015), who was declared subject of rights by a judge in Buenos Aires City. This meant that the puma could not be treated as an object, but as an individual with rights. The judge ordered guarantees of natural conditions for habitat and activities that are necessary for the animal’s well-being.

There was also the case of the canaries (2025), in which the justice system of the Autonomous City of Buenos Aires also recognised seven canaries as subjects of rights or ‘sentient beings’. The court ordered their permanent custody to the NGO ‘Pájaros Caídos’, where they live in a shelter. More recently, the case of Laguna Francia, in the province of Chaco, is also an example of how the Argentine justice system is protecting Nature as a subject of rights.

III. THE ROLE OF AMICUS CURIAE ENHANCING THE RECOGNITION OF NATURE AS A SUBJECT OF RIGHTS

Amicus curiae briefs have played a crucial role in the evolution of jurisprudence on the Rights of Nature. Amicus curiae, as a legal entity, allows third parties, who are not directly involved in a dispute, to present their views in a court case, helping to influence court decisions. Through these interventions, organisations and experts have managed to raise awareness in the courts about the importance of granting Rights to Nature. Relevant cases in which the amicus curiae briefings have been used include the following:

- **Atrato River case in Colombia:** various environmental and academic groups intervened as amici curiae, contributing with science on clarifying the ecological and cultural importance of the Atrato River. Their intervention was key to the Constitutional Court’s decision to grant legal personality to the river, thus protecting its ecological integrity.
- **Case of Lake Xolotlán in Nicaragua:** interventions of amicus curiae were fundamental in arguing that aquatic ecosystems have an inherent value that must be legally defended. These interventions helped strengthen the idea that water and aquatic ecosystems should be considered subjects of rights.
- **Wirikuta case in Mexico:** the amicus curiae briefing in this case was instrumental in influencing the Supreme Court’s ruling, which consid-

ered the impact of mining on an ecosystem that is sacred to the Wixárika community. The intervention of environmental and community organisations helped establish a legal precedent for the protection of Nature from a human rights and Indigenous worldview perspective.

- Laguna Francia case in Argentina: The amicus curiae allowed third parties to present information and arguments to the court to help resolve the conflict between neighbours and a development company that intended to build a housing development project in the area. The neighbours opposed the construction, arguing that the lagoon was an important ecosystem and that the development would generate environmental problems.

IV. THE ROLE OF AMICUS CURIAE IN THE CREATION OF LAWS IN FAVOR OF THE RECOGNITION OF NATURE AS A COLLECTIVE ENTITY SUBJECT OF RIGHTS

In addition to their influence in the judicial sphere, amicus curiae briefings have also been instrumental in creating legal and regulatory frameworks that protect Nature as a subject of rights. Through amicus curiae interventions, legal and scientific arguments have been presented. They have helped raise awareness among both legislators and judges about the need to recognise Nature not only as a ‘good’ (instead of a ‘resource’) to be protected, but as an autonomous subject with its own rights.

1. ECUADOR: POLITICAL CONSTITUTION (2008) AND ITS INFLUENCE ON SUBSEQUENT LEGISLATION

The recognition of the Rights of Nature in the 2008 Constitution was preceded by years of legal and social organisation, which included the use of amicus curiae briefings in environmental rights litigation. Amicus curiae interventions helped pave the way for constitutional reform that recognized Nature as a subject of rights, directly influencing the creation of laws such as the Environmental Management Law.

2. BOLIVIA: LAW ON THE RIGHTS OF MOTHER EARTH (2010)

The Law on the Rights of Mother Earth in Bolivia was promoted by a coalition of Indigenous movements and environmental organisations that used amicus

curiae to lobby for legislative change. These interventions helped strengthen the arguments linking Rights of Nature with human rights, facilitating the enactment of a law granting legal personality to the Earth or *Pachamama*.

3. PERU: THE PATH TOWARD LEGISLATION RECOGNISING THE RIGHTS OF NATURE

In Peru, although formal recognition of Nature as a subject of rights at the constitutional level has not yet been achieved, amicus curiae briefings have been instrumental in promoting more progressive laws regarding environmental protection. Through legal interventions in cases related to mining and deforestation, political pressure has been generated to incorporate Nature protection into new environmental laws, such as the Law on the Rights of Indigenous Peoples and the Forest Law.

4. MEXICO: LEGISLATIVE ADVANCES THROUGH AMICUS CURIAE

Amicus curiae has been key in the development of legal frameworks that promote the recognition of Rights of Nature. Although there is no explicit national legislation granting legal personality to Nature, the use of this tool has been crucial in several relevant cases. The Wirikuta case is a clear example of how the amicus curiae in a mining case helped the Supreme Court issue a ruling that considered environmental law principles, promoted the protection of the region's sacred ecosystems, and influenced legislation by linking the rights of Indigenous communities with the protection of Nature. Furthermore, these interventions have created a basis for future debates on the inclusion of Nature as a subject of rights in the Mexican legal system.

V. IMPACTS ON THE INTERNATIONAL SPHERE: STRENGTHENING TREATIES AND FUTURE CHALLENGES

At the international level, amicus curiae has also been instrumental in influencing treaties and conventions addressing the Rights of Nature. For example, within the framework of the Convention on Biological Diversity (CBD) and other international forums, Amicus Curiae interventions have promoted the integration

of principles that recognise the interdependence between human rights and ecosystem protection.

Despite progress, significant challenges remain in the effective implementation of the Rights of Nature. Resistance from economic and political sectors seeking to maintain the model of resource exploitation remains a significant barrier. However, the use of amicus curiae offers a promising path to continue building a solid foundation of legal, scientific, and social support to overcome these obstacles.

- **Legal challenges:** political and economic resistance create obstacles to the implementation of biocentric laws in practice, but strengthening the amicus curiae position could remain crucial to overcoming those challenges.
- **Strengthening the amicus curiae as a tool:** as more amicus curiae are used in national and international courts, the legal framework for the recognition of Nature as a subject of rights will be strengthened, helping to consolidate this vision in the legal systems of the region and the world.

Recently, in December 2023, an amparo petition was filed against the Peruvian State for the lack of effective measures to decontaminate the great Lake Titicaca – the highest navigable lake in the world, considered a sacred place of origin of the ancient Andean civilisation. The petition, accompanied by an amicus curiae process, requests the Peruvian State to develop a Regional Action Plan for decontamination and ecosystem recovery, and the recognition of Lake Titicaca, its ecosystems, and its tributaries as subjects of rights. This petition suggests the application of the legal concept of ‘biocultural’ rights developed by the Colombian Constitutional Court in a similar dispute, in which the Atrato River was recognised as a subject of rights. It also suggested the application of the rulings of Spanish courts regarding the recognition of Mar Menor as a subject of rights.

VI. CONCLUSION

Amicus curiae briefings have been a valuable tool in advancing the recognition of Nature as a subject of rights in Latin America. They have not only influenced key judicial decisions but have also played a fundamental role in the creation of regulatory and legislative frameworks that protect the environment, and even more so, the exploration of new forms of representation, participation, and governance involving populations of all kinds, without any discrimination. Through these interventions, a solid foundation of legal, scientific, and social arguments has

been built, strengthening the idea that Nature must be recognised and protected as a subject with its own rights. This path continues to evolve, and the *amicus curiae* remains a fundamental instrument in the fight for a more just and sustainable future for all living beings.

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