Vegetation is not only part of the ‘living beings’ category but is also one of its main protagonists since it allows its other members to live. Without vegetation, the Earth would be unbreathable, just like thousands of other inert planets in the universe.

However, despite that key role in the succession of circumstances that allowed life’s emergence and maintenance on Earth, vegetation is not always protected nor has inalienable rights. Rather, in the last centuries of voracious development, it has been understood as a resource to be exploited, instrumentalizing its role in service to the human species and industrializing its presence on the face of the Earth. It has only been...
protected through the definition of special zoning – reserves – as if they only served as a backup when there is nothing left to exploit.

Therefore, in the debate section of this issue of ARQ magazine, we asked about the possibility of considering plants and trees subjects of rights, especially having the new constitution as a horizon. From there, we can also question whether those more-than-human entities can possess a legal subjectivity that protects them in themselves and not only under the category of ‘reserve.’
A few weeks ago, Margarita Castro – age 80 – clung to a cork oak in Talcahuano, preventing its logging in the aftermath of the neighbors’ agreement to implement a project of the “Quiero mi Barrio” program. The defense of the cork oak caused a stir on social media: although it is not a native Chilean species, the cork tree had a voice that protected it and is, for now, safe.

In the same manner, organized groups in Chile promote the protection of terrestrial, coastal, and wetland spaces. Some have managed to protect urban bodies of water through the figure of ‘urban wetlands,’ as is the case of Lo Barnechea. However, *boldos*, soapbark trees, litre trees, and other native trees of the Andean foothill in the Metropolitan Region, a city with a little more than 7 million inhabitants, are eliminated for real estate development and replaced by exotic species, increasing water consumption and native biodiversity loss. In the urban area of Concepción, over 30% of the wetland area has been drained or filled for real estate development, causing a loss of ecosystems, species, habitats, and carbon sinks, reducing the capacity to adapt to the effects of climate change. Thus, adding up to bad decisions that deteriorate the life of the whole.

We have been successful in occupying the entire planet, in stopping disease, and in improving our quality of life. Each space has been a challenge and an achievement, but, at the same time, we have transcended the boundaries of the biosphere, taking more than necessary and discarding more than is acceptable; tirelessly. It is not difficult to understand why *COVID-19* has been so successful, as we have minimized, even omitted, health and environmental alerts. We have diminished everything that has allowed nature to provide us with well-being.

Concerns in environmental matters have been a motivation for dozens of candidates elected to the Constitutional Convention, proposing to consider biodiversity or nature within its guiding principles for the new constitution. A democratic constitution must mark how we approach the environment and biodiversity: it is impossible to think of these only in normative terms. We must promote and consolidate a new scenario with a sense of urgency. We should think collectively, considering our intergenerational responsibility, in which
nature cannot be a cause of conflict, environmental damage, unlimited exploitation.

Food systems are collapsing, nearly 70% of national fisheries are overused, conservation rights over exploitable resources have compromised the health of ecosystems and other species, including the right to healthy food. Is the right of a concession for the exploitation of a resource also applied on the soil, water and living beings that inhabit the ecosystem? It looks like it is.

Are the rights of nature the same rights described in our legal understanding? Or, on the contrary, should we integrate, for example, the vision that native peoples give to their living and non-living environment under relations of balance and respect? Will we define boundaries or geographical spaces for these rights? It may not be a good decision, since we would apply a limitation in the constitution, a short-term and anthropocentric vision, assuming that our existence is what is relevant and that we depend only on some ecosystems, that only a set of them will give us what we need to live.

In the current constitution, a model of individual appropriation was enshrined, consolidated in a legal framework. This must be modified to live in harmony with the rest of non-human nature under the principle of environmental justice. Socio-environmental conflicts mark a form of social relationship that becomes intolerable and that we must reverse. The current constitution establishes in its article 19, N°8, the “right to live in a healthy environment,” which has motivated a wide debate, triggering high expectations in the face of this new constituent process. Therefore, the discussion should contemplate a generous vision of present and future, a new social contract that gives space to nature, to reestablish social balances and give rights to that life that allows us to be here, that of non-human nature.

What comes after the new constitution considers biodiversity within its fundamental pillars? There are good examples to consider, such as the constitutions of France, Ecuador, or Colombia, which include biodiversity and a series of obligations and duties. However, not all examples account for the coherence and application of their fundamental charters, and so, we must avoid that the new constitution expresses only a dead letter or a set of good intentions. We can and must make this possible together and through democracy. We have a unique opportunity. ARQ

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