

OF MONSTERS IN MEN: IDEOLOGY BEHIND ENVIRONMENTAL POLICY*

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ABSTRACT

Environmental policy is divided. The West is mainly concerned with people's injuries and rights, employing anthropocentric approaches. On the other hand, the Global South pushes for the environment's legal personhood. This paper argues that both sides are similarly incomplete and inadequate to address the crux of environmental issues: the systemic denial of the abuse of the environment. Both sides focus only on man's perspectives, ignore the environment's perspective, and only talk about what the environment means to man without considering what man means to the environment.

Exemplified in the Philippines, *Resident Marine Mammals v. Reyes* on environmental legal standing, among other recent environmental jurisprudence, reveals an anthropocentric framework focusing on environmental rights from which duties are merely derived. However, to frame policy only in terms of rights would be a linear and myopic view of the history of injustice man has perpetrated on the environment. Thus, to address this gap, environmental policy should instead be framed in terms of people's duties to the environment, and legal standing should instead be grounded on the enforcement of such duties. In other words, all people have legal standing because they have the duty to respect the environment by enforcing environmental laws. Applied in the Philippines, man's duties to the environment should be constitutionally enshrined independently from the right to a balanced and healthful ecology to make such duties a matter of State policy.

* Cite as Enrico C. Caldonga, *Of Monsters in Men: Ideology behind Environmental Policy*, 96 PHIL. L.J. 669, [page cited] (2023).

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The author thanks Darren, Grip, Jah, Jed, Mardi, Ray, and the Philippine Law Journal Editorial Board (Volume 96). All views are my own.

I. INTRODUCTION

We have put the environment—and ourselves—in an awry situation, wherein we *choose* to deny despite overwhelming evidence.

For one, animals have been abused by people’s industries—in the food industry,¹ in the sports and entertainment industries,² in laboratories,³ and even in the wild.⁴ Maltreatment of animals “contribute[s] significantly to the risk of diseases ‘spilling over’ [to people from animals].”⁵ This relation was demonstrated by no less than the recent COVID-19 pandemic, caused by the SARS CoV-2 Virus, which may have originated from “unhealthy conditions in a live animal ‘wet’ market.”⁶ From there, SARS-CoV-2 has caused 758, 390, 564 COVID-19 infections, and 6,859,093 deaths globally,⁷ with “devastating societal and economic impacts.”⁸ However, COVID-19 is just one of many

¹ See Yuval Noah Harai, *Industrial farming is one of the worst crimes in history*, GUARDIAN, Sept. 25, 2015, at <https://www.theguardian.com/books/2015/sep/25/industrial-farming-one-worst-crimes-history-ethical-question> (which tracks the history of industrial farming to show that “animals are the main victims of history” and how the farms’ treatment is “perhaps the worst crime in history”); see Jordan Hampton et al., *Animal Harms and Food Production: Informing Ethical Choices*, 11 ANIMALS 1225, 1248 (2021) (which features how animal food production systems, such as dairy, cause harm to animals).

² See CATHERINE TIPLADY, ANIMAL ABUSE IN HUNTING, SPORT, ENTERTAINMENT AND ART 51–60 (2013) for a history of animal abuse as part of hunting, sport, entertainment, and art, arguing that “all blood animal sports” are wrong because these cause suffering and pain of a living being.

³ People for the Ethical Treatment of Animals, *Facts and Statistics About Animal Testing*, available at <https://www.peta.org/issues/animals-used-for-experimentation/animals-used-experimentation-factsheets/animal-experiments-OVERVIEW/> (last accessed Jan. 25, 2023).

⁴ See Tanya Wyatt, *Non-Human Animal Abuse and Wildlife Trade: Harm in the Fur and Falcon Trades*, 22 SOC’Y & ANIMALS 194 (2014).

⁵ American Bar Ass’n (ABA), Report to the House of Delegates, at 18, 101C (Feb. 22, 2021), available at <https://www.americanbar.org/content/dam/aba/administrative/news/2021/02/midyear-resolutions/101c.pdf?fbclid=IwAR2XPTHOSVMNPP2i8PimTt9r3vMppjK2QcERESBNjQATPORJN1wP6o1fif8>, citing Dina Maron, “Wet markets” likely launched the coronavirus. Here’s what you need to know, NAT. GEO, Apr. 15, 2020, at <https://www.nationalgeographic.com/animals/article/coronavirus-linked-to-chinese-wet-markets>.

⁶ *Id.* at 2.

⁷ WHO Coronavirus (COVID-19) Dashboard, WORLD HEALTH ORGANIZATION WEBSITE, at <https://covid19.who.int/> (last accessed Mar. 2, 2023).

⁸ ABA, *supra* note 5, at 1.

diseases that point back to animal abuse, such as AIDS, SARS, Nipah virus, and Ebola virus.⁹

Some advocate groups, such as the Global Animal Law Association (“GAL”), believe that “every corner of the world knows that animals are not the mindless entities that we [humans] commodified and believe we could use[,] irrespective of our treatment of them,”¹⁰ yet despite the spillover of diseases caused by animal abuse,¹¹ people still choose to deny this information, evidenced by persisting animal cruelty. The natural consequence of this denial is the deniers’ inaction, slowing global initiatives to take the well-being of animals into consideration in everything we do.¹²

Aside from animal abuse, climate change¹³ is also a difficult reality with which we are grappling. Its effects are global, but developing countries are especially affected. In the Philippines alone, Typhoon Haiyan (“Yolanda”) and Typhoon Bopha (“Pablo”), two of the most devastating typhoons to hit the country, occurred over the last decade, which caused billions in economic damage and the displacement of thousands of families.¹⁴

Addressing climate change is a great but surmountable task. To address climate change, we must contain the global average temperature to below 1.5°C above pre-industrial levels by the end of this century.¹⁵

⁹ *Id.*, n.8, citing DAVID QUAMMEN, SPILLOVER: ANIMAL INFECTIONS AND THE NEXT HUMAN PANDEMIC 53–124, 167–208, 325–242, 385–489 (2012). Quammen discussed how “spillover” (wherein a disease-causing pathogen is transmitted from an animal to a human) originates from man’s inappropriate treatment of animals.

¹⁰ Global Animal Law Ass’n, *Animal Protection is knocking at the UN’s door*, ANIMAL VOICE, Oct. 2019, at 3. See also Jonathan Birch, Alexandra Schnell & Nicola Clayton, *Dimensions of animal consciousness*, 24 TRENDS IN COGNITIVE SCI. 789, 789–801 (2020), which discussed “the need for a multidimensional framework” to view animals’ consciousness among different species.

¹¹ ABA, Resolution, *supra* note 5. See also Joel Henriue Ellwanger & Jose Artur Bogo Chies, *Zoonotic spillover: Understanding basic aspects for better prevention*, 44 GENETICS & MOLECULAR BIOLOGY (2021).

¹² *Id.*

¹³ Climate change is “a change in climate that can be identified by changes in the mean and/or variability of its properties and that persists for an extended period typically decades or longer, whether due to natural variability or as a result of [people’s] activity.” Rep. Act No. 9729 (2009), § 3(d).

¹⁴ Leo Jaymar G. Uy & Lourdes O. Pilar, *Natural disaster damage at P374B in 2006-2015*, BUSINESSWORLD, Feb. 5, 2018, at <https://www.bworldonline.com/editors-picks/2018/02/05/123473/natural-disaster-damage-p374b-2006-2015/>.

¹⁵ UNITED NATIONS (UN) FRAMEWORK CONVENTION ON CLIMATE CHANGE WEBSITE, *The Paris Agreement*, at <https://unfccc.int/process-and-meetings/the-paris->

Greenhouse gas emissions must peak before 2025 at the latest and decline 43% by 2030, lest we risk “unleashing far more severe climate change impacts, including more frequent and severe droughts, heatwaves, [...] rainfall[.]”¹⁶ “wildfires[.] [and] stronger storms.”¹⁷

Recent news takes pride in the ozone layer being on track “to be healed by mid-century,”¹⁸ “helping avoid global warming by 0.5°C.”¹⁹ However, if we do not sustain our efforts to regulate climate change, we risk being stuck in a climate “doom loop” where the “devastating effects [...] could become so overwhelming that they undermine [people’s] capacity to tackle climate change’s root causes.”²⁰ Some even suspect that “climate models may be underestimating the acceleration in global temperature change because they aren’t fully considering [...] feedback loops.”²¹

The fact that climate change affects not only the environment but also people on a global scale,²² and that the worsening irreversible²³ effects are time-bound,²⁴ underscores the urgency of the issue. Yet, people’s industries choose to deny climate change.²⁵ Even scientists choose to deny the existence

agreement#:~:text=Its%20overarching%20goal%20is%20to,above%20pre%2Dindustrial%20levels.%E2%80%9D (last accessed Mar. 2, 2023).

¹⁶ *Id.*

¹⁷ Jon Kelvey, *Ecologists Find Unexpected Feedback Loops Could Complicate Fighting Climate Change*, INVERSE, Feb. 20, 2023, at <https://www.inverse.com/science/ecologists-find-unexpected-feedback-loops-that-could-complicate-fighting-climate-change>.

¹⁸ Kelsey Piper, *Why the ozone hole is on track to be healed by mid-century*, VOX, Jan. 10, 2023, at <https://www.vox.com/future-perfect/22686105/future-of-life-ozone-hole-environmental-crisis-united-nations-cfcs>.

¹⁹ UN ENVIRONMENT PROGRAMME WEBSITE, *Ozone layer recovery is on track, helping avoid global warming by 0.5°C*, Jan. 9, 2023, at <https://www.unep.org/news-and-stories/press-release/ozone-layer-recovery-track-helping-avoid-global-warming-05degc>.

²⁰ Leo Sands, *Beware a climate ‘doom loop,’ where crisis is harder to solve, report says*, WASHINGTON POST, Feb. 16, 2023, at <https://www.washingtonpost.com/climate-environment/2023/02/16/doom-loop-earth-climate-change/>

²¹ Kelvey, *supra* note 18.

²² See Joern Birkmann et al., *Understanding human vulnerability to climate change: A global perspective on index validation for adaptation planning*, 803 SCI. TOTAL ENV’T 1, 1–18 (2022).

²³ Matt McGrath, *Climate change: IPCC report warns of irreversible impacts of global warming*, BBC NEWS, Feb. 28, 2022, at <https://www.bbc.com/news/science-environment-60525591>. See also Damian Carrington, *From climate change ‘certainty’ to rapid decline: a timeline of IPCC reports*, GUARDIAN, Mar. 20, 2023, at <https://www.theguardian.com/environment/2023/mar/20/from-climate-change-certainty-to-rapid-decline-a-timeline-of-ipcc-reports>.

²⁴ UN climate report: *It’s ‘now or never’ to limit global warming to 1.5 degrees*, UN NEWS, Apr. 4, 2022, at <https://news.un.org/en/story/2022/04/1115452>.

²⁵ See Alvin Powell, *Tracing Big Oil’s PR war to delay action on climate change*, HARVARD GAZETTE, Sept. 28, 2021, at <https://news.harvard.edu/gazette/story/2021/09/oil->

and effects of climate change by referring to it as just the normal course of our planet's life.²⁶ Some people even attack climate activists.²⁷

In sum, “[people’s] industry is continually causing [...] immense suffering to [...] [the environment,] which is systematically disavowed. [A]lthough all of us know what [we are doing to the environment], this knowledge has to be neutralized so that we can act as if we do not know.”²⁸ In other words, people’s denial of the abuse of the environment is not really a consequence of a poorly informed public,²⁹ because we know about the overwhelming evidence. Rather, we choose to deny said abuse for our self-interests, attacking the very necessity and propriety of respecting the environment. This denial is systemic of the greatest proportions. The environmental situation cannot get more awry than this.

Legal systems contribute to this systemic disavowal,³⁰ as demonstrated by the doctrine of legal standing. Legal standing or *locus standi* has been defined by Black’s Law Dictionary as, “the right to bring an action or to be heard in a given forum.”³¹ Of all legal doctrines, legal standing should be the starting point of an examination of environmental policy because the said doctrine involves agenda control. The power to place an item in the

companies-discourage-climate-action-study-says/; Diego Rojas, *The Climate Denial Machine: How the Fossil Fuel Industry Blocks Climate Action*, CLIMATE REALITY PROJECT, Sept. 5, 2019, at <https://www.climateactproject.org/blog/climate-denial-machine-how-fossil-fuel-industry-blocks-climate-action>; Robinson Meyer, *It Wasn’t Just Oil Companies Spreading Climate Denial*, ATLANTIC, Sept. 7, 2022, at <https://www.theatlantic.com/science/archive/2022/09/electric-utilities-downplayed-climate-change/671361/>.

²⁶ See also World Wildlife Foundation, *10 myths about climate change*, at <https://www.wwf.org.uk/updates/10-myths-about-climate-change> (last accessed June 21, 2023).

²⁷ See also Aashka Dave et al., *Targeting Greta Thunberg: A Case Study in Online Mis/Disinformation* (The German Marshall Fund & MediaCloud, Policy Paper No. 11) (2020).

²⁸ SLAVOJ ŽIŽEK, LESS THAN NOTHING: HEGEL AND THE SHADOW OF DIALECTICAL MATERIALISM 411 (2012).

²⁹ “[...] a postulated skeptical uncertainty regarding animal pain should not be seen as a consequence of epistemological defects or insufficient information, but as a strategy of avoiding the troublesome knowledge about the severity of animal suffering.” Tomaž Grušovnik, *Skepticism and Animal Virtues: Denialism of Animal Morality, Environmental and Animal Abuse Denial: Averting Our Gaze*, in ENVIRONMENTAL AND ANIMAL ABUSE DENIAL: AVERTING OUR GAZE 201–222 (Tomaž Grušovnik, Reingard Spanning & Karen Lykke Syse ed., 2021).

³⁰ See also Opi Outhwaite, *Still in the Shadow of Man? Judicial Denialism and Nonhuman Animals*, in ENVIRONMENTAL AND ANIMAL ABUSE DENIAL: AVERTING OUR GAZE 201–220 (Tomaž Grušovnik, Reingard Spanning & Karen Lykke Syse ed., 2021).

³¹ BRYAN GARNER, BLACK’S LAW DICTIONARY 1054 (Bryan Garner ed., 9th ed. 2009).

agenda is assessed based on the connection between the entity and the substantive issue,³² but legal standing boils down to determining the very agenda. Thus, to say that legal standing is just about the entity—like whether one is sufficiently capacitated—does not suffice. Legal standing is about the very ideals based on which a case is filed, the sufficient cause for advocating a case. An inquiry into legal standing in environmental cases is an inquiry into the very foundations of environmental legal frameworks, asking, “What does environmental law stand for?”

Thus, this paper mainly asks, “How should environmental law solve the systemic denial of the abuse of the environment?” Operationalizing this question, this paper also asks, “In environmental cases, who should have the right to bring an action or to be heard in a given forum and why?”

The significance of this paper lies in showing that the fundamental issue that must be addressed in our prevailing environmental legal systems is the very ideology behind said systems. All other problems—though also significant—are incidental, if not derivative. More concretely, this paper contributes to the debate on nature’s rights, providing another perspective that has not been considered but should be.

Part II of this paper introduces the international landscape on legal standing in environmental cases—the Western and the Global South approaches. Part III maps out Philippine environmental law in the said landscape. Parts IV, V, and VI are the main discussions, presenting useful philosophical doctrines then analyzing the international and domestic legal landscapes. Part VII concludes.

II. THE INTERNATIONAL LANDSCAPE OF LEGAL STANDING IN ENVIRONMENTAL CASES

To recapitulate, legal standing has been defined as “the right to bring an action or to be heard in a given forum.”³³ On the surface, legal standing might be described as a straightforward legal concept. However, in the context

³² Matthew Hall & Christian Turner, *The Nature of Standing*, 29 WM. & MARY BILL RTS. J. 67, 83 (2020).

³³ *Legal Standing*, BLACK’S LAW DICTIONARY (9th ed. 2009).

of environmental law, the bases for legal standing consists of two opposing sides—the “West” and the “Global South.”³⁴

A. The West: Legal Standing Should Be About People

Western governments focus on approaches which follow the “English-inspired common law, which has almost exclusively required cases of environmental harm to be brought under violations of individual property rights, tort law, or the public trust doctrine.”³⁵ The whole Western ethical tradition points to humanism, which is described as anthropocentric, “its assumption that only human beings and their interest are ethically considerable.”³⁶ Under the anthropocentric tradition, “humans are superior to [other life forms] because they are the only ones that have consciousness, values and moral status.”³⁷ This perspective thinks that “[nature] exists for the survival and development of [...] societies; it is the “environment” of [people] and a set of resources that can be exploited for their benefit.”³⁸

Western approaches are “injury-specific”³⁹ for focusing more on people’s injuries and rights. Also, these approaches have stricter requirements for legal standing.⁴⁰ Recent literature has criticized these approaches for being “backward-looking” because harms are only addressed after they are committed.⁴¹ Much of environmental harm is in the form of depletion of limited resources, so “redress-centered litigation comes too late.”⁴² For example, in China, with “many natural resources hav[ing] been exploited and depleted due to unsustainable mining practices and over-consumption, [...] [g]overnments must ensure that regulations are in place to protect the environment.”⁴³ Recent literature has also pointed out the lack of remedies for ecosystems “outside of a particular person’s legal reach and outside of

³⁴ Samantha Franks, *The Trees Speak for Themselves: Nature’s Rights Under International Law*, 42 MICH. J. INT’L L. 633, 634 & 644 (2021).

³⁵ *Id.* at 644.

³⁶ Janna Thompson, *Environmentalism: Philosophical Aspects*, INT’L ENCYC. SOC. & BEHAV. SCI. 4679, 4681 (2001).

³⁷ Pablo Sólón, *The Climate Crisis: South African and Global Democratic Eco-Socialist Alternatives*, in THE CLIMATE CRISIS: SOUTH AFRICAN AND GLOBAL DEMOCRATIC ECO-SOCIALIST ALTERNATIVES 107 (Vishwas Satgar ed.) (2018).

³⁸ *Id.*

³⁹ Franks, *supra* note 34, at 644.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ Yuyu Xiong, et al., *Mineral resources depletion, environmental degradation, and exploitation of natural resources: COVID-19 aftereffects*, 85 RESOURCES POL’Y 1 (2023).

existing domestic legislation,” including “the Arctic, the Amazon, or coral reefs.”⁴⁴

Both the United States (US) and the European Union (EU), as major sections of the West, have predominantly anthropocentric frameworks reflected in stringent standing requirements and the focus on people’s rights. For the US, standing is a constitutional doctrine, which the US Supreme Court has interpreted to be mandatory.⁴⁵ The standing doctrine under *Lujan v. Defenders of Wildlife*⁴⁶ states that if the plaintiff is an individual, there are only three standing requirements: (1) injury-in-fact, (2) causation, and (3) redressability.⁴⁷ As for an organization suing on behalf of its members, the requirements are: (1) at least one member must have individual standing (using the *Lujan* test), (2) the lawsuit must relate to the organization’s purposes, and (3) the lawsuit does not require the participation of individual members of the organization.⁴⁸

As for the EU, the Aarhus Convention, as amended,⁴⁹ is relevant. Said regulation is a “multinational environmental agreement under the auspices of the United Nations Economic Commission for Europe (UNECE) [...], which entered into force in 2001 and to which the [EU][...] and all its Member States are parties.”⁵⁰ It “protects every person’s right to live in a healthy environment” and “guarantees the public three key right on environmental issues[:]” (1) access to information, (2) public participation in decision-making, and (3) access to justice in environmental matters.⁵¹ In other words,

⁴⁴ Franks, *supra* note 34, at 644, citing Nerijus Adomaitis, *Norway supreme court verdict opens Arctic to more oil drilling*, REUTERS, Dec. 22, 2020, at <https://www.reuters.com/business/environment/norway-supreme-court-verdict-opens-arctic-more-oil-drilling-2020-12-22/>.

⁴⁵ See Evan Tsen Lee & Josephine Mason Ellis, *The Standing Doctrine’s Dirty Little Secret*, 107 NW. U. L. REV. 169 (2012).

⁴⁶ *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992).

⁴⁷ *Id.* at 560–61.

⁴⁸ Robin Kundis Craig, *Standing and Environmental Law: An Overview*, 25 FLA. ST. PUB. L. & LEG. THEORY, RESEARCH PAPER SERIES 4 (2009).

⁴⁹ Council Reg. 2021/1767, 2021 O.J. (L 356), 1 (EC), available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2021.356.01.0001.01.ENG&toc=OJ%3AL%3A2021%3A356%3ATOC.

⁵⁰ Maria-Mirela Curmei & Christian Kurrer, *Environment policy: general principles and basic framework*, FACT SHEETS E.U. 1, 4 (2023), available at <https://www.europarl.europa.eu/factsheets/en/sheet/71/environment-policy-general-principles-and-basic-framework>.

⁵¹ European Commission, *The Aarhus Convention and the EU*, EUROPEAN COMMISSION WEBSITE, at https://environment.ec.europa.eu/law-and-governance/aarhus_en#:~:text=Under%20the%20Aarhus%20Regulation%2C%20environmental,these%20violate%20EU%20environmental%20law (last accessed June 13, 2023).

although the European Commission and the European Parliament implement environmental frameworks,⁵² the Aarhus Regulation is the legal tool by which citizens of European countries can have a say in the region's environmental framework. A closer look at the regulation shows that members of the public, who may be represented by a non-governmental organization ("NGO"), may challenge the acts and omissions by public authorities in court only upon showing (1) impairment of their rights, and that they are especially affected compared to the public-at-large, or (2) sufficient public interest.⁵³

B. The Global South: The Environment Should Have Legal Personhood

The term "Global South" covers "the regions of Latin America, Asia, Africa, and Oceania," which are "mostly (though not all) low-income and often politically or culturally marginalized."⁵⁴ Thus, the term "marks a shift from a central focus on cultural difference toward an emphasis on geopolitical power relations."⁵⁵

For the Global South, the rule on legal standing is relaxed such that standing is sometimes no longer discussed in environmental cases, even though they involve people's environmental rights.⁵⁶ Further, the trend in the Global South is to grant legal personhood—rights, standing, and representation—directly to the environment.⁵⁷ This trend seeks to address "scientific evidence [that] indicates that the global environmental crisis is accelerating and that environmental laws have not been able to reverse the trend."⁵⁸ When the law treats the environment as an exploitable resource, the

⁵² Curmei & Kurrer, *supra* note 50.

⁵³ Council Reg. 2021/1767 (2021), O.J. (L 356), art. 1(3) (EC).

⁵⁴ Nour Dados & Raewyn Connel, *The Global South*, 11 CONTEXTS 1, 12 (2012).

⁵⁵ *Id.*

⁵⁶ Franks, *supra* note 34, at 644 n.74.

⁵⁷ Environmental personhood finds relevance in the "the escalating global ecological degradation," which underlines the continued importance of the need of effective nature protection. This personhood is "the attempt to transfer the essence of human rights to animals and ecosystem, so they will no longer be right-less." The concept partly originates from "the idea of 'common heritage of mankind,' which means that some places belong to the whole of humanity and that the resources of these places should be available to all." Martyna Laszewska-Hellriegel, *Environmental Personhood as a Tool to Protect the Nature*, PHILOSOPHIA 1369, 1369 (2022).

⁵⁸ Guillaume Chapron, Yaffa Epstein & José Vicente López-Bao, *A rights revolution for nature*, 363 (6434) INSIGHTS 1393, 1393 (2019), at <https://www.science.org/doi/10.1126/science.aav5601>.

law perpetrates environmental harm.⁵⁹ By giving legal personhood to the environment, cases can be brought to court with ease because strict requirements are bypassed.⁶⁰

However, this trend comes with its own criticisms, particularly regarding enforcement, jurisdiction, and abuse.⁶¹ First, livelihoods may be lost and people may be displaced.⁶² There have been instances where the environment is granted more rights than people, like when refugees were evicted from river banks in Bangladesh.⁶³ Second, jurisdiction is a problem because some elements of the environment (i.e., rivers) do not have clear boundaries.⁶⁴ For example, Bangladesh will not be able to compel India, with whom it shares a number of rivers, to enforce its environmental laws.⁶⁵ Third, giving the environment rights may be subject to abuse because “whoever has the funding may get to impose their will.”⁶⁶ For example, in Ecuador, where an NGO initially won a suit against a company that wanted to build a road over a river,⁶⁷ the said ruling could nonetheless not be enforced because the company refused to comply with the ruling, and the NGO did not have enough funds to file another case in court.⁶⁸ Also, abuse has been raised in the context of animal rights where people allege representation of animals.⁶⁹ This framework may be dismissed because “fundamental judicial doctrines

⁵⁹ David Humphreys, *Rights of Pachamama: The emergence of an earth jurisprudence in the Americas*, 20 J. INT'L REL. & DEV. 459, 459 (2017).

⁶⁰ Bruce Arnold, *Signs of Invisibility: Nonrecognition of Natural Environments as Persons in International and Domestic Law*, INT'L J. SEMIOT. L. (2022), at <https://link.springer.com/article/10.1007/s11196-022-09920-7>.

⁶¹ Sigal Samuel, *This country gave all its rivers their own legal rights*, VOX, Aug. 28, 2019, at <https://www.vox.com/future-perfect/2019/8/18/20803956/bangladesh-rivers-legal-personhood-rights-nature>.

⁶² *Id.*

⁶³ Rina Chandran, *Fears of evictions as Bangladesh gives rivers legal rights*, REUTERS, July 5, 2019, at <https://www.reuters.com/article/us-bangladesh-landrights-rivers/fears-of-evictions-as-bangladesh-gives-rivers-legal-rights-idUSKCN1TZ1ZR>.

⁶⁴ Samuel, *supra* note 61.

⁶⁵ Ashley Westerman, *Should Rivers Have Same Legal Rights As Humans? A Growing Number of Voices Say Yes*, NPR, Aug. 3, 2019, at <https://www.npr.org/2019/08/03/740604142/should-rivers-have-same-legal-rights-as-humans-a-growing-number-of-voices-say-ye>.

⁶⁶ Samuel, *supra* note 61.

⁶⁷ Natalia Greene, *The first successful case of the Rights of Nature implementation in Ecuador*, GLOBAL ALL. RTS. NAT. WEBSITE, May 21, 2011, at <https://www.garn.org/first-ron-case-ecuador/>.

⁶⁸ Westerman, *supra* note 65.

⁶⁹ *Oposa v. Factoran* [hereinafter “*Oposa*”], G.R. No. 101083, 224 SCRA 792, July 30, 1993.

that may significantly change substantive and procedural law cannot be founded on feigned representation [of animals].”⁷⁰

Nonetheless, there are examples of laws and jurisprudence showing the trends in the Global South. First, the rights of “Nature or Pachamama” are enshrined in Chapter VII, Article 71 of the Ecuadorian Constitution, making these rights a matter of state policy.⁷¹ Specifically, nature has the “right to integral respect for its existence and for the maintenance and regeneration of its vital cycles, structure, functions, and evolutionary processes.”⁷² These rights may be enforced by “persons, communities, people and nations” by calling upon “public authorities to enforce the rights of nature.”⁷³ Second, in Bolivia, the law gives “Mother Earth [...] [and people’s] communities”⁷⁴ legal rights—specifically the rights to life, regeneration, biodiversity, water, clean air, balance, and restoration—which may be enforced by “all Bolivians.”⁷⁵ Third, under Bangladeshi case law, the National River Conservation Commission (“NRCC”) serves as the “Person *in Loco Parentis*” of all rivers of Bangladesh.⁷⁶ Their obligations include “protection, conservation, development, and beautification of all rivers.”⁷⁷ In addition, projects of government agencies must be approved by the NRCC.⁷⁸ Fourth, in New Zealand, the Te Urewera River⁷⁹ and the Whanganui River⁸⁰ must be protected and may be represented in court by their appointed guardians, who would speak on their behalf. Fifth, in Australia, the Yarra River Protection Act “recognizes the intrinsic connection of the traditional owners [the Wurundjeri people] to the Yarra River and its Country and further recognizes them as the custodians of the land and waterway which they call Birrarung.”⁸¹ The said law also “establish[es] the Birrarung Council to provide advice to the Minister in relation to Yarra River land and other land, the use or development

⁷⁰ *Id.*

⁷¹ ECUADOR CONST. ch. VII, art. 71. English translation accessible at https://www.constituteproject.org/constitution/Ecuador_2021#s1592.

⁷² Ch. VII, art. 71.

⁷³ Ch. VII, art. 71.

⁷⁴ Law 071 (2010), Ch. II, art. 5 (Bol.). English translation accessible at <https://www.documentcloud.org/documents/7220552-Law-of-the-Rights-of-Mother-Earth-Law-071-of-the>.

⁷⁵ Ch. II, art. 7.

⁷⁶ Human Rights and Peace for Bangladesh v. Secretary of the Ministry of Shipping, No. 13989, 2016, ¶ 3 (Bangl.).

⁷⁷ *Id.*

⁷⁸ *Id.*, ¶ 5.

⁷⁹ Pub. Act No. 51 (2014), subpt. 6, 8(1) (N. Z.).

⁸⁰ Pub. Act No. 7 (2017), subpt. 2, 73(1) (N. Z.).

⁸¹ Act No. 49 (2017), pmb. (Austl.).

of which may affect Yarra River land, and other matters, and to report annually to the Minister on the implementation of a Yarra Strategic Plan by responsible public entities.”⁸² The Birrarung Council “represents a new approach to environment protection, in the Victorian and national context, in serving as a ‘voice for the river’.”⁸³

From the discussion on the Western and Global South approaches, we establish that legal standing reflects environmental agenda. The West puts people’s affairs at the center of environmental relations, while the Global South presents its approach as the supposed proper alternative in giving the environment personhood.

III. SITUATING PHILIPPINE LAW IN THE INTERNATIONAL LANDSCAPE

From the international discussion, we go to the domestic level and ask, “Where does Philippine environmental law fit into the international legal landscape?” Recent environmental cases and laws enacted by Congress are discussed to show the anthropocentrism in the Philippine framework.

A. *Resident Marine Mammals v. Secretary Reyes* (“*Resident Marine Mammals*”)⁸⁴

The petitioners in this case “are the toothed whales, dolphins, porpoises, and other cetacean species,” otherwise known as the “Resident Marine Mammals” living in Tañon Strait, joined by Ramos and Osorio (their “Stewards”). On the other hand, the relevant respondents are the Department of Energy and Japan Petroleum Exploration Co., Ltd. (JAPEX). The same respondents entered into Service Contract 46 (“SC 46”) to conduct oil exploration in the Tañon Strait during which it performed seismic surveys and drilled one exploration well.⁸⁵ The petitioners protested the SC 46 because of

⁸² Pt. 1(1).

⁸³ *About the Council*, BIRRARUNG COUNCIL WEBSITE, at <https://www.water.vic.gov.au/birrarung-council/about-us/about-the-council> (last accessed Mar. 2, 2023).

⁸⁴ [Hereinafter “*Resident Marine Mammals*”], G.R. No. 180771, 758 Phil. 724, 737–38 (2015).

⁸⁵ *Id.* at 738–39.

the adverse ecological impact of JAPEX's oil exploration activities in the Tañon Strait.⁸⁶

Petitioners aver that Resident Marine Mammals, through their Stewards, “have the legal standing to file this action since the Resident Marine Mammals stand to be benefited or injured by the judgment in this suit.”⁸⁷ Also, the Stewards “contend that there should be no question of their right to represent the Resident Marine Mammals as they have stakes in the case as forerunners of a campaign to build awareness among the affected residents of Tañon Strait and as stewards of the environment.”⁸⁸

On the other hand, the respondents counter “that the Resident Marine Mammals have no standing because the [rules] require parties to an action to be either natural or juridical persons, or entities authorized by law.”⁸⁹ Also, the respondents argue that the Stewards do not have legal standing “on the ground that they are representing animals, which cannot be parties to an action.”⁹⁰

One of the procedural issues in the case and the issue relevant to the discussion is “whether or not the petitioners have *locus standi* to file the present petition.”⁹¹

As regards the Stewards who are natural persons “joined as real parties,” the Court ruled that they have legal standing because they showed “that there may be possible violations of laws concerning the habitat of the Resident Marine Mammals.”⁹² However, the Court explained that “the need to give the Resident Marine Mammals legal standing has been eliminated by the [rules], which allow any Filipino citizen, as a steward of nature, to bring a suit to enforce the environmental laws [through a citizen suit].”⁹³

The rules state that “any Filipino citizen in representation of others, including minors or generations yet unborn, may file an action to enforce rights or obligations under environmental laws.”⁹⁴ The Court explained that

⁸⁶ *Id.* at 745–46.

⁸⁷ *Id.* at 749.

⁸⁸ *Id.* at 750.

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.* at 747.

⁹² *Id.* at 755.

⁹³ *Id.* at 753–55.

⁹⁴ *Id.* at 753.

the rationale for this rule in the Annotations to the Rules of Procedure for Environmental Cases is the liberalization of standing for all cases involving the enforcement of environmental laws, and the abandonment of “the traditional rule on personal and direct interest, on the principle that people are stewards of nature. The terminology of the text reflects the doctrine first enunciated in *Oposa v. Factoran*, insofar as it refers to minors and generations yet unborn.”⁹⁵

In *Oposa v. Factoran*, the Court allowed the suit to be brought in the name of generations yet unborn “based on the concept of intergenerational responsibility insofar as the right to a balanced and healthful ecology is concerned.”⁹⁶ Furthermore, the Court said that the right to a balanced and healthful ecology is a one which does not need to be stated in our Constitution as it is assumed to exist from the inception of people, and as such carries with it the correlative duty to refrain from impairing the environment.⁹⁷

B. Analysis of *Resident Marine Mammals*

Some might interpret *Resident Marine Mammals* as a shift away from the Western approaches and thus the traditional anthropocentric view because the approach on legal standing is liberalized. There is a mention of the Constitution and people’s duties and obligations in the Rules of Procedure for Environmental Cases, which state that “any Filipino citizen in representation of others, including minors or generations yet unborn, may file an action to enforce rights or *obligations* under environmental laws,”⁹⁸ and jurisprudence in which the Court explains that the constitutional right to a balanced and healthful ecology carries with it the correlative *duty*.⁹⁹

Some might claim that the duty to refrain from impairing the environment exists independently of the right to a balanced and healthful ecology because in *Oposa*, the duty is merely correlative or related to the right.¹⁰⁰ In other words, because of the wording in case law, it appears that the duties are not grounded or pre-conditioned on the right, explaining the apparent shift away from the traditional anthropocentric view.

⁹⁵ *Id.* at 754.

⁹⁶ *Id.* at 803.

⁹⁷ *Id.* at 805.

⁹⁸ ENV’T L. PROC. RULE, § 5. (Emphasis supplied.)

⁹⁹ *Oposa*, 224 SCRA at 805.

¹⁰⁰ *Id.*

However, this interpretation is inaccurate. The duties and obligations are merely mentioned in case law and procedural rules. Only the right to a balanced and healthful ecology is constitutionally enshrined.¹⁰¹ Thus, only the right to a balanced and healthful ecology is a matter of State policy, and without explicit mention otherwise, the duties and obligations mentioned in case law and the rules must be considered grounded on the same right. A case in point is the duty to conserve and manage natural resources mentioned in *Oposa*,¹⁰² which treats the environment as exploitable resources, perpetrating environmental harm.¹⁰³ With this concentration on people's rights, the Philippine framework remains anthropocentric.

Other recent cases reflect this anthropocentric thrust. Although the Court's ruling in *International Service for the Acquisition of Agri-Biotech Applications, Inc. v. Greenpeace Southeast Asia* was eventually rendered moot, the case nonetheless grounded serious and irreversible harm on people's interests by applying the precautionary principle to genetically modified eggplants.¹⁰⁴ *Arigo v. Swift* focused on damages, saying that the US Government can be held liable for a grounding incident in the Tubbataha Reef pursuant to the Tubbataha Reefs Natural Park Act of 2009 in relation to Article 31 of the United Nations Convention on the Law of the Sea.¹⁰⁵ *Segovia v. Climate Change Commission* was a public interest case where the Court denied the plea to compel the government to reduce air pollution from vehicular emissions.¹⁰⁶ In contrast, *Metropolitan Manila Development Authority v. Concerned Residents of Manila Bay* was another public interest case where the Court ordered the government through a Writ of Continuing Mandamus to perform its duty to enforce environmental laws, which are grounded on people's rights.¹⁰⁷

C. Anthropocentrism in the Philippine Legal Framework

The rest of the Philippine legal framework is also anthropocentric. From the origins of Philippine state practice on the environment, the emphasis has already been people's rights, "self-preservation and

¹⁰¹ CONST. art. II, § 16.

¹⁰² *Oposa*, 224 SCRA at 805.

¹⁰³ Humphreys, *supra* note 59.

¹⁰⁴ Int'l Serv. Acq. Agri-Biotech Applications, Inc. v. Greenpeace Southeast Asia, G.R. No. 209271, 774 Phil. 508 (2015). *See also* Resolution, 791 Phil. 243 (2016).

¹⁰⁵ *Arigo v. Swift*, G.R. No. 206510, 743 Phil. 8 (2014).

¹⁰⁶ *Segovia v. Climate Change Comm'n*, G.R. No. 211010, 806 Phil. 1019–20 (2017).

¹⁰⁷ *Metro. Manila Dev't Auth. v. Concerned Residents of Manila Bay*, G.R. No. 171947, 595 Phil. 305 (2008).

perpetuation,¹⁰⁸ sustainable development, and exploitation of the environment as resources. Basically, the environment serves *us* and revolves around *our* affairs. Way back in 1977, the Philippines already attempted to come up with a framework for treating the environment through the Philippine Environmental Policy,¹⁰⁹ which was immediately followed by the Philippine Environment Code.¹¹⁰ The objectives of the Philippine Environmental Policy included the “requirements of present and future generations of Filipinos” and “attainment of an environmental quality that is conducive to a life of dignity and well-being.”¹¹¹ Given these objectives, the said law already contained the right to a healthy environment and even an Environmental Impact System.¹¹² At present, this law is still good law.

Come 1987, the Philippines passed a new Administrative Code, with a policy that clearly “mandated the development of the country’s *resources for* the Filipino people.”¹¹³ This policy was to be read together with the right to a healthy environment in the 1987 Constitution.¹¹⁴ Thus, the resulting framework merely echoed its predecessors.

The result is a deluge of environmental laws enacted by Congress which are clear derivatives of the anthropocentric tradition. First are the laws that talk about preservation and conservation of the environment, thereby relating to sustainable development and intergenerational responsibility. For example, the National Integrated Protected Areas System is about “secur[ing] for the Filipino people of present and future generations the perpetual existence of all native plants and animals through the establishment of a comprehensive system of integrated protected areas.”¹¹⁵ In accordance with the policies declared in the law, the Philippine Clean Air Act of 1999 even gives rights within its provisions which can be enforced in courts.¹¹⁶ One of the objectives of the Ecological Solid Waste Management Act of 2000 is to “utilize environmentally-sound methods that maximize the utilization of valuable resources and encourage resource conservation and recovery.”¹¹⁷

¹⁰⁸ *Oposa*, 224 SCRA 792, 800.

¹⁰⁹ Pres. Dec. No. 1151 (1977).

¹¹⁰ Pres. Dec. No. 1152 (1977).

¹¹¹ Pres. Dec. No. 1151 (1977), § 1.

¹¹² § 4.

¹¹³ Dante Gatmaytan-Magno, *Artificial Judicial Environmental Activism: Oposa v. Factoran as Abberation*, 17 IND. INT’L & COMP. L. REV. 1, 6 (2007).

¹¹⁴ CONST. art. II, § 16.

¹¹⁵ Rep. Act No. 7586 (1992), § 2.

¹¹⁶ Rep. Act No. 8749 (1999), § 4.

¹¹⁷ Rep. Act No. 9003 (2000), § 2(b).

The government can declare critically endangered habitats and species through the Wildlife Conservation Act.¹¹⁸ The Philippine Clean Water Act follows the sustainable development principle because it involves “the protection, preservation, and revival of the quality of our [...] waters.”¹¹⁹ The Biofuels Act of 2006 also falls under this category.¹²⁰ Finally, through the Climate Change Act, “the State adopts the principle of protecting the climate system for the benefit of [people].”¹²¹

Second are the laws that concern the use of the environment as a resource. For instance, the Department of Environment and Natural Resources can issue department orders to set the tone of utilization of resources pursuant to the Revised Forestry Code of the Philippines.¹²² Although the Philippine Clean Water Act¹²³ deals with the preservation and protection of the water under sustainable development principles, the Water Code of the Philippines refers more to the use of water.¹²⁴ The Philippine Mining Act of 1995 is about the rational exploitation of resources in a way that effectively protects the rights of the people affected.¹²⁵ Finally, the aim of the Philippine Fisheries Code of 1998 is “to achieve food security,” which is why the Bureau of Fisheries and Aquatic Resources under the Department of Agriculture is granted jurisdiction by the same law.¹²⁶

Third, even miscellaneous laws are only about people’s affairs, like the Indigenous People Rights Act,¹²⁷ the Renewable Energy Act of 2006,¹²⁸ the National Environment Awareness and Education Act,¹²⁹ and the Philippine Disaster Risk Reduction and Management Act of 2010,¹³⁰ to name a few.

¹¹⁸ Rep. Act No. 9147 (2001), §§ 4, 22 & 24–25.

¹¹⁹ Rep. Act No. 9275 (2004), § 2.

¹²⁰ *See* Rep. Act No. 9367 (2006), § 2.

¹²¹ Rep. Act No. 9729 (2009), § 2.

¹²² *See* Pres. Dec. No. 705 (1975), § 5.

¹²³ Rep. Act No. 9275 (2004).

¹²⁴ *See* Pres. Dec. No. 1067 (1976), ch. IV–V.

¹²⁵ Rep. Act No. 7942 (1995), § 2.

¹²⁶ Rep. Act No. 8550 (1998), § 2.

¹²⁷ *See* Rep. Act No. 8371 (1997), § 2.

¹²⁸ *See* Rep. Act No. 9513 (2006), § 2.

¹²⁹ *See* Rep. Act No. 9512 (2008), § 2.

¹³⁰ *See* Rep. Act No. 10121 (2010), § 2.

IV. PHILOSOPHICAL DOCTRINES RELEVANT TO ENVIRONMENTAL POLICY

A. Philosophy as a guiding point for environmental law

When dealing with law of a particular depth, as is the case with environmental policy, we may consult philosophy. Philosophy has long been a tool to search for a “deeper, more insightful understanding” of problems in law.¹³¹ At times, because of the nature of problems in law, “a satisfactory solution to them cannot be found within law; resort to philosophy is thus necessitated.”¹³² It is this remedy that we use in this article, allowing applicable philosophical ideas to intrude into our understanding of the international and domestic legal landscape, “not for the purpose of complicating matters, but on the contrary, for the purpose of clarifying them.”¹³³ This article submits that although concrete legal solutions can hardly spring directly from philosophy itself, the enlightenment that it evokes could be the same wisdom crafting law.

As previously discussed, the evidence for pressing environmental issues is readily available, even establishing causation between such issues and human industry. However, people continue to deny the evidence, which is seen in how we frame substantive and procedural rights. The impact of man’s *denial* in rights, as previously demonstrated, is reflected in the fundamental judicial doctrine of legal standing. Thus, this article posits that the core problem is *how* we frame our environmental policies—legal standing and provision of rights included—which is inevitably influenced by our perspective.

It is *this* perspective that this section aims to elucidate. Prefatorily, this article relates Rene Descartes’ seminal ideas on dualism (the subject and the object) to man’s relationship with the environment, particularly the approaches of the Western world and the Global South, as discussed previously. This section’s discussion is centered, however, on applying Slavoj Žižek’s work on Georg Wilhelm Hegel and dialectical materialism,¹³⁴ as

¹³¹ Emmanuel Q. Fernando, *The Relevance of Philosophy to Law*, 73 PHIL. L.J. 1, 4 (1998).

¹³² *Id.*

¹³³ *Id.*

¹³⁴ See ŽIŽEK, *supra* note 28. This article will focus primarily on Chapter 6, “Not Only as Substance, But Also as Subject,” particularly the sub-chapter, “The Animal That I Am.”

supplemented by the secondary works of Oxana Timofeeva.¹³⁵ As a contemporary philosopher, Žižek’s work critiques Descartes’ initial ideas on the subject and object and invokes Hegel’s thoughts on substance, thus giving important insights that are more responsive to the conditions and demands of our time.

Žižek’s work also critiqued Jacques Derrida’s previous “deconstructive” approach in exploring the relationship of man and animals, which is analogous to this article’s thesis ideas on man, the environment, and, in relation, environmental policy. Derrida, as Žižek had written, discussed his ideas through illustration. Hence, to give additional context, this article also provides earlier related philosophical illustrations (i.e., of Xenophanes and of Greek mythology), not only showing the evolution of ideas on the topic but also the fact that these illustrations, albeit drawn up eras ago, are confirmed and replicated by our actual experience at present.

When juxtaposed with environmental law and law in general, Žižek’s teachings, alongside the other philosophical ideas discussed in this section, may appear abstract and detached from evidence and policy. However, this article posits that these doctrines actually allow us to dive into the necessary depth to provide a new space for rethinking existing evidence and policy. We surface with an awareness that the history of environmental relations is a history of injustice, and thus we should think critically about what we should be doing to respect the environment. Thus, to clarify, the use of philosophy in this article is not meant to give the impression that we could think critically about the system only by looking outside of it, if not short of claiming that *we exist outside of it*. On the contrary, we stand our ground *on the inside*, thinking critically precisely by putting our heads into the lion’s mouth, engaging directly with our existing perspectives as seen in the system.

B. Double binary: Subject–object, substance, and the Western and Global South approaches

Descartes’ ideas on dualism provide for two fundamental concepts in philosophy: the *subject* and the *object*. “Subject” refers to beings with thought that have a unique consciousness and unique personal experiences; “object”

¹³⁵ Oxana Timofeeva is a Professor at the “Statsis” Center for Philosophy, the European University at St. Petersburg and the author of *History of Animals*. She wrote *The Two Cats: Žižek, Derrida, and Other Animals* in *Repeating Žižek* (Agon Hamza, ed., 2015), which interpreted and analyzed Žižek’s “The Animal That I Am” sub-chapter. *See also* https://monoskop.org/Oxana_Timofeeva.

refers to the extension or other beings aside from the subject that occupy space. Subjects perceive and objects are perceived. Descartes posited that the world is to be built up around the subject because the subject is separate from the objective world.¹³⁶

It is the interplay between the subject and object that distinguishes Descartes from other philosophers, which Žižek cites and agrees with. Žižek writes that unlike Descartes' subject which is the "master and possessor of nature,"¹³⁷ he believes, while critiquing Derrida,¹³⁸ that the subject actually has "active agency whose beliefs sustain ideologies' semblance of sublime, substantial power."¹³⁹ He then affirms Immanuel Kant's critique of Descartes that the "subject that sees objects in the world cannot see himself seeing, any more than a person can jump over her own shadow."¹⁴⁰ As such, Žižek agrees with Kant that, as subjects, man cannot know what exactly he is, with regard to how he should speak and perceive the world; thus, in order to know, he asks "the question *Che vuoi?* (What do you want) to Others [the objects] and shapes his desires and beliefs around his suppositions concerning them."¹⁴¹ This is because, as Kant argues and Žižek mentions, man "can never achieve such a synoptic understanding of the [...] universe."¹⁴² Thus, man should accept the inherent impossibility of having a concrete understanding of the Other or objects, as they will always remain "internally divided, inconsistent, [and] inaccessible to [man's] total comprehension"¹⁴³—a quality which Žižek termed "not-all."¹⁴⁴

Žižek ties this philosophical critique on the Cartesian subject to politics by claiming that the "political regimes we inhabit remain 'not-all'—that is, subject to internal division, political conflict, antagonism, or class struggle—[...] because their 'substance'¹⁴⁵ is rendered incomplete by *us*

¹³⁶ See RENÉ DESCARTES, SELECTIONS FROM THE PRINCIPLES OF PHILOSOPHY (John Veitch trans., 2003) at <https://www.gutenberg.org/cache/epub/4391/pg4391-images.html>.

¹³⁷ MATTHEW SHARPE & GEOFF BOUCHER, ŽIŽEK AND POLITICS: A CRITICAL INTRODUCTION 74 (2010).

¹³⁸ ŽIŽEK, *supra* note 28.

¹³⁹ SHARPE & BOUCHER, *supra* note 137, at 74.

¹⁴⁰ *Id.* at 75.

¹⁴¹ *Id.*

¹⁴² *Id.* at 77.

¹⁴³ *Id.* at 79.

¹⁴⁴ *Id.*

¹⁴⁵ Although the concept of "substance" has been explored in philosophy as early as Aristotle's era, for Žižek, the relevant philosophers on this concept would be Georg Hegel, whose interpretation he referenced, and Benedict de Spinoza, whose concept of "substance" Hegel had interpreted. Spinoza defines substance as "a necessary being which is in itself and

ourselves, as subjects.”¹⁴⁶ Here, Žižek references Hegel’s famous formula of “the substance is subject”¹⁴⁷ to oppose the tendency to “count ourselves out of the world [...] as if we were powerless subjects against an immutable set of sublime big Others.”¹⁴⁸ As Žižek scholars Sharpe and Boucher put it:

No, for Žižek, “substance is subject” names the internal division of all such substances: their minimal incompleteness and openness to future change by us as subjects – the substance needs the subjects who misrecognise [*siz*] how they can also always reshape it.

* * *

For Žižek, Hegel is ever the contrarian, and his maligned “absolute knowledge,” with its dictum “the substance is subject,” actually gives the most sophisticated philosophical recognition to *how humans “do not know (the significance of) what they do,”* so that contingency and subjective agency must be “counted in” to the historical process.¹⁴⁹

As esoteric as these all may appear, when applied to environmental law, the binary approach of the subject-object, as well as the inclusion of the concept of substance, is apparent. Recent literature has translated the Western and Global South approaches into philosophical terms:

Proponents of Earth jurisprudence argue for the subjectification, as opposed to objectification, of nature; that is, the treating of nature and its

conceived through itself.” It cannot be conceived through using another thing; thereby inconceivable through another and whose concept does not require the concept of another thing. For example, a circle is determined to be a circle through an external measure or definition; substance, itself, is not determined because “it is the principle of all determination.” Substance thus has this “infinite” and all-encompassing quality that governs all reality. Meanwhile, in approaching the “absolute truth,” Hegel is more concerned with how man, as a subject, comes to his knowledge of substance. Efraim Shmueli, *Hegel’s Interpretation of Spinoza’s Concept of Substance*, 1 INTL. J. FOR PHILO. RELIGION 1, 177 (1970).

¹⁴⁶ SHARPE & BOUCHER, *supra* note 137, at 79.

¹⁴⁷ Hegel’s full quote, where this formula is based on, states, “In my view, which can be justified only by the exposition of the system itself, everything turns on grasping and expressing the True, not only as *Substance*, but equally as Subject. (GEORG WILHELM FRIEDRICH HEGEL, *Preface*, in GEORG WILHELM FRIEDRICH HEGEL, PHENOMENOLOGY OF SPIRIT 9–10 [A.V. Miller trans., 1979])

¹⁴⁸ SHARPE & BOUCHER, *supra* note 137, at 80–81.

¹⁴⁹ *Id.* at 81. (Emphasis supplied.)

ecosystems and species as subjects with their own rights, in much the same way that liberal democracies treat people as subject citizens with rights. They argue that the idea that nature comprises objects is a false premise of mainstream legal systems that treat the environment as resources that can be subject to property rights. Therefore, treating nature as a subject is to recognize its intrinsic worth.¹⁵⁰

Simply put, the West says that people are subjects and the environment is the object, whereas the Global South argues that the law should treat both people and the environment as subjects. In effect, both sides categorize entities, including the environment, as either subject or object.

This binary categorization can be related to the justifications people use to uphold their actions which cause suffering to the environment, if this system of categorization were considered analogous to the *meaning* people ascribe to their actions against the environment and broadly, to their *perspective* on the environment.

For instance, suppose that man can consider the environment through a two-tier approach: perceive it as (1) a neutral entity, and (2) one that man freely and merely perceives and ascribes meaning to. Then we can consider the environment as the *object* and man as the *subject*. The environment, as an object, seemingly has a quality of neutrality that man can exploit to impose generalizations, such as that it is a *mere resource* that serves people's needs. Therefore, it is okay for man to exploit and maltreat the environment.

Nevertheless, there is still a solution even with this mindset. Man could change the meaning he ascribes to the environment or use the environment's neutrality to impose a new generalization: that the environment is the same as people and worthy of respect. In other words, man could label the environment as another *subject*.

Yet is this not still a reduction of the environment? Instead of simply changing the way we generalize the environment or adding to the ways we generalize the environment, should we not be pointing out the inconsistency in generalizing an unfolding entity, one that people cannot fully grasp, much less ascribe a blanket meaning for it? Although initially it would appear positive—man seeing the environment as a “complete” entity, raising the

¹⁵⁰ Humphreys, *supra* note 59, at 459–84.

possibility of seeing it as an equal—this betrays man’s reductive and limiting perspective on the environment. By negating the environment’s unfolding, infinite, and incomplete quality, reducing it to one concept (i.e., “as a resource”), man can justify his abuse. It is with this perception that man’s initial label of the environment as another *subject* runs contrary to the truth: in perceiving the environment with a limited view, man indubitably sees the environment still as an *object*.

Thus, the proper subjectification of the environment is through an *un-objectification*. As we have seen from Žižek’s understanding of Hegel, man does not know the significance of what they do. Thus, man should be made aware of their generalization and reduction of an incomplete and indeterminate entity, such that man realizes that it cannot impose presumptions or generalizations on an incomplete and *unknown* entity. As such, man can no longer deny the suffering they cause to the environment because they cannot, on their own, ascribe meaning to the effects of their actions, since they can no longer presume anything about the environment.

But how exactly do we do this?

As we establish that people think for themselves, we leave out the fact that we have no way of knowing what the environment thinks about or whether the environment thinks at all. In other words, while people and the environment are the same as to reasonability, their natures can be distinguished. Still, we label the environment as subject or object on its own behalf without a way of knowing its side. Thus, our insight is derived exclusively from the *person’s* gaze or our *own* point of view. We forget, however, that just as we view others, we are also viewed *by* others, and that there is also a gaze from the other end—from the environment, or more concretely, animals. Failing to consider an animal’s gaze enables us to view the environment as more object than subject—which, as will be discussed below, has dangers and pitfalls that philosophers have previously explored.

C. Illustrating substance, subject, and object: Pythagoras’ puppy, Io the cow, and Žižek’s cats

1. Pythagoras’ puppy

A fragment written by Xenophanes, a pre-Socratic philosopher, reads:

Once [Pythagoras] passed by as a puppy was being beaten, the story goes, and in pity said these words: “Stop, don’t beat him, since it is the soul of a [...] [person], a friend of mine, which I recognized when I heard it crying.”¹⁵¹

To make the subsequent discussion clearer, the fragment can be restated as:

A person was beating a puppy. When Pythagoras saw the puppy crying, he recognized that the puppy is the soul of a person. Thus, out of pity, Pythagoras pleaded that the beating be stopped.¹⁵²

Through Pythagoras looking at a puppy, Xenophanes would open a discourse on the perplexity of a person gazing at an animal (“the perplexity”).¹⁵³ Xenophanes would ask, “What are animals for people in our experience? What is substance *for* subject?”¹⁵⁴ Xenophanes’ answer to these questions is contained in another fragment by Aristotle, which states:

Some declared the universe to be a single substance [...] not supposing that what is one, like some of the natural philosophers, and generating [the universe] out of the one as out of matter, but speaking differently, people say it is unchangeable. [...] Xenophanes, who was the first of these to preach monism [...] made nothing clear...but looking off to the whole heaven he declared that *the one is god*.¹⁵⁵

¹⁵¹ INTRODUCTORY READINGS IN ANCIENT GREEK AND ROMAN PHILOSOPHY 5 (C.D.C. Reeve & Patrick Lee Miller eds., 2nd ed. 2015). Previous literature on this fragment stated that Xenophanes was mocking Pythagoras’ belief in metempsychosis or the transmigration of souls. However, the same literature stated that Xenophanes’ fragment may have been ambivalent to Pythagoras’ ideas. *See* RICHARD D. MCKIRAHAN, PHILOSOPHY BEFORE SOCRATES: AN INTRODUCTION WITH TEXTS AND COMMENTARY 81, 84 (2nd ed. 2010). Thus, previous literature provides conflicting observations on Xenophanes’ fragment, and the context in which the fragment is used remains unclear. What is clear is the insight the fragment provides when connected to Xenophanes’ ideas.

¹⁵² The word “heard” is replaced with the word “saw” to connote gaze. Also, the phrase “a friend of mine” is removed to focus instead on “soul” (“reason” or “substance”).

¹⁵³ ŽIŽEK, *supra* note 28, at 410.

¹⁵⁴ *Id.* at 414.

¹⁵⁵ Aristotle, *Metaphysics* I.5, in READINGS IN ANCIENT GREEK PHILOSOPHY: FROM THALES TO ARISTOTLE 51 (S. Marc Cohen, Patricia Curd & C.D.C. Reeve eds., 5th ed. 2016). (Emphasis supplied.)

Expounding on Aristotle's fragment, and using Žižek's interpretation on Hegel, I surmise that Xenophanes would answer that we respect the Other as absolute because we approach the absolute truth through reason. There is "substance" or a rational principle *in* each animal, which is explainable even if people cannot explain it. Thus, the intrinsic reasonability in the puppy is recognized and acknowledged by Pythagoras upon gazing at the puppy. This answer illustrates the reasonability in the nature of an animal in the same way that it exists in the nature of a person—a depiction of Hegel's "substance is subject"—which is derived from the singularity, the fundamental oneness of soul through which people understand.

2. *Io the cow*

In Greek mythology, Io was a princess with whom Zeus became infatuated.¹⁵⁶ Zeus eventually ordered Io to follow him because of his infatuation.¹⁵⁷ To protect her from the wrath of Hera, Zeus changed her into a cow.¹⁵⁸ When Hera caught wind of the affair, Zeus denied everything, Io being just an insignificant little cow.¹⁵⁹ Hera then asked for Io as a gift and locked her up with a special guard watching over her.¹⁶⁰ When Io is eventually freed by Zeus,¹⁶¹ Hera chose to take her anger out on Io, sending a gadfly to torment Io, dooming her to roam the earth perpetually¹⁶² even though the whole affair was Zeus' fault.¹⁶³ Through Io, we see how an animal gets stuck in the middle of the affairs of these gods, whose actions are often arbitrary and cruel. The actions of these gods may be likened to people's actions. Io being turned into a cow is a gift of insight amidst misfortune because it advances the discourse on the perplexity. Io represents a person being aware of the cow's gaze.

Io being aware of the cow's gaze is possible only because of Xenophanes' insight on soul. To recall, Xenophanes posits that we approach the absolute truth through reasoning. The reasonability in the natures of people and animals is the same. Through this reasonability, we can think about

¹⁵⁶ EDITH HAMILTON, *MYTHOLOGY: TIMELESS TALES OF GODS AND HEROES* 145–155 (Deluxe Illustrated ed.) (2017).

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *Id.*

animals. Thus, people can be aware of the gaze of the Other because of the reasonability of the nature of animals in the first place.

3. Žižek's cats

The best example that exemplifies and interlaces Žižek's ideas would be no less than the cats he featured in his chapter "The Animal That I Am." Here, Žižek writes about two cats: one in an encounter with Jacques Derrida and another that he saw in a photo.

Žižek drives home his ideas on Hegel and Descartes, as discussed above, and applies them to man's relationship with animals by opening up with Derrida's story about his cat.¹⁶⁴ As Žižek recounts it:

After waking, he goes naked to the bathroom where his cat follows him; then the awkward moment occurs—he is standing in front of the cat which is looking at his naked body. Unable to endure this situation, he puts a towel around his waist, chases the cat outside, and takes a shower.¹⁶⁵

Shame shrouds this entire encounter. As the cat gazes at the naked Derrida, he reacts to this gaze with shame.¹⁶⁶ The shame is reflective, with Derrida feeling shame "not simply because he is seen, but because he is seen being naked."¹⁶⁷ This is when Žižek remarks:

Seeing oneself being seen by an animal is an abyssal encounter with the Other's gaze, since precisely because we should not simply project onto the animal our inner experience—something is returning the gaze which is radically Other. The entire history of philosophy is based upon a disavowal of such an encounter.¹⁶⁸

He then gives the image of another cat, as he reminisces seeing a photo of a cat "after it had been subjected to some lab experiment in a centrifuge, its bones half broken, its skin half hairless, its eyes looking

¹⁶⁴ Oxana Timofeeva, *The Two Cats: Žižek, Derrida, and Other Animals*, in REPEATING ŽIŽEK 109 (Agon Hamza ed., 2015). Timofeeva cites that this story came from *Jacques Derrida, THE ANIMAL THAT THEREFORE I AM* (David Wills trans., 2008) (2002).

¹⁶⁵ *Id.* at 101.

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ ŽIŽEK, *supra* note 28, at 411.

helplessly into the camera.”¹⁶⁹ According to Žižek, “this is the gaze of the Other disavowed not only by philosophers, but by humans ‘as such’.”¹⁷⁰

In trying to address this disavowal, Žižek criticizes Derrida, who believed in deconstruction.¹⁷¹ Derrida put forward that because the natures of people and the rest of the animals can be distinguished, people might imply that there is a binary where people are subject and the rest of the animals and the environment are objects whose “very existence [...] [serves] to shadow an arbitrariness and tyranny of anthropocentric categories.”¹⁷² Derrida then emphasized that “all these categories of differentiation should be therefore deconstructed.”

However, Žižek counters this by arguing that “a human-animal distinction can nevertheless be important and useful.”¹⁷³ Although humans must still be distanced from the rest of the animal kingdom, this time it is not to violate animals but to acquire their animality via its own antagonism—that is, not to see but to be seen.¹⁷⁴ Thus, the “moment of truth”¹⁷⁵ lies in rethinking the distinction between people and the rest of the animals. Specifically, instead of the extreme binary distinction making a distant relationship (subject-object) or removing the distinction (subject-subject), the distinction should form a close relationship¹⁷⁶ (subject-“un-object,” people-“not-all animals,” people-animality).¹⁷⁷

Generally, Žižek proposes a double negation, that instead of simply saying that we will not do what people think we should be doing, we should instead say we would prefer not to do what people think we should be doing. While on the surface, this statement appears to be merely a slight, even trivial grammatical difference, this serves as the impetus for doing what we think we should be doing with our lives. Instead of merely being a contrarian, negating

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

¹⁷¹ Timofeeva, *supra* note 164, at 103.

¹⁷² *Id.*

¹⁷³ *Id.* at 104.

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

¹⁷⁶ Timofeeva, *supra* note 164, at 102. *See also* HYE YOUNG KIM, WE AS SELF: OURI, INTERSUBJECTIVITY, AND PRESUBJECTIVITY 87–98 (2021).

¹⁷⁷ “Subject” is the affirmation of the predicate. “Not-subject” or “object” is the negation of the predicate. “Un-object” is the affirmation of the non-predicate. *See* Julian de Medeiros, *Full Lecture: Žižek’s Most Difficult Idea*, YOUTUBE, (Nov. 29, 2022), at https://www.youtube.com/watch?v=cj5eXVoN7_A.

the system or authority, where we do not really think for ourselves because we are simply doing the opposite of an imperative, we get to ask ourselves what we want to do or should do. We get to resist the system by asking ourselves why the system gets to impose what we do.

Thus, in furtherance of Žižek's insight, we should ask, echoing Xenophanes' question: "What are [...] [people] for animals?" or in Hegel's language, "What is the rise of subject [or the person] for pre-subjective substance [or the animal]?"¹⁷⁸ Instead of saying that by looking *through* the animals' gaze we can put ourselves in their shoes and empathize with them, Žižek proposes that "we turn the perspective" and ask ourselves what we see *in* the animal's gaze.¹⁷⁹ This is the primordial gaze of the Other, which is necessary because "we should not simply project onto the animal [...] [people's] experiences—something [...] [else should return] the gaze which is radically Other."¹⁸⁰

The close relationship between the subject and the pre-subjective substance (or man and animal, in this case) is better explained through Hegel's definition of truth:

The truth is the whole. However, the whole is only the essence completing itself through its own development. This much must be said of the absolute: It is essentially a *result*, and only at the *end* is it what it is in truth. Its nature consists precisely in this: To be actual, to be subject, that is, to be the becoming-of-itself. As contradictory as it might seem, namely, that the absolute is to be comprehended essentially as a result, even a little reflection will put this mere semblance of contradiction in its rightful place. The beginning, the principle, or the absolute as it is at first, that is, as it is immediately articulated, is merely the universal. But just as my saying 'all animals' can hardly count as an expression of zoology, it is likewise obvious that the words, 'absolute,' 'divine,' 'eternal,' and so on, do not express what is contained in them—and it is only such words which in fact express intuition as the immediate. Whatever is more than such a word, even the mere

¹⁷⁸ ŽIŽEK, *supra* note 28, at 414.

¹⁷⁹ *Id.*

¹⁸⁰ *Id.* at 411.

transition to a proposition, is a *becoming-other* which must be redeemed, that is, it is a mediation. However, it is this mediation which is rejected with such horror as if somebody, in making more of mediation than in claiming both that it itself is nothing absolute and that it in no way exists in the absolute, would be abandoning absolute cognition altogether.¹⁸¹

In other words, all animals have this substance of “animality,” but all animals, as they are now, do not comprise all of animality.¹⁸² All animals, then, are immediate intuitions, and animality is a becoming-Other whose nature is to be subject.¹⁸³ The discourse is steered from “Can [...] [animals] see?” to “What do [...] [animals] see?”¹⁸⁴ Ultimately, when we acknowledge the gaze of the Other in animals, we are acknowledging the close relationship between us people and the environment.

D. Conclusion

Žižek’s views, then, are important because they maximize the political potential of the distinction between people and animals (and the environment). It shows that environmental issues are fundamentally issues of the commons, a universal struggle. By recognizing the said issues as universal, we move beyond personal and individual rights, needs, and injuries. We think critically about the system, and ask why we tacitly accept some forms of violence, and why we consider some forms of violence as more acceptable than others. Is the violence caused by people to the environment, which is even systemically disavowed, justified?

In thinking about the suffering that we have exacted on the environment, one of Žižek’s questions remains elementary: “What if the perplexity a [...] [person] sees in the [...] animal’s gaze is the perplexity aroused by the monstrosity of [people] itself?”¹⁸⁵ In other words, we should see our own monstrosity in the animal’s gaze. Gilbert Keith Chesterton elaborates on our monstrosity:

The simplest truth about man is that he is a very strange being; almost in the sense of being a stranger

¹⁸¹ Timofeeva, *supra* note 164, at 105.

¹⁸² *Id.* at 105–106.

¹⁸³ Timofeeva, *supra* note 164, at 105–106.

¹⁸⁴ *Id.* at 103.

¹⁸⁵ ŽIŽEK, *supra* note 28, at 414.

on the earth. In all sobriety, he has much more of the external appearance of one bringing alien habits from another land than of a mere growth of this one. He has an unfair advantage and an unfair disadvantage. He cannot sleep in his own skin; he cannot trust his own instincts. He is at once a creator moving miraculous hands and fingers and a kind of cripple. He is wrapped in artificial bandages called clothes; he is propped on artificial crutches called furniture. His mind has the same doubtful liberties and the same wild limitations. Alone among the animals, he is shaken with the beautiful madness called laughter; as if he had caught sight of some secret in the very shape of the universe hidden from the universe itself. *Alone* among the animals he feels the need of averting his thought from the root realities of his own bodily being; of hiding them as in the presence of some higher possibility which creates the mystery of *shame*. Whether we praise these things as natural to man or abuse them as artificial in nature, they remain in the same sense *unique*.¹⁸⁶

Simply put, Chesterton observes that people are like nature turned against itself,¹⁸⁷ and in this sense, people are unique, or more accurately, monstrous. Hence, in the animal's gaze—in the environment's perspective—we see our monstrosity. With this insight, we develop a newfound respect for the environment. Our respect is grounded on our close relationship with the environment, in which we are the monsters.

At this juncture, we recall the emergence from the mere concept of substance to the rise of the subject for pre-subjective substance. This emergence abandons the questions, “How can we grasp [the environment or] the silent [...] realm?”¹⁸⁸ and “Can [...] [the environment] reason and think? Can they talk? [Can they see?]”¹⁸⁹ and instead asks, “What [are people] for this silent nature?”¹⁹⁰ and “*Can* the environment suffer?”¹⁹¹ Yes, the environment can suffer in people's hands. Hence, “the onus is on [...] [us] to take this

¹⁸⁶ *Id.* at 414–15. (Emphasis supplied.)

¹⁸⁷ *Id.* at 416.

¹⁸⁸ Timofeeva, *supra* note 164, at 102.

¹⁸⁹ ŽIŽEK, *supra* note 28, at 411.

¹⁹⁰ Timofeeva, *supra* note 164, at 102.

¹⁹¹ ŽIŽEK, *supra* note 28, at 411. (Emphasis supplied.)

possibility morally, [...] politically, practically, personally, [and *legally*] [...] very seriously.”¹⁹²

In fact, we know that the environment suffers. All because of us monsters with a “death drive”¹⁹³ and excessive arbitrariness,¹⁹⁴ “the night of the world.”¹⁹⁵

To summarize, the discussion can be outlined in three points:

1. *We think for ourselves.* People are the ones who can think, in the sense that we have an approach to the absolute truth through reason. People do not know whether the environment has such an approach, which means the natures of people and the environment can be distinguished. An extreme distinction leads to the denial of the abuse of the environment.
2. *The moment of truth lies in our close relationship with the environment.* Instead of the extreme distinction where people are subject and the environment is object, which creates a distant relationship between people and the environment, the distinction should create a close relationship¹⁹⁶ so that people can see through the perspective of the environment.
3. *We are “monsters” that should respect the environment.* Through the perspective of the environment, people will see their excessive

¹⁹² Philosophy Tube, *Transphobia: An Analysis*, YOUTUBE, (Oct. 12, 2018), at https://www.youtube.com/watch?v=yCxqdhZkxCo&t=1267s&ab_channel=PhilosophyTube. (Emphasis supplied.)

¹⁹³ ŽIŽEK, *supra* note 28, at 410. Sigmund Freud theorized the “death drive,” which refers to “people’s self-destructive tendency” and “aggressive instinct.” American Psychological Association, *death instinct*, APA DICTIONARY OF PSYCHOL., at <https://dictionary.apa.org/death-instinct> (last accessed Jan. 31, 2023).

Žižek clarifies that the death drive is not a tendency or instinct but rather the reason why people are “fundamentally *de-natured*, never the subject of evolutionary adaptation to their environment.” Hence, the death drive “entails a crucial ethical dimension.” See Derek Hook, *Of symbolic mortification and ‘undead life’: Slavoj Žižek on the death drive*, 18 PSYCHOANALYTICS HIST. 1, 7 (2016).

¹⁹⁴ Timofeeva, *supra* note 164, at 108–109.

¹⁹⁵ *Id.* at 109. “The human being is this night, this empty nothing, that contains everything in its simplicity—an unending wealth of many representations, images, of which none belongs to him—or which are not present. [...] One catches sight of the night when one looks human beings in the eye—into a night that becomes awful.” SLAVOJ ŽIŽEK, *THE FRAGILE ABSOLUTE* 102 (2000).

¹⁹⁶ Timofeeva, *supra* note 164, at 102.

arbitrariness.¹⁹⁷ Thus, the environment can suffer in our hands, emphasizing the need to respect the environment.

V. ANALYSIS OF ENVIRONMENTAL POLICY

Now, we dare answer the question, “How should environmental law solve the systemic denial of the abuse of the environment?” Necessarily, we also answer the question, “In environmental cases, who should have the right to bring an action or to be heard in a given forum and why?”

Following the anthropocentric tradition, the Philippine framework reflects the recent developments in the Western approaches, particularly the “liberalized approach,” wherein some jurisdictions have moved beyond strict standing requirements. Recent literature has captured the thrust of the developments:

A final conclusion is broader than thinking about domains as a nascent polity. The conclusion is that we are asking the wrong questions in terms of law about personhood. We do not need to ascribe personhood to domains, [...] animals, forms of artificial intelligence that may never eventuate or nature per se. Rather than conceptualizing those entities, specific or general, as legal persons with standing in litigation and rights enforceable on their behalf yet without obligations, it is both more *practical* and challenging to *understand them as entities to which we have duties*. We can practice an ethic of care for [...] animals, for nature and for the built environment *on the basis of respect for past and future generations* without assigning rights. Such a way of thinking means that states, corporations and individuals have responsibilities but there is no need for responsibility on the part of rivers, trees, wildlife, ancestors and mother earth.¹⁹⁸

Since advocates of legal personhood for the environment seek to primarily address strict standing requirements, the practical solution would not be to replace the traditional anthropocentric view or to grant legal

¹⁹⁷ *Id.* at 108–109.

¹⁹⁸ Arnold, *supra* note 60, at 471. (Emphasis supplied.)

personhood to the environment, but rather to simply remove such strict standing requirements. The rest of the anthropocentric legacy can supposedly be maintained, including rooting people's duties on people's rights.

However, a closer look would reveal that the pressing flaws of the Western approaches lie in what makes the requirements strict in the first place. What critics actually wish to address is the fact that the agenda only covers people's affairs—only people's injuries and rights—leading to the abuse of the environment and the denial of said abuse.¹⁹⁹ What needs to be fixed is people's narcissistic, egomaniacal approach to environmental relations, which reinforces the denial of and inaction toward the abuse of the environment, and may then lead to the denial of and inaction toward people's experiences²⁰⁰ and thus, ironically, people's injuries and rights. This has been called “a psychological insight buttressed by three recent decades of research.”²⁰¹

Unfortunately, the alternatives to the anthropocentric tradition, specifically the Global South approaches, are inadequate to address the aforementioned flaws.²⁰² Recent literature has captured the thrust of the said alternatives, which is to grant legal personhood to the environment, including in international law,²⁰³ to give the best protection to the environment such that it can thrive.²⁰⁴ However, recent literature also suggests that nature's rights might be inconsequential, at least in addressing the denial of the abuse of the environment. At first blush, such rights already “raise a host of difficult conceptual challenges in their basic articulation,”²⁰⁵ which “may ultimately prove insurmountable.”²⁰⁶ The problems can be divided into giving rights to specific parts of the environment and the environment as a whole. For the former, the hurdles are: (1) identifying affected entities; (2) “articulat[ing] interests;” and (3) comparing “a policy's effects on the interests of” different

¹⁹⁹ Sólón, *supra* note 37.

²⁰⁰ Animal-machine is a stepping stone to man-machine. See ŽIŽEK, *supra* note 28, at 412.

²⁰¹ Bernard Rollin, *The Regulation of Animal Research and the Emergence of Animal Ethics*, 27 THEORETICAL MED. BIOETHICS 285, 286 (2006).

²⁰² Recall the removal of the distinction between people and the environment (subject–subject).

²⁰³ See Franks, *supra* note 34, at 633–57.

²⁰⁴ Tiffany Challe, *The Rights of Nature – Can an Ecosystem Bear Legal Rights*, STATE OF THE PLANET, Apr. 22, 2021, at <https://news.climate.columbia.edu/2021/04/22/rights-of-nature-lawsuits/#:~:text=The%20goal%20of%20conferring%20rights,a%20clean%20and%20healthy%20environment>.

²⁰⁵ Mauricio 34 & Michael A. Livermore, *Where Nature's Rights Go Wrong*, 107 VA. L. REV. (7) 1347, 1416–17 (2021).

²⁰⁶ *Id.* at 1395.

parts of the environment.²⁰⁷ As to the latter, the problems are: (1) ignoring the separate interests of the constituents of the environment; (2) “whether [...] [people] can properly be understood as separate from the [...] [environment];” and (3) “various indices of environmental quality do not correlate with each other.”²⁰⁸ In sum, legal personhood “signifies what law makes it signify.”²⁰⁹ This observation is bolstered by the fact that we have no way of knowing what the environment wants, which can even lead to the abuse of the law.²¹⁰ In fact, the United Nations itself admits that rights of nature “[are] a cohesive element acting as a bridge between human rights, [...] Indigenous rights, environmental rights (healthy environment), and biocultural rights.”²¹¹ Thus, in granting legal personhood to the environment, we focus only on the meanings people give to the environment.

Similarly, the Western approaches employing the traditional anthropocentric view also focus only on what the environment means to people.²¹² Particularly, the environment is seen only as a reservoir of resources that serves people’s interests and revolves around people’s injuries and rights.²¹³ Instead of a close relationship with the environment, the distinction between the natures of people and the environment are taken to the extreme.

Thus, both the Western and Global South approaches are just two sides of the same coin. Both sides only consider what the environment means to people. In relation to the discussion on philosophical doctrines, both sides get stuck in the first point—that people think for themselves.

When the law focuses on what the environment means to people, the result is a legal deadlock—two different perspectives from people that assert their respective sides as the correct view, when both sides are similarly

²⁰⁷ *Id.* at 1394.

²⁰⁸ *Id.* at 1406.

²⁰⁹ Thus, legal personhood also signifies what natural persons makes it signify, with law a creation of natural persons. John Dewey, *The Historic Background of Corporate Legal Personality*, 35 YALE L.J. 655 (1926).

²¹⁰ *Resident Marine Mammals*, 758 Phil. 724, 787–89 (Leonen, J., *concurring*).

²¹¹ Earth Law Center, *Rights of Nature: A Catalyst for the implementation of the Sustainable Development Agenda on Water*, UNITED NATIONS DEPT. OF ECON. AND SOC. AFF. SUSTAINABLE DEV²T, at <https://sdgs.un.org/partnerships/rights-nature-catalyst-implementation-sustainable-development-agenda-water> (last accessed June 16, 2023).

²¹² Recall the extreme binary distinction between people and the environment (subject-object).

²¹³ Sólon, *supra* note 37.

incomplete and inadequate for failing to see the perspective of the environment.

This paper does not conclude that the Western and Global South approaches are wrong, as both are equally valid. Environmental law is not in the business of invalidating people's truths. Accordingly, this paper acknowledges the developments Western anthropocentric approaches have been making to address criticisms, and this paper recognizes the truths in people's injuries and rights. Neither does this paper discredit the meanings ascribed to the environment by the Global South in granting the environment legal personhood and enforceable rights, which is a testament to postcolonial liberation.²¹⁴

Instead, this paper submits that when the issue to be addressed is the systemic denial of people's abuse of the environment, the solution is not in denying the clashing assertions of people's subjective perspectives on the meaning to be ascribed to the environment, but rather in the undeniable truth all people can see about themselves through the perspective of the environment.

Thus, this paper points out that both the Western and Global South approaches miss the point. Both are incomplete and inadequate frameworks for only considering the meanings given by people to the environment, which are only cultural and incidental, not transcultural and essential, to the issue. Both sides only look at the cultural²¹⁵ without seeing the transcultural, when if anything, the cultural should be underpinned by the transcultural. Both sides only look at the incidents of and not the essence of the relationship between people and the environment, when it is the essence which cannot be denied by any culture. Neither side considers the perspective of the environment. Neither side is radical enough to reach a common ground and thus a consensus to address the abuse of the environment.

²¹⁴ Arnold, *supra* note 60.

²¹⁵ “[W]e should be conscious that personhood is a legal construct, something that reflects values that might be contested and is founded on understandings that are culturally and thus temporally contingent.” *Id.* at 463.

Also, the Global South covers regions that are “often [...] culturally marginalized.” Franks, *supra* note 34, at 634 n.7.

VI. RECOMMENDATIONS

All people will see their own monstrosity upon considering the perspective of the environment. All people will be aware that they cause environmental suffering. Consequently, they must respect the environment by upholding their duties to it. The transcultural and the essential in environmental relations are the duties, not the rights. Moving beyond the supposedly practical and insufficiently liberal developments made by the anthropocentric view, people's duties to the environment should not be pre-conditioned on people's rights. If anything, people's rights—and nature's rights—should be underpinned by people's duties to the environment. Again, to clarify, these statements do not serve to exclude rights from the discourse, but rather to deepen our understanding of them. A framework for treating the environment can be derived from this paper's insights:

TABLE 1. PROPOSED FRAMEWORK FOR RESPECTING THE ENVIRONMENT.

People's Duties to the Environment	
<p>Admitting that we cause environmental suffering, we embed and operationalize in the law our duties to the environment. These duties are the transcultural, essential, radical, and universal in environmental relations. Hence, said duties should be the foundation of environmental policy.</p>	
<p>People's Injuries, Rights, and Needs</p> <p>We accommodate our self-interests as long as we deem them reasonable. Yet, we should balance self-interests with our salient consideration—our duties to the environment—as we accept that we cause environmental suffering. Besides, self-interests may be useful to our duties.</p>	<p>The Environment's Personhood (Standing, Representation, and Rights)</p> <p>By itself, the environment's personhood does not address the denial of environmental suffering. Nonetheless, this approach is valid and may be useful. Accordingly, if deemed reasonable and accommodated, it should be rooted in our duties to the environment.</p>
<p>Our self-interests and the environment's personhood are only cultural and incidental to environmental relations. Therefore, they should be grounded on our duties to the environment.</p>	

Indeed, both our self-interests and the environment's personhood can be useful to our duties. For example, aside from our substantive right to a healthy environment, "organizational rights have a greater likelihood of achieving meaningful results."²¹⁶ Also, as previously mentioned, the goal in giving the environment legal personhood is "to secure the highest level of [...] the protection under which an ecosystem can thrive and whose rights are not violated."²¹⁷

The introduction of people's duties to the environment in international and domestic legal frameworks will not only address the gap in principle by the Western and Global South approaches, but also the criticisms against them. First, legal frameworks will no longer be criticized as arbitrary,²¹⁸ at least in the sense that these frameworks shall be grounded on people's duties to the environment, which are transcultural and essential to the denial of the abuse of the environment. Second, legal frameworks will move beyond strict standing requirements²¹⁹ and will no longer be "injury-specific"²²⁰ and "backward-looking"²²¹ because we move beyond people's injuries and rights. Third, people's needs²²² will not be dismissed because people's duties and needs can co-exist. Fourth, there will be no abuse of the law because we will not be speaking on behalf of the environment, but for ourselves as duty bearers.²²³ Fifth, legal reach²²⁴ will no longer be a problem because people's duties to the environment, as a concept, refer to all people, and can be applied to any aspect of the environment without being limited by boundaries and jurisdictions. In other words, people's duties to the environment are universal.

As such, people's duties to the environment can be applied in international law. For example, Article 3 of the draft UN Convention on Animal Health and Protection ("UNCAHP") states that "animals are sentient beings possessing intrinsic value."²²⁵ Further, the UNCAHP applies the precautionary principle "so that the benefit of doubt concerning sentience is

²¹⁶ Guim & Livermore, *supra* note 205, at 1348, 1417.

²¹⁷ Challe, *supra* note 204.

²¹⁸ Arnold, *supra* note 60.

²¹⁹ Franks, *supra* note 34, at 644.

²²⁰ *Id.*

²²¹ *Id.*

²²² Samuel, *supra* note 61.

²²³ *Id.*

²²⁴ Franks, *supra* note 34, at 644.

²²⁵ Global Animal Law Ass'n, *First Pre-Draft of the UN Convention on Animal Health and Protection (UNCAHP)*, art. 3, Aug. 23, 2018, at <https://www.uncahp.org/app/download/10318438068/Folder-UNCAHP.pdf?t=1620220209>.

given to [these animals] not yet known to be sentient.”²²⁶ The UNCAHP repeatedly mentions the words “sentience” and “dignity.”²²⁷ However, the UNCAHP also admits that some animals are only “potentially sentient” and “this is not yet scientifically proven [for them].”²²⁸ Even with scientific evidence, we have no way of knowing what animals want, so we will be providing meaning for them, which may lead to abuse of the law.²²⁹ Taking to the extreme the point that the natures of people and the environment can be distinguished, people can arbitrarily decide what “level” of sentience matters. Emphasis on these points allows for denial, abuse,²³⁰ and even deadlock. Thus, to persuade and reach a consensus, the bedrock of the convention should not be on whether animals are sentient, which will yield conflicting views, but rather on whether animals can suffer. Further, the application of the precautionary principle should be predicated primarily on animals’ suffering in the hands of people. This is not to say that the discussion on animal sentience and dignity is insignificant. Rather, as people’s duties to the environment are transcultural, essential, radical, and universal, international law on the environment should be underpinned by such duties.

Finally, applying the recommendations to the Philippine framework and other jurisdictions’ local frameworks, people’s duties to the environment should be constitutionally enshrined independent of the right to a balanced and healthful ecology to make such duties a matter of State policy.

VII. CONCLUSION

Anyone may because everyone should. Anyone may bring an environmental suit to court because everyone should enforce environmental laws, which should contain people’s duties to the environment. There are two aspects: (1) enforcement and (2) content of environmental laws. Both are equally important, for what is new to enforce if environmental laws do not even contain people’s duties to the environment? At the same time, what good are mere laws without enforcement?

A final clarification. While this paper speaks of duties, it does not suggest that legal frameworks should primarily be disciplinary and punitive.

²²⁶ *Id.*

²²⁷ *Id.*

²²⁸ *Id.*

²²⁹ See *Resident Marine Mammals*, 758 Phil. 724, 787–89 (Leonen, J., concurring).

²³⁰ *Id.*

In fact, a punitive system may point back to the flaws of “backward-looking”²³¹ laws. Instead, this paper submits that the system should equally think of ways to encourage people to enforce their duties. People might respond better if they are motivated to fulfill and are rewarded for the fulfillment of their duties to the environment.

Nonetheless, we should not lose sight of why we enforce our duties—to respect the environment. It is high time that we monsters held ourselves responsible for putting the environment in an awry situation.

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²³¹ Environmental laws are “backward-looking” when harms are addressed only after they are committed. Franks, *supra* note 34, at 644.