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Biocultural rights

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In the early 2000s, the emergence of biocultural rights was theorized by Sanjay Kabir Bavikatte as third generation “collective rights with a specific aim of affirming the right of stewardship of communities over their lands and waters” (Bavikatte, 2014, p. 30; see also Bavikatte & Bennett, 2015) (see [Land stewardship](#)). Specifically interpreted from international court cases and international human rights and environmental law addressing indigenous peoples and local communities, they were envisioned as the “basket” filled with the rights to land and natural resources, to self-government, and to cultural and linguistic identity, together with their complementary procedural rights, necessary to fulfil and expand Article 8 (j) of the Convention on Biological Diversity, i.e. to “respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity” (see [Biodiversity](#)).

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It was in fact noted how international hard and soft environmental law (see Bavikatte, 2014, pp. 16–20) had increasingly acknowledged the special relationship that some indigenous peoples and local communities have with [nature](#) and their sustainable use of natural resources. Bavikatte linked the emergence of biocultural rights to the convergence of the indigenous peoples’ and local communities’ rights movement with the post-development and the commons movements, mapping their evolution across international environmental agreements, national law, jurisprudence, and the struggles of communities themselves. He set out neither to describe existing law nor to offer a purely speculative reflection, but rather to articulate the *opinio de iure condendo* of a public-law scholar who reads a coherent, though implicit, design running through international documents.

Today, biocultural rights are not explicitly recognized by either international or national law but have been increasingly mentioned by scholarly literature (Girard et al., 2022; May & Baber, 2023; Palmer, 2026) and court cases. Among the others, the Colombian Constitutional Court referred, in its 2016 opinion T-622 (Center for Social Justice Studies et al. v. Presidency of the Republic et al., Judgment T-622/16, Constitutional Court of Colombia, November 10, 2016), to Bavikatte and declared that the peoples and communities living alongside the Atrato River are already holders of biocultural rights (see MacPherson et al.,

2020; Sajeve, 2021) (see [Rights of Nature](#)). To guarantee protection to the Atrato River, the Court recognized the river as a rights holder and declared the state and the indigenous peoples and local communities living in the area in charge of upholding its rights. In 2021, the Colombian Tribunal Superior del Distrito Judicial de Bogotá, Sala de Justicia y Paz (Act No. 005/2021, Radicado 110012252000201600552, Postulados: Ramón María Isaza Arango y 59 postulados de las ACMM), referring to the Río Magdalena, previously recognized as a rights-holder, mentioned biocultural rights as a “tool to identify ways of life that develop within a holistic relationship between nature and culture” (Juzgado Primero Penal del Circuito de Neiva con funciones de conocimiento, n. 36, 4.16.2).

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Beyond their national and international recognition, in order to grasp biocultural rights it is essential to look closely at what grounds them. At first glance they appear to rest on the interest of indigenous peoples and local communities in acting as stewards of the environment. However, this founding interest derives from the combination of two distinct interests, belonging to two distinct subjects considered holders of intrinsic value (and hence entitled to hold fundamental rights). The first is the interest of indigenous peoples and local communities in living according to their cultures, practices and worldviews on their lands, waters and territories – the cornerstone of their long struggles for self-determination and cultural identity. The second, usually not entangled with human rights, is the conservation of nature, understood as an interest of nature itself (see Conservationism). This second foundation is the distinguishing feature of biocultural rights. They, in fact, are not solely collective environmental rights of indigenous peoples and local communities, but rather a different set of rights whose holders are both the peoples and communities, and nature. They, in fact, do “not take as its point of departure the inherent right of a group or community to flourish, but rather [...] the ethic of stewardship: it is the ethic of stewardship and not the group per se that justifies the right” (Bavikatte, 2014, p. 142).

This duality is what makes biocultural rights a novel animal in the human rights forest. Human rights are commonly pictured as trumps over considerations of general interest, to be balanced and limited only when clashing with other human rights or with very important public interests. Biocultural rights

instead place a set of fundamental interests of the rights-holders – self-government and cultural identity – in balance with nature's interest in being conserved, and they do so not exceptionally but as a matter of one of their very foundations. Moreover, while human rights are usually recognized on the ground of being human – or a specific type of human (women, children, indigenous peoples) – biocultural rights may be recognized to peoples and communities that behave in a certain way: only sustainable indigenous peoples and local communities may meaningfully be holders of biocultural rights.

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Biocultural rights should not, in fact, be confused with a new version of Darrell Posey's (1996) traditional resource rights (TRRs). TRRs, too, were conceived as baskets of environmental rights built on the special relationship between peoples and communities and their environment; but in Posey's construction the environment figures as instrumental – needed for the survival, development, and flourishing of indigenous peoples and local communities – while in biocultural rights the protection of nature figures as a foundation of the right, and sustainability is a requirement to hold them.

This important distinguishing feature is what makes biocultural rights particularly interesting and innovative as an instrument to navigate current environmental challenges. However, it also makes biocultural rights potentially problematic *vis-à-vis* the important distinction between indigenous peoples and local communities, to the point that some authors have argued that biocultural rights can usefully describe the rights of local communities but not those of indigenous peoples (Jonas et al., 2013).

This distinction carries a strategic edge. For local communities – whose collective rights are only beginning to be recognised, largely through environmental instruments (Zanjani et al., 2023) – biocultural rights are a card worth playing: they gather scattered claims into one and make explicit a conservation conditionality – the duty to protect nature and give implementation to their collective rights in a sustainable way – that these communities already carry. Local communities, in fact, are not holders of collective rights as local communities *per se* (an evasive and indeed quite vague concept yet), but as peasants, small-scale fishing communities, pastoralists,

nomadic peoples, whose rights are recognized because of their special environmental role (Sajeva, 2025, chp. 1).

For indigenous peoples the balance is reversed. Hardly fought for and internationally recognized indigenous peoples' rights are not tied to any environmental performance (Jonas, 2020, p. 22), even if they mention indigenous peoples' relationship with the environment. But such relationship is valued as the foundation of collective environmental rights that such peoples hold because they are recognized as essential for their survival, development, and flourishing. And, importantly, these rights are justified/founded on the indigeneity of peoples, not on their stewardship role. For as much as such a role may in fact often be there, to deny the likelihood of conflicts between the self-determination and cultural rights of indigenous peoples and the conservation of nature would correspond to a resurgence (if it ever fully declined) of the noble savage myth (Raymond, 2007). Consequently, while it appears unnecessary to deny indigenous peoples access to biocultural rights, the latter rights should be treated as a second-best route, taken only where indigenous rights are denied or threatened, and never read so as to encumber indigenous peoples with duties their existing indigenous rights do not impose. On the other side, local communities may instead widely benefit from the recognition of biocultural rights as an instrument to promote their interests when they align with the pursuit of the protection of nature.

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At the same time, the evolution of nature's rights might benefit from the promotion of biocultural rights in those contexts when nature and people interact positively. The evolution of the recognition of rights of nature is still developing non-linearly, often relying on court decisions and lacking a fully thought-through path of implementation. Biocultural rights can also help ease the discussion, as they are by definition to be balanced with human interests and needs, so avoiding rights of nature critiques based on the fear they might reinvent the wheel of fortress conservation. It is in fact to be noted that the protection of nature that is promoted through biocultural rights needs to be balanced with the interests of the involved indigenous peoples and local communities, hence distancing itself from old style (though still largely existing) conservation techniques.

Overall, biocultural rights emerge as an interesting hybrid that conflates collective environmental rights – a set of human rights – and nature's rights. They rest on a double assumption: the protection and sustainable use of nature is a prerequisite for the protection and fulfilment of human rights – as the current discussion on the rights to a healthy environment so clearly shows – and the fulfilment of certain human rights may benefit the conservation of the environment (see Environmental rights). Rather than treating the two sets of rights as separate enterprises – an anthropocentric and ecocentric one – biocultural rights concretize in ecological human rights that endorse both ethical approaches (see Anthropocentrism). They show the possibility – legal and theoretical – of combining human and nature rights, as an essential path to walk in the so-called Anthropocene. And, importantly, they also show the dangers intrinsic to this path, reminding us that naïve descriptions of human-nature relationships are always dangerous especially if founded on essentialist visions of non-Western cultures.

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References:

- Bavikatte, S. K. (2014). *Stewarding the earth: Rethinking property and the emergence of biocultural rights*. Oxford University Press.
- Bavikatte, S. K., & Bennett, T. (2015). Community stewardship: The foundation of biocultural rights. *Journal of Human Rights and the Environment*, 6 (1), 7–29.
- Bavikatte, S. K., & Robinson, D. F. (2011). Towards a people's history of the law: Biocultural jurisprudence and the Nagoya Protocol on access and benefit sharing. *Law, Environment and Development Journal*, 7(1), 35–51.
- Girard, F., Hall, I., & Frison, C. (Eds.). (2022). *Biocultural rights, indigenous peoples and local communities: Protecting culture and the environment*. Routledge.
- Jonas, H., Makagon, J. E., & Shrumm, H. (2013). *The living convention: A compendium of internationally recognised rights that support the integrity and resilience of indigenous peoples' and local communities' territories and other social-ecological systems* (2nd ed.). Natural Justice.

Jonas, H. D. (2020). *The living convention: Volume II. A methodology for counter-mapping and recentering international law* (3rd ed.). Natural Justice.

MacPherson, E., Ventura, J. T., & Ospina, F. C. (2020). Constitutional law, [ecosystems](#), and indigenous peoples in Colombia: Biocultural rights and legal subjects. *Transnational Environmental Law*, 9(3), 521–540.

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May, J. R., & Baber, W. F. (Eds.). (2023). *Environmental human rights in the Anthropocene: Concepts, contexts, and challenges*. Cambridge University Press.

Palmer, N. (2026). Biocultural rights in the biodiversity regime: Relationality and the [limits](#) of instrumentalism. *Law, Environment and Development Journal*, 22(1), 1–23.

Posey, D. A., & Dutfield, G. (1996). *Beyond intellectual property: Toward traditional resource rights for indigenous peoples and local communities*. International Development Research Centre.

Raymond, H. (2007). The ecologically noble savage debate. *Annual Review of Anthropology*, 36(1), 177–190.

Sajeva, G. (2018). *When rights embrace responsibilities: Biocultural rights and the conservation of the environment*. Oxford University Press.

Sajeva, G. (2021). Environmentally-conditioned human rights: A good idea? In D. Corrigan & M. Oksanen (Eds.). *Rights of nature: A re-examination* (pp. 85–101). Routledge.

Sajeva, G. (2025). *Rights for [ecosystem services](#): Local communities and the rights of nature*. Routledge.

Zanjani, L. V., Govan, H., Jonas, H. C., Karfakis, T., Mwamidi, D. M., Stewart, J., Walters, G., & Dominguez, P. (2023). Territories of life as key to global environmental sustainability. *Current Opinion in Environmental Sustainability*, 63, Article 101298.

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