



Effective Deoccupation: Towards Responsible Guardianship of Nature

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The doctrine of effective occupation was developed by colonial powers to justify their sovereignty over newly annexed territories and was measured by *animus occupandi*, the will to be sovereign; and *corpus occupandi*, the exercise of sovereignty, both specified by the colonizers themselves. While effective occupation over humans ended through the global decolonization movement, it remains the default for nature under the doctrines of Permanent Sovereignty over Natural Resources (PSNR) and the resourcist interpretation of Common Heritage of Mankind (CHM). Here I contend that nature still suffers the harms of colonialism through dispossession, exploitation, and domination. I propose a transition to effective deoccupation, measured by *animus deoccupandi* (the will to cultivate a well-informed, attentive and respectful relationship with nature), and *corpus deoccupandi* (the replacement of PSNR and CHM with Responsible Guardianship, with states as fiduciaries of planetary nature). I offer a preliminary sketch of what this would require, address objections, and conclude.

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In one of his *Ecopoems*, Nicanor Parra claims that “Our mistake was/ to believe that the earth belonged to us/ when the truth/ is that we belong to the earth.”¹ This article is an attempt to spell out what Parra’s insight should mean for a normative framework of territory—more specifically, for a normative framework of territory insofar as it concerns our relationship with nature. By nature, I mean the broad category of living beings, living and non-living entities, and relations between them that are not human and are not created by humans.²

In international law, the doctrine of effective occupation was developed by imperial and colonial powers to justify their sovereignty over newly annexed territories, especially territories that were considered as *terra nullius*, “empty” and ready for the taking.³ Effective occupation was traditionally measured by two criteria. First, the state had to show *animus occupandi*, that is, the right will to be sovereign over the territory. To this was added the *corpus occupandi*—the concrete exercise of sovereignty to mark presence in the territory: “This can only mean that the exercise or display must be genuine and not a mere paper claim dressed up as an act of sovereignty.”⁴ Moreover,

¹ Parra 2016, p. 36, my translation.

² After long deliberations on whether the “nonhuman natural world,” the “more-than-human natural world,” or the “other-than-human natural world” were better terms, I have opted for using “nature” to designate this broad category of beings and entities and their relations. Some might critique my choice, insofar as it seems to keep the dichotomy between humans on one side and everything else on the other. I therefore ask readers not to forget that we are an integral part of that natural order, while keeping in mind that, for better or worse, we are unique in setting rules that can affect that order positively or negatively.

³ Effective occupation designates a specific legal doctrine at a specific historical time (Brownlie 2008, pp. 133–38; Shaw 2017, p. 372). Yet, the exercise of effective control derived from it remains the guiding principle of state recognition. Effective occupation is not to be confused with the concept of “occupancy,” used by some contemporary theorists to refer to a moral right of individuals and/or collectives to reside permanently in a place, to not be removed from it, and to control it (within limits) without the interference of others. For an individual right of occupancy, see Stilz 2019, pp. 34–36; for a collective right of occupancy, see Moore, pp. 36–37.

⁴ Waldock 1948, p. 335.

this exercise had to be continuous and appropriate to the circumstances, where the appropriateness was decided by the colonizers themselves.

As many theorists of decolonization and post-colonialism have pointed out, at the basis of the doctrine of effective occupation lay an assumption about what sovereignty meant and required. In the Lockean theory of property, it was land labored in the British, agricultural way that counted as the paradigmatic case of land rightfully owned. Here, analogously, it was territory governed by institutions and legal systems akin to the European that counted as effectively occupied.⁵ This narrow definition of sovereignty allowed for the dispossession and loss of control of the native human inhabitants over the lands that the European colonized. For the defender of the British empire, John Westlake, this made all the sense in the world: "Because the native does not possess the concept of sovereignty, he cannot transfer it: a stream cannot rise higher than its source."⁶ As Martti Koskenniemi has critically commented on Westlake's claim: "Seldom has the adage about the connections between knowledge and power been more graphically illustrated: possession of land was a function of possessing a concept."⁷

The morally outrageous implications of effective occupation for the subjected human peoples were denounced with increasing force especially since the second half of the twentieth century. This gave way to a process of global decolonization that raised the number of states from around 90 in the 1950s to 195 today, and counting. The process gained formal acknowledgment through the Declaration on the Granting of Independence to Colonial Countries and Peoples, which stated that "the peoples of the world ardently desire the end of colonialism in all its manifestations."⁸ An important part of that process consisted, moreover, in the demand of these newly created states to have control over the natural resources within their territories. After all, it was mainly searching for resources that the colonizers had arrived in the first place. Now, it was control over those resources that had to be given up and given back.

As a result, today effective occupation is no longer acceptable when it comes to the government of human peoples, but it remains the default for nature. In fact, when it comes to the treatment of nature, there is no disagreement between ex imperial and colonial powers and recently independent, decolonized states: they all take for granted that whoever controls the territory should also own what's in it. Furthermore, whatever is beyond should either be *res nullius*, available for the first taker, or *res communis*,

⁵ Anghie 1999, pp. 50–51.

⁶ Westlake 1910, vol. 1, pp. 123–24.

⁷ Koskenniemi 2001, pp. 138–39.

⁸ United Nations General Assembly 1960.

shared among all states on some fair basis. Nature in its entirety is thus assumed to be there for us.⁹

This idea was enshrined domestically in the doctrine of Permanent Sovereignty over Natural Resources (hereinafter PSNR), which recognizes “the sovereign right of every State to dispose of its wealth and its natural resources.”¹⁰ Beyond national jurisdictions, meanwhile, the doctrine of Common Heritage of Mankind (CHM) was applied to the deep seabed beyond national Exclusive Economic Zones. This was an area to be held in common by all states, and from the exploitation of which all states should benefit.¹¹

In the 1960s and 1970s, PSNR was thought to be the main recipe to move states from poverty to wealth, while CHM was seen as a promise by developing states. The latter hoped that the eventual exploitation of these common areas would bring them additional financial revenues.¹² Increasingly, however, the troubling consequences of the effective occupation of nature are staring us in the face. Climate change and the biodiversity crisis leading the earth to its sixth massive extinction are two well-known examples in this regard.

In this article, I propose that our relationship with nature needs to undergo a similar process of decolonization towards effective deoccupation. Effective deoccupation may be measured by *animus deoccupandi*, the right will to cultivate a well-informed, attentive and respectful relationship with nature; and *corpus deoccupandi*, the actual implementation of effective deoccupation, through the replacement of both the doctrines of PSNR and of the resourcist version of CHM with one principle: Responsible Guardianship of Nature.¹³

⁹ This connection is noted by Andrew Fitzmaurice who, in his genealogy of the concept of occupation in international law, claims that “If occupation was the beginning of [Western] political societies, then that beginning was in possession. This foundation story of Western political thought posits a relationship between humans and the environment that is exploitative”: Fitzmaurice 2014, p. 332.

¹⁰ United Nations General Assembly 1962.

¹¹ Outer Space is also considered as CHM, but I leave it out of the current discussion to focus on our planet. Arguably, however, what I say here is applicable to our future relationships with extraterrestrial “nature.”

¹² On the effects of PSNR for national economies, see Schrijver 1997. On the deep seabed as the locus of imaginaries of economic growth especially for developing countries, see Ranganathan 2021, p. 171.

¹³ Note that, while the original instantiation of the doctrine of CHM was geared towards use and exploitation, currently there are some instances of it (e.g. UNESCO World Heritage Sites) that are not resourcist, but preservationist, and thus in the spirit of Responsible Guardianship. In what follows, my critique against CHM thus points to its resourcist, not preservationist interpretation.

The normative (and, arguably, ontological) transition from effective occupation to effective deoccupation of nature is not only something that we must do, but also something that we should do.¹⁴ We must engage in it, I claim, if we have self-interested reasons in keeping the earth inhabitable for present and future human animals. Insofar as this is the case, from a purely pragmatic point of view, a change in our relationship with nature and our treatment of it is in order. I do not take this to be a particularly controversial claim. But, more importantly, we should engage in this transition. The more we learn about our place on earth among others, the more obvious it is that an ethics and, by extension, a political and legal framework that do not take those others into account on their own right is inadequate and wanting. To some, this proposal might smack of an illicit derivation of an *ought* from an *is*, but my response is that normativity must be empirically informed. Moral and legal norms should be suited to the kinds of entities that human animals are, but also to the other kinds of entities that there are, and to the relationships we establish with them. This requires acknowledging the position in which we stand vis-à-vis others, and reflecting on how our similarities and differences should be accounted for from a normative perspective.¹⁵ Ethologists have shown the sophistication of animal cultures and the growing speed at which we are destroying them, and have reminded us that there is no qualitative chasm between *Homo sapiens* and other species. Understanding ourselves in a horizontal rather than hierarchical relation to them is thus more appropriate. Environmental philosophers have suggested how to revise our ontological and normative frameworks according to that picture. And environmental political theorists have underlined that we require new institutions responsive to the interests of nonhuman others.¹⁶ This article draws from those insights to suggest what a “new deal with nature” should mean for a normative framework of territorial governance.¹⁷

¹⁴ Although my focus in this article is on the need for a normative transformation, much of what I say implies the need for a parallel change in ontology.

¹⁵ One question that will have to be dealt with and that I have no space to answer here is how conflicts of interest will be resolved between humans and nature. However, I don't see this as a major problem for the proposal. Even if the resolution of these conflicts will not always be easy, the mere recognition that nature has interests will presumably lead to more satisfactory outcomes than a scenario where it is merely taken as a passive object.

¹⁶ On critical ethology, see for example Safina 2015; Balcombe 2016, and de Waal 2016. For a sample in environmental philosophy, see Næss 1989; Plumwood 1993; Rolston III 2012; Callicott 2013; Routley 2013; Jamieson 2014. For a sample in environmental political theory, see Goodin 1996; Eckersley 2011; Dryzek and Pickering 2019, pp. 71–73 and Tschakert *et al.* 2020.

¹⁷ Notice that a new deal *with* nature is different from a new deal *for* nature, as proposed by the UN Environment Programme, where nature is framed above all as an instrument for human well-being.

There are two clarifications before proceeding. First, some may wonder why I take effective occupation to be the main target of my criticism and not simply the doctrines of PSNR and the resourcist instantiation of CHM. My answer is that these doctrines would not be possible without having effective occupation as a premise. Effective occupation is central to an ontology that divides the world between *us* and *them*, where *we* stand in a position of privilege and superiority. Under the paradigm of effective occupation the whole world, in short, is up for grabs by us.¹⁸

Second, if effective occupation is the overarching normative framework under which humans relate to nature, property rights seem to be its executive tool. Yet, I leave property rights out of this discussion for two main reasons. One is that arguing against property rights over nature deserves a treatment of its own. This would require categorizing the different incidents comprising these rights, the different kinds of natural entities to which they apply, the advantages and disadvantages that alternative systems may have, and principled arguments either defending or rejecting them. Another reason is that my concern is with the general territorial framework that we impose on the world, and only secondarily with the specific rules through which we enact it. In the transition towards effective deoccupation, the question whether it makes sense to relate to nature in terms of property rights will surely be central. Here, however, I cannot do more than hint towards what I think would be my answer; namely, that in many cases these rights would have to be so watered down (e.g. limited to responsible access and usufruct) that it would not be worth calling them “property rights” anymore. I am aware that this is a controversial claim and that much more needs to be said to defend it. That said, I hope that the readers will be patient enough to focus on the main gist of the argument, understanding that much more needs to be said on the pathway towards actual implementation.

The plan is as follows. To justify the claim that nature, just like human peoples, needs to be decolonized, I look at three theories of colonialism and its wrongs over humans, and show that analogous arguments can be made regarding its ongoing wrongs over nature. In this, I do not intend to be original: the idea that nature needs to be decolonized is a big topic in many fields beyond political philosophy.¹⁹ I then develop

¹⁸ Some may also wonder here whether the problem is not effective occupation, but capitalism. My short answer is that capitalism is one possible political economy premised upon effective occupation, but not the only one. Seeing nature almost exclusively in instrumental terms has also been a feature of socialism, capitalism’s main contender. For an example, see Jones 2022.

¹⁹ A multidisciplinary collection can be found in Adams and Mulligan 2003. For a systematic philosophical account of the relationship between colonialism and nature, see Plumwood 1993 and 2003.

what effective deoccupation of nature would require, both in terms of intention (the *animus deoccupandi*) and action (the *corpus deoccupandi*). I then address three objections and offer some final remarks.

I. COLONIALISM'S WRONGS TOWARDS NATURE

Finding what's wrong with colonialism has become a popular undertaking among political philosophers.²⁰ In what follows, I mention three such wrongs and suggest that, while they have been applied exclusively in connection to humans, they could be analogously applied in connection to nature. For this to work, however, readers need to be ready to grant that there are other beings (and maybe also natural entities), apart from humans, who have independent lives that are worth living and interests worth pursuing, such that it would be wrong to harm them without justification.²¹

Writing about settler colonialism, Margaret Moore singles out the taking of land as its distinctive wrong-making feature.²² For Moore, the peoples that were subjected by the colonizers had morally relevant connections to place that were disrupted in the process. Dispossession happened with or without being physically displaced. What was removed and eventually erased was a way of relating to others, and of organizing those relationships such that they gave shape to their life plans and projects.²³ A second problematic feature of colonialism, mentioned by Daniel Butt, is exploitation, with slave trade as the paradigm example.²⁴ Lea Ypi highlights domination instead as the wrong-making feature of the colonial enterprise. Colonialism embodies for Ypi "an objectionable form of political relation."²⁵ This is so because not all members are treated in equal and reciprocal terms, and not all members have power to influence the decisions that affect them.

Historically, underlying these processes of dispossession, exploitation, and domination was a narrow anthropocentrism associated with a narrow conception of rationality. At the height of colonialism, this narrow anthropocentrism excluded what were thought of as the less ideal or more "primitive" forms of the human, especially

²⁰ I hereinafter assume that the reader will agree that there is something morally wrong with colonialism.

²¹ For the idea that nature has interests, see for example Goodin 1996.

²² Moore 2016, p. 455.

²³ Ibid.

²⁴ Butt 2013, p. 892.

²⁵ Ypi 2013, p. 190.

people considered to be in their “earlier stages of development.”²⁶ Today, our territorial frameworks include all humans, but the dispossession, exploitation, and domination of nature are still the rule.

Dispossession is about losing one’s home or place, and habitat destruction is the first in the list of ruinous activities for wildlife mentioned by conservation scientists.²⁷ As Edward O. Wilson remarks, “every expansion of human activity reduces the population size of more and more species, raising their vulnerability and the rate of extinction accordingly.”²⁸ There is ongoing pressure to convert tropical rain forests to pasture and arable land for soybean and corn production (like in the Amazon) and palm oil production (like in Malaysia, Indonesia, and sub-Saharan Africa). Millions of hectares of wild habitats have been lost to urbanization and roads. The mining and energy industries are responsible for the pollution of air and waterways, and the acidification of the oceans due to global warming is putting ecosystems like mangroves and coral reefs under pressure. Even Protected Areas that are supposed to serve biodiversity conservation are facing habitat loss and fragmentation.²⁹

That humans are overexploiting nature is probably the least contentious of these three claims. Of the nine “planetary boundaries” (that is, global biophysical systems and processes that ensure that the earth stays within Holocene conditions), six have been transgressed already.³⁰ Meanwhile, the “Earth Overshoot Day” (measured by dividing the amount of ecological resources that the planet is able to generate in a year by humanity’s demand for those resources), arrives earlier every year—as early as the 24th of July in 2025.³¹

But, what about domination? Isn’t it a stretch to claim that we are politically relating to nature in an objectionable way, not treating it in equal and reciprocal terms? I think this point can be made so long as we are willing to question the narrow anthropocentrism mentioned before, but also a more sophisticated version of it—what Frans de Waal has dubbed as a “neo-creationist” stance towards the world. Neo-creationism, according

²⁶ Plumwood 2003, p. 52.

²⁷ Wilson 2016, p. 57.

²⁸ Ibid, p. 54.

²⁹ Scanes 2018; Li et al. 2024; Liao et al. 2025.

³⁰ The planetary boundaries are climate change, introduction of novel entities, biogeochemical flows, freshwater change, land system change, change in biosphere integrity, stratospheric ozone depletion, atmospheric aerosol loading, and ocean acidification. The first six have already been transgressed (Rockström et al. 2024, p. 776).

³¹ Available at <https://overshoot.footprintnetwork.org/>, accessed 21st July 2025.

to de Waal, is a half-hearted evolutionism that accepts that “we descend from apes in body, but not in mind. Without saying so explicitly, neo-creationists assume that evolution stopped at the human head” and that our minds are unique and exceptional.³² From this privileged position, the rest of the world is hierarchically ordered as if its only value derived from being at our service. If de Waal is right, the claim that our current territorial framework relates to nature in terms of domination does not seem so far-fetched anymore. Nature is the background against which we create and establish our legal and political systems, not a member to be considered in the deliberating process and not a beneficiary in its own right.³³ However, if we are willing to accept that natural beings and entities have lives worth-living that are seriously affected by our laws and policies, then the question of how to represent them in our political institutions in fair terms becomes relevant.³⁴

II. TOWARDS EFFECTIVE DEOCCUPATION

Effective occupation over nature sanctions a territorial framework where the burden of proof falls not on those who wish to dispossess nature, but on those who wish to set limits to human expansion; not on those who wish to exploit nature, but on those who wish to protect it; not on those who wish to keep our political and legal systems focused on humans only, but on those who wish to include others. The transition to effective deoccupation thus requires shifting the burden of proof in all these cases. Just like effective occupation has a cognitive-volitional and a factual component, so should effective deoccupation be reflected both in terms of how we think of ourselves in relation to nature and intend to act towards it, and of how we express this concretely in our norms and institutions.

I understand effective deoccupation both in a literal and a metaphorical sense. In the literal sense, a territorial framework informed by effective deoccupation should block what Richard Routley (later “Sylvan”) dubbed as “policies of complete interference” or “total use.”³⁵ In other words, a premise of effective deoccupation is that there should be spaces left beyond human intervention. I thus reject the claim of some theorists

³² De Waal 2016, 122.

³³ An obvious objection here is that nature cannot participate in the decision-making process, to which my reply is that there are also many humans in that situation, but we are nonetheless willing to take them into consideration and to respect their interests.

³⁴ For an early proposal along these lines, see Goodin 1996.

³⁵ Routley 2013, p. 42.

who think of the whole planet as our domesticated garden.³⁶ On the contrary, while acknowledging the impact we have had so far in nature, I think it is also important to acknowledge that there are many spaces where human animals have only trodden lightly, if at all (just think of the oceans, the deep seabed, and Antarctica). A case should be made for keeping these places as they are, and to work towards the deoccupation of others that have been or are being unnecessarily occupied (for example, uninhabited islands in the polar regions that require large amounts of energy and resources to sustain human habitation).³⁷ To be clear, I am not implying that human animals ought to be removed from all natural spaces. Precisely because we are animals, we cannot but inhabit the earth and use it to satisfy our needs (I say more about this point in the next section).

In the metaphorical sense, effective deoccupation switches the default position that considers “everything out there” to be at human disposal to one that considers everything and everyone to be connected in such a way that decisions must be made considering their different interests. Here is where the *animus deoccupandi* comes in, as the right will to cultivate a well-informed, attentive and respectful relationship with nature. This *animus* should be reflected in language and dispositions. Rather than serving as a general tag to designate nature, “natural resources” (just like “human resources”) should become a specific way of describing some parts of nature in the specific context of responsible usufruct, and should be treated as assets.³⁸ Conservation should stop being labelled as a *burden* or *cost*³⁹; *animals* should stop being contrasted with *humans*; *humans* should be reminded as much as possible that we are *animals*; and *res nullius* should mean “things belonging to no one now and in the future” rather than, as in its standard interpretation since Roman times, “things belonging to no one until someone grabs them.” In terms of the cultivation of certain dispositions, I support the proposal of environmental philosophers who have suggested that virtues like temperance and humility are especially important for this purpose.⁴⁰ We should constantly ensure that we are under no delusions of grandeur regarding our place on earth. We should behave with more humility towards the richness and diversity of a

³⁶ Kareiva, Lalasz and Marvier 2011.

³⁷ For similar proposals, see Kopnina 2016, Wilson 2016, and Dinerstein *et al.* 2020.

³⁸ Dasgupta 2024, 17 ff.

³⁹ Cf. Naidoo, Robin and Ricketts 2006 and Armstrong 2019. I am not denying that making the decision to protect a place instead of exploiting it means forgoing certain economic gains. The social and environmental benefits of conservation, however, are rarely underlined, even though they might turn out to be more important in the long run.

⁴⁰ Jamieson 2014.

world that we have just barely begun to understand.⁴¹ We should educate our children to cultivate curiosity and awe towards other forms of life.⁴² And we should ensure that these daily prescriptions are reflected at the institutional level. This leads to the *corpus deoccupandi*, that is, the replacement of the doctrines of PSNR and the resourcist version of CHM with Responsible Guardianship of Nature.⁴³

III. RESPONSIBLE GUARDIANSHIP OF NATURE

In one very plausible interpretation of international law, states are seen as fiduciaries of humanity, with duties to protect not only the rights of their citizens but also of those humans beyond their borders.⁴⁴ Along these lines, Responsible Guardianship of Nature should be seen as an extension of this fiduciary role of states, so that planetary nature—that is, nature within and beyond states’ jurisdictions—also becomes a potential subject whose interests should be considered.⁴⁵ This requires two main changes to the way in which we currently understand the rights and duties of states regarding nature.

In terms of *content*, under PSNR states have a right to exploit and use up nature, correlated with the duty of other states not to interfere. Under Responsible Guardianship, instead, states have a fiduciary duty towards nature, correlated with the rights of other

⁴¹ Wilson 2016.

⁴² McCord 2012.

⁴³ Here some may reminisce John Passmore’s seminal *Man’s Responsibility for Nature* and wonder how the concept of guardianship discussed here compares to the concept of stewardship discussed there. According to Passmore, stewardship of nature in the Western tradition has been interpreted in two ways. The steward is either seen as “a farm-manager, God’s deputy for the care of the world” or “as cooperating with nature in an attempt to perfect it” (Passmore 1974, p. 28). I acknowledge that Passmore was a forerunner in criticizing the overexploitation of nature and the need to rethink and reframe some of our basic moral principles in light of that. My main difference with his position, however, is that he still sees nature as apart from humans: something that we are uniquely capable of transforming into a “civilized state,” and something that we have a responsibility to thus transform—a responsibility that is owed exclusively to our “fellow-men” (Ibid, p. 178). For Passmore, nature is still object—however much we might want to preserve it for aesthetic, recreational, and spiritual reasons.

⁴⁴ Criddle and Fox-Decent 2016.

⁴⁵ Is not guardianship anthropocentric too? I would say that it is not anthropocentric, but *anthroponomic* (I thank Avery Kolers for suggesting this term). Humans seem to be the only beings capable of creating norms and enforcing them, affecting reality accordingly, but this does not mean that those norms should only consider humans as subjects. There is also a meta-aspect to this: insofar as we don’t know how to give nature an input in the content of the norms, norms are inevitably anthroponomic in this sense too.

states to have nature protected.⁴⁶ In terms of *scope*, under PSNR states' rights and duties regarding nature hold mostly at the domestic level, while under Responsible Guardianship they hold at the planetary level. In other words, states have a fiduciary duty towards nature *everywhere*, and a right to have nature protected *everywhere*—which is why under Responsible Guardianship the preservationist interpretation of CHM becomes redundant. The point about scope bears emphasizing: if fiduciary duties toward nature held only within the jurisdiction of individual states, states could continue to harm nature beyond national jurisdictions. This could happen, for example, by emitting unsustainable amounts of greenhouse gases to the atmosphere or polluting the oceans. Moreover, this limitation to the domestic level could lead to states imposing harms on nature in other jurisdictions in order to protect their own; for example, by preserving their own forests while importing timber and pulpwood from some other state that suffers from deforestation as a result.⁴⁷

Normative theories of territory (that is, theories that seek to morally justify the territorial rights of specific agents over specific areas) already acknowledge that PSNR as it stands should be limited. This is especially emphasized when its unfettered exercise becomes harmful to humans beyond individual states' jurisdictions.⁴⁸ Some of these theories also recognize that treating everything that is natural and nonhuman as a resource is too simplistic and does not do justice to the complex relationships that we establish with nonhuman beings, entities and places.⁴⁹ Among cosmopolitans,

⁴⁶ I do not deny that part of PSNR is about duties to protect nature, while part of Responsible Guardianship must inevitably concern the use of nature for human ends. The difference between them regards what is considered as the default from which departures must be justified.

⁴⁷ Invoking fiduciary relationships toward one's "own people" as an excuse to harm others is not an uncommon strategy among countries. For two extreme versions, see Donald Trump's "America First" policy, and "vaccine nationalism" during the COVID-19 pandemic (Goodin 2025, 707–708). My claim here is that the same danger applies to an understanding of fiduciary duties to nature as being domestic rather than global.

⁴⁸ On the need for states to share access to certain resources that might be of critical importance to others beyond their borders, see Moore 2015, pp. 183–84. On the need for states to protect Global Systemic Resources or Global Commons upon which all humans depend, see Stilz 2019, pp. 220–21, Stilz 2025, and Nine 2022, pp. 259–81.

⁴⁹ On the symbolic value of nature and place, see Miller 2012; on the right of people to decide what should count as a "natural resource" or not, see Kolers 2012, p. 279; on the relational value of land to collectives, see Moore 2015, p. 185. A theory that clearly hints in the direction that I am proposing here and that suggests the need to take into account natural places as more than mere objects in a territorial framework is Paulina Ochoa Espejo's "watershed model" (Ochoa Espejo 2020).

meanwhile, PSNR is considered a blunt legal tool in need of reform and detrimental to global justice.⁵⁰

What I wish to do here is to encourage those who already recognize that PSNR is a doctrine with problematic effects for humans to recognize that PSNR is also a doctrine with problematic effects for nature. PSNR, and the resourcist version of CHM, are not just inadequate because they lend themselves to being abused by some humans to the detriment of others, but because they start off from the wrong question. A territorial framework exercised through Responsible Guardianship sees territorial duties, rather than territorial rights, as its starting point. Instead of asking “*Who has rights here?*” (where *who* refers to humans and *here* refers to discrete geographic units and nature within them), it asks “*How should we govern ourselves here?*” (where *we* includes more than just humans, and where *here* refers to the whole planet). Responsible Guardianship recognizes that, even though humans may be the only normative agents, we are not the sole subjects of normativity. Moreover, it recognizes that the unit of analysis once nature is brought into our territorial frameworks cannot be purely domestic anymore. Global inter-relations become as relevant as local ones.

A systematic account of Responsible Guardianship will require parsing the different kinds of natural beings, entities and the relationships between them and between them and us, and a discussion of what that should mean in normative terms. I cannot provide that here, but I mention four issues that should be considered.

First, it is worth insisting that Responsible Guardianship should be the rule not just within states’ jurisdictions, but also beyond them, uniting the planet under one general framework. To be clear, this does not mean imposing the same rules to everyone everywhere but adapting the same principles (based on the will to be well-informed, attentive and respectful of nature) to different contexts and to different beings and entities. Thus, Responsible Guardianship will require different things from urban and rural communities and will be exercised differently depending on whether we are talking about fossil fuels or cetaceans, just to give two examples. In the case of oil and gas, it might require reconceptualizing them as resources to be responsibly extracted and used under a regime of joint guardianship globally, rather than—as it is currently the case—as resources owned by individual states and to be exploited at their will. In the case of whales and dolphins, instead, Responsible Guardianship might require giving them independent representation in those fora where decisions are made that relevantly affect their lives.⁵¹

⁵⁰ Beitz 1975, Steiner 2005, Armstrong 2015, Mancilla 2015.

⁵¹ For a proposal in this direction, see Armstrong 2022, pp. 137–157 and Armstrong 2025.

Second, Responsible Guardianship should incorporate other entities apart from states among the decision-makers.⁵² Again, how to do this should be sensitive to context. For example, local communities, NGOs, scientific bodies, and international agencies and institutions might all be appropriate participants in the governance of complex spaces like ecoregions, where diverse territorial interests overlap and potentially collide.⁵³ On the contrary, much simpler models might be enough for instilling *animus deoccupandi* as part of elementary and secondary education, or for deciding how to regulate waste disposal at the local level.

Third, to tackle the problem of domination, Responsible Guardianship will require the creation of altogether new institutions to represent nature, above and below the state level. This will take a considerable amount of political imagination and will. That said, while still far from entering mainstream debates, there are a number of proposals suggesting how nonhuman animals and entities may be politically represented in domestic and international fora, with some of them spelling out the implications for territorial governance.⁵⁴ Moreover, a global movement advocating for the recognition of the rights of nature is spreading around the world.⁵⁵ Although not always successful,

⁵² There is a growing number of national and international institutions that allow the participation of non-state groups, but none of them go as far as giving these groups decision-making power. Two examples are the Arctic Council, which allows Indigenous groups as permanent participants, and the Antarctic Treaty, which includes certain scientific organizations as observers during the annual meetings.

⁵³ Mancilla 2023.

⁵⁴ Two pioneering texts are *Enfranchising the Earth, and its Alternatives*, which asks about the best ways to secure the political representation of nature's interests, and *Zoopolis*, which proposes how different kinds of animals should be included in our political institutions (see, respectively, Goodin 1996 and Kymlicka and Donaldson 2011). On how to realize interspecies justice through their representation in political institutions, see Pepper 2016, Donoso 2017, Cochrane 2018, Hooley 2022, and Liebeaux 2024. On how animals should be treated as subjects with relevant interests in Common Heritage areas, see Armstrong 2025.

⁵⁵ Well-known examples are Ecuador's Constitution (Constitución de la República del Ecuador 2008) and the Te Urewera and Te Awa Tupua Acts in New Zealand, giving rights to the Whanganui River and to the ex national park Te Urewera (see, respectively, The Parliament of New Zealand 2014 and 2017). There are many other initiatives actively seeking to give legal status to various natural entities, from ocean waves (protected by the Brazilian municipality of Linhares), to lakes (see the Lake Vättern Bill of Rights in Sweden) to whole ecosystems (see Antarctic Rights). Available at, respectively, <https://ecojurisprudence.org/initiatives/municipality-of-linhares-brazil-law-on-the-rights-of-the-waves/>, <https://naturens-rattigheter.se/vattern/>, and <https://antarcticrights.org/>, all accessed 18th July 2025. For an overview of rights of nature initiatives around the world, see Boyd 2017.

these civil society initiatives point to a growing dissatisfaction with the current paradigm and to the need to look for alternatives.

Fourth, Responsible Guardianship must prevent, insofar as humanly possible, nature's dispossession and exploitation. At the same time, it must be sensitive to the fact that, to live, humans need to use and consume resources. As Dale Jamieson puts it, "these are the early days for those who are sensitive to the interests of nature and animals. We are in the midst of a transition from a culture that sees nature as material for exploitation, to one which asserts the importance of living in harmony with nature. It will take a long time to understand exactly what are the terms of the debate."⁵⁶ Acknowledging that we do not yet fully understand the terms of the debate, however, should not prevent us from beginning the inquiry and to at least stop persisting in the commission of the most grievous wrongs, derived from the current overuse and abuse of nature. Among the topics for urgent consideration should be those human activities that are driving the dispossession and exploitation of nature, some of which I have already mentioned: industrial animal farming and the patterns of agricultural expansion driven by it (with corn and soy monocultures); overfishing; excessive infrastructure development and urbanization; consumerism and waste disposal, energy consumption ("green" or not), and human reproduction habits and policies.

IV. THREE OBJECTIONS

At this point, it is necessary to respond to three objections: that the ends of Responsible Guardianship could be achieved within the existing frameworks of PSNR and CHM; that, even if the goals of Responsible Guardianship were laudable, they are unfeasible; and that Responsible Guardianship risks reviving colonialism in an environmentally friendly guise.

First, one could say that the change I propose is more cosmetic than substantial and is possible to achieve within the territorial frameworks that we already have. Sovereignty is not understood à la Bodin or à la Hobbes anymore, as nearly absolute dominion, and states since their inception have seen the rights associated with sovereign power shrinking while their responsibilities expand. Their rights over nature, more specifically, have been increasingly regulated and limited. Beyond individual national jurisdictions, furthermore, the tendency has been to emphasize the duty of states to act as guardians of key natural resources for present and future generations rather than as exploiters.

⁵⁶ Jamieson 1998, p. 54.

My response to this is that, even if we “unbundle” the different incidents comprising sovereignty and set stringent limits to it when it comes to nature, the core assumption will not be challenged; namely, that nature in its entirety is there for humans to occupy. While it is true that, under the current paradigm, some entities within nature are protected (from individual animals to species to ecosystems), their status as objects for our use remains unaltered, and they are therefore not treated as potential territorial subjects. On the one hand, if one limits PSNR so much that it ends up amounting primarily to a power of administering the territory in a spirit of responsible guardianship, it is not clear why one needs the language of sovereignty or natural resources anymore. On the other hand, retaining the language of sovereignty and natural resources encourages the ongoing dispossession, exploitation and domination that need to change.

When it comes to CHM, a similar point can be made. Even if there is nothing in the concept of CHM that prevents it from being understood as a doctrine geared at the protection of nature rather than at its exploitation, its genesis and history are tied to the ontology of effective occupation. Under the resourcist version of CHM, nature is mostly seen as a tool for human socioeconomic equality, with environmental considerations too often left aside.⁵⁷ Furthermore, CHM reinforces a worldview where nature may be treated very differently depending on whether it lies within or beyond individual states’ jurisdictions. Instead, Responsible Guardianship unifies our approach to nature, such that the duties and rights of states towards nature are global as much as local in scope.

A second objection is that this proposal is a non-starter, for why would states voluntarily give up their current rights, both within their jurisdictions and beyond them? My answer is that this objection rests upon a particular understanding of states and their role. If one follows a “realist” approach, whereby states are self-interested agents fighting for survival in an anarchic international arena, there is obviously not much to be said for a transition to effective deoccupation. The questionable normative assumptions of this approach, however, have been clearly exposed.⁵⁸ Instead, as mentioned above, my view is that states should be at the service of individuals who have the power, together, to direct their decisions and shape the kind of political organization they are willing to have. States, as mentioned already, should be seen as serving the role of fiduciaries of humankind.⁵⁹ From this perspective, one can think of civil societies themselves demanding that their states make the changes I am advocating for, and for state agents to propel this needed transition. In fact, there are global initiatives

⁵⁷ See Joyner 1998, 32–34, and Ranganathan 2016 and 2021.

⁵⁸ See Pavel 2021, pp. 64–67.

⁵⁹ Criddle and Fox-Decent 2016. See also Benvenisti 2013.

underway that suggest that the motivation for the transition to effective deoccupation already exists.⁶⁰

Yet, some might worry that, even though this is how states and the civil societies within them should be conceived, this is not how they actually work. It would be *unfeasible* to expect that Responsible Guardianship will be established any time soon. It has been pointed out, however, that infeasibility is too often used as an excuse to keep the *status quo*, even when it is damaging and even when it would not be too costly to change things.⁶¹ Furthermore, this is a worry only if one thinks that Responsible Guardianship is an all-or-nothing affair, rather than a goal towards which we should aim gradually. The transition from effective occupation to effective deoccupation should be the transition from territorial rights to territorial duties as the primary consideration when negotiating our place in nature. I have suggested in the previous section that there are many different fronts from where we can start changing our relationship with nature, and that there are some which are more urgent than others. Beginning there would already be a step in the right direction.

A third worry is that the move to Responsible Guardianship could constitute a new colonial wave over peoples who have been historically marginalized, this time telling them what to do and not to do with their land and resources. As some have argued, colonialism did not just allow for the treatment of the natural world as a mere means for the colonizers ends. It also supported a view that romanticized “wilderness” as being something that should exist apart from humans, even when humans had been living in that “wilderness” for centuries.⁶² At the extreme, this view was implemented as “fortress conservation,” an approach which “in its ideal form sought to enclose a piece of wild terrain and prevent human disturbance therein”—often at the cost of removing any human inhabitants from those plots.⁶³

⁶⁰ Among them, 30x30 is especially worth mentioning, with states pledging to protect 30 per-cent of their terrestrial and marine natural areas by 2030 (available at <https://www.nature.org/en-us/what-we-do/our-priorities/protect-water-and-land/land-and-water-stories/committing-to-30x30/>, accessed 18th July 2025). Rewilding programs on land and the creation of Marine Protected Areas also hint in this direction. On the first point, see <https://rewildingeurope.com/news/new-eu-funding-to-support-living-with-bears-in-europe/>. On the second point, see <https://www.ccamlr.org/en/science/marine-protected-areas-mpas>, both accessed 18th July 2025.

⁶¹ Sandven, forthcoming.

⁶² Adams and Mulligan 2003, p. 10.

⁶³ Büscher and Fletcher 2020, p. 14.

My response to this is that, on the contrary, the language of effective deoccupation, based on a well-informed, attentive and respectful relation to nature, is much more aligned with Indigenous worldviews and Indigenous laws that encourage a relational approach to nature.⁶⁴ Instead of seeing Responsible Guardianship as a new colonizing tool, then, I see it as an opportunity to finally take into account insights that have so far been ignored, and to give their advocates not just observer rights, but decision-making rights in the relevant territorial arrangements.⁶⁵

V. CONCLUDING REMARKS

The world where effective deoccupation is realized will be very different from the one we inhabit. It will be a world where human animals explicitly recognize that we are not the only territorial entities on earth, and explore ways in which to coexist with others, respecting their own existence and not reducing them to mere (potential) instruments that are there exclusively for our sake. It will be a world where our language to refer to the natural world will have changed, and where new institutions will be created to account for new challenges, from the representation of non-human interests in our territorial systems, to the remapping of territories following borders that are sensitive to the complex relationships that are established between human animals and nature.

In concluding, it is important to understand that I do not mean to idealize an effectively deoccupied world. As with any framework, there will be trouble, from the long road to change our attitudes, language and dispositions, to the challenges of implementing Responsible Guardianship in different contexts and in relation to different beings and entities. That there will be trouble, however, should not deter us from pursuing the idea. I hope to have made clear through these pages why the alternative is untenable.

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⁶⁴ See, respectively, Kimmerer 2020 and Borrows 2019.

⁶⁵ Two examples would be to give full membership to Indigenous groups in the Arctic Council, and to make Indigenous groups who have traditionally inhabited certain ecoregions not just observers, but members with full rights in the decisions that concern the latter.

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COMPETING INTERESTS

I am a member of the working group of Antarctic Rights, which is on a voluntary basis.

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