

Ius Commune Conference 2023

Workshop: Rights of Nature around the World II

Friday, 12 May (14.00 – 17.00)

Room 10, 11, 12

Participants

Introduction

In 2012, the International Union for Conservation of Nature adopted a resolution specifically calling for a Universal Declaration of the Rights of Nature (reaffirmed in 2016). The IUCN's subgroup of legal experts, the World Commission on Environmental Law, later issued an 'IUCN World Declaration on the Environmental Rule of Law' recognizing that 'Nature has the inherent right to exist, thrive, and evolve'.¹

In 2017, a draft EU Directive for Rights of Nature was published.² No progress has been made thereon.

In 2021, an EU Report on Rights of Nature was published: Towards an EU Charter of the Fundamental Rights of Nature. This study aims to set a framework for the legal recognition of the Rights of Nature in the EU legal order, as a prerequisite for a different and improved relationship between human beings and Nature.³



A second study, entitled 'Can nature get it right? A Study on Rights of Nature in the European Context' was published in 2021.⁴ This study takes a different approach and calls for better enforcement strategies of existing environmental laws.

In 2022, the EU Commission proposed a 'Nature Restoration Law'.⁵

The Decision 14/34 of the Conference of Parties of the Convention on Biological Diversity of 17 August 2020 on the 'Update of the zero draft of the post-2020 global biodiversity framework', reference to Rights of Nature was made under G(m): 'Consider and recognize, where appropriate, the rights of nature'.⁶ The 'Kunming-Montreal Global Biodiversity Framework' (GBF), agreed upon in the Conference of Parties of the

¹ <https://web.archive.org/web/20200411234146/https://portals.iucn.org/library/sites/library/files/resrecfiles/WCC_2012_RES_100_EN.pdf> and <<https://portals.iucn.org/library/node/44067>>.

² <https://ecojurisprudence.org/wp-content/uploads/2022/02/International_Draft-Directive-ECI-for-Rights-of-Nature_264.pdf>

³ <www.eesc.europa.eu/en/our-work/publications-other-work/publications/towards-eu-charter-fundamental-rights-nature>.

⁴ <www.europarl.europa.eu/supporting-analyses>.

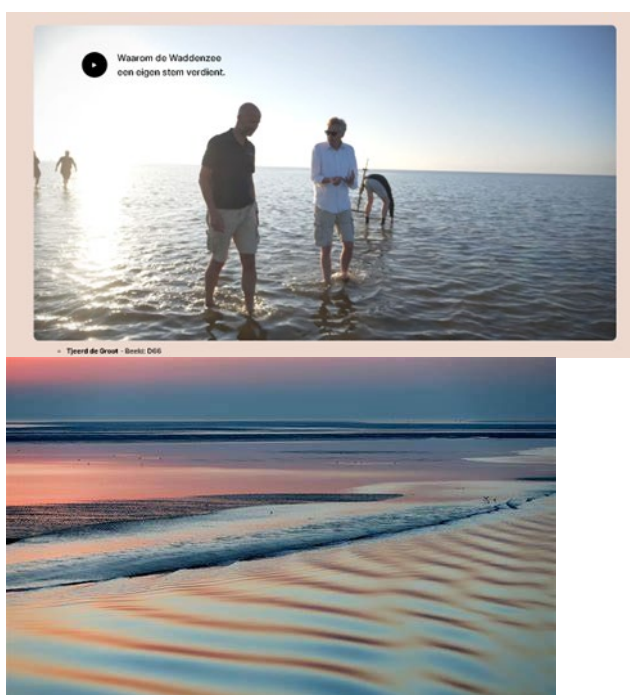
⁵ <https://environment.ec.europa.eu/topics/nature-and-biodiversity/nature-restoration-law_en>

⁶ <<https://www.cbd.int/doc/c/3064/749a/0f65ac7f9def86707f4eaefa/post2020-prep-02-01-en.pdf>>.

Convention on Biological Diversity of 22 December 2022 includes four goals and 23 targets. In Targets 16 and 19 (f) reference is made to 'Mother Earth' and Rights of Nature.⁷ In March 2023, the Dutch Political 'Party for the Animals' (*Partij voor de Dieren*) announced to start an initiative to include Rights for Nature in the Dutch Constitution.⁸



In March 2023, the Dutch Political 'Democrats66' (*D66*) announced to start a legislative initiative to grant Rights of Nature to the Dutch part of the Wadden Sea.⁹



What are Rights of Nature?

Rights of Nature, Eco-jurisprudence or Earth Rights refers to a legal and jurisprudential theory that describes inherent rights as associated with ecosystems and species, similar to the concept of fundamental human rights.¹⁰ The Rights of Nature concept challenges current law systems as they generally see nature as 'resource' to be owned, used, and degraded. Also, environmental laws mostly consider nature to be composed of separate and independent parts, rather than components of a larger whole. A more significant criticism is that those laws tend to just partially mitigate economics-driven degradation, rather than placing nature's right to thrive as their primary goal.

Proponents argue Rights of Nature laws and jurisprudence direct humanity to act appropriately and in a way consistent with modern, system-based science, which demonstrates that humans and the natural world are fundamentally interconnected. This school of thought is underpinned by two basic lines of reasoning. First, since the recognition of human rights is based in part on the philosophical belief that those rights emanate from humanity's own existence, logically, so too do inherent rights of the natural world arise from the natural world's own existence. All elements of the community of life

⁷ <CBD/COP/15/L25. (<[https://prod.drupal.www.infra.cbd.int/sites/default/files/2022-12/221222-CBD-Press Release-COP15-Final.pdf?_gl=1*c2vxpt*_ga*ODgwNjYxNTM1LjE2NzUxMTUzMTM.*_ga_751TPRE7F5*MTY4MTY1OTQxNy4xLjEuMTY4MTY1OTQyOC4wLjAuMA](https://prod.drupal.www.infra.cbd.int/sites/default/files/2022-12/221222-CBD-Press%20Release-COP15-Final.pdf?_gl=1*c2vxpt*_ga*ODgwNjYxNTM1LjE2NzUxMTUzMTM.*_ga_751TPRE7F5*MTY4MTY1OTQxNy4xLjEuMTY4MTY1OTQyOC4wLjAuMA)>).

⁸ <www.partijvoordedieren.nl/nieuws/partij-voor-de-dieren-start-initiatief-grondrechten-voor-de-natuur>.

⁹ <<https://d66.nl/nieuws/geef-de-waddenzee-een-stem/>>.

¹⁰ <https://en.wikipedia.org/wiki/Rights_of_nature>.

have the right to live, flourish and thrive on the Earth.¹¹ They can be considered to have intrinsic value, regardless of the utility to humans. A second and more pragmatic argument asserts that the survival of humans depends on healthy ecosystems, as set out in the Planetary Boundaries studies, and so protection of nature's rights in turn, advances human rights and well-being.¹²

As of June 2021, Rights of Nature laws exist at the local to national levels in at least 39 countries, including dozens of cities and counties throughout the United States. They are enacted in different forms, among which constitutional provisions, statutes, local ordinances. Also, court decisions have established Rights of Nature.¹³ There are different ways of phrasing the rights granted to objects of Nature. Also, the governance and enforcement systems vary.

In this Ius Commune Annual Conference session on 'Rights of Nature Around the World', researchers from various parts of the world will share their knowledge and insights on Rights of Nature initiatives and cases.

Are you interested in this innovative legal domain of Rights of Nature? You are welcome to participate in this interactive workshop.

Chair: Prof.Dr. Tineke Lambooy (Nyenrode Business University and Utrecht University)

14.00 – 14.20 **Peter Akkerman M.A.** (Founder and chair of NGO '*Bos dat van zichzelf is*' [The forest that owns itself]).¹⁴ He will present the results of a study how private forest owners can ensure that the natural values such forest remain intact over time, pioneering a practical approach to rights of nature in the Netherlands. An option is that such private owners request a civil law notary to enact a so-called '*Akte van Redemptie*' (deed of redemption), which he will discuss in this presentation.¹⁵ Peter also works as a policymaker on the environment at the Dutch Ministry of Infrastructure and Water Management and is founder of the '*Jongerenmilieuraad*' (Youth Environment Council).

14.20 – 14.40 **Pjotr Antoni, LL.M.** (Tax adviser PWC and Phd fellow at Tilburg University, the Netherlands) will comment from a Dutch tax law perspective on situations in which a private forest owner 'grants rights' to such forest by setting up a foundation that will hold such forest and/or by enacting a deed of redemption.

14.40 – 14.50 **Q&A and discussion on granting rights to nature in a private ownership situation.**

14.50 – 15.10 **Dr. Matthias Kramm** (political philosopher at the Universidad Nacional Autónoma de México and Wageningen University). His presentation will cover three initiatives on Rights of Nature that have been proposed in the German context:

- The first initiative comes from Jens Kersten, who proposes an ecological reform of the German Constitution, which is to be accompanied by a profound restructuring of the institutions. Among other things, the reform is to be supported by the establishment of a federal 'Nature Ministry' and the Bundestag is to elect a 'Nature Commissioner'.
- The second initiative comes from an alliance of civil society organisations: Citizens, lawyers and activists have joined forces in the "Rights of Nature Network" to develop proposals for amending articles of the constitution in a two-year process. The dignity of nature would play an important role in this.

¹¹ See e.g., the Earth Charter; <https://earthcharter.org/?__cf_chl_tk=21RXUY_bhWCEOnDA25xp7H1L6TcI47PICJY69h5NLO4-1681659443-0-gaNycGzNDLs>.

¹² Planetary Boundaries; <www.stockholmresilience.org/research/planetary-boundaries.html>.

¹³ Putzer, Alex; Lambooy, Tineke; Jeurissen, Ronald; Kim, Eunsu (2022-06-13). 'Putting the rights of nature on the map. A quantitative analysis of rights of nature initiatives across the world'. *Journal of Maps*. 18: 89-96. doi: 10.1080/17445647.2022.2079432.

¹⁴ Natuur met zelfbestuur (bosdatvanzichzelfis.nl).

¹⁵ https://nl.wikipedia.org/wiki/Akte_van_Redemptie.

- A third alternative proposed by Andreas Fischer-Lescano is to declare individual ecosystems as legal persons (e.g., the Whanganui River in New Zealand and the Mar Menor Lagoon in Spain). One argument would be that the courts could interpret the concept of legal personhood in the Constitution more broadly to include ecosystems as legal persons.

15.10 – 15.20 **Q&A**

15.20 – 15.35 **Coffee break**

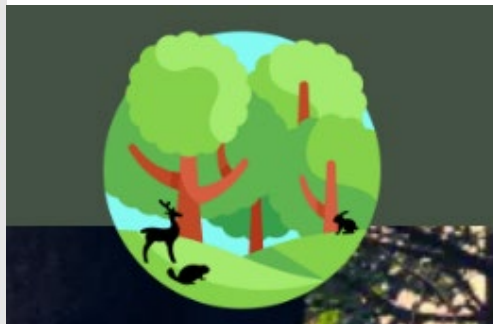
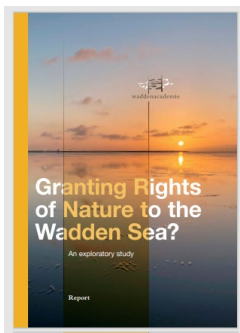
15.35 – 15.55 **Leonie Vestering M.A.** (Member of the Dutch Parliament; political party ‘Party of the Animals’ [*Partij van de Dieren*]). She will challenge the participants about her preparatory work on a legislative proposal to include Rights of Nature in the Dutch Constitution. In particular, questions can be discussed regarding the legislative text, governance structure, and ways of enforcement.

15.55 – 16.15 **Q&A and discussion on legislative proposal for the Dutch Constitution**

16.15 – 16.35 **Ebba Hooft Toomey BSc en BA** (University of British Columbia, Vancouver, Canada). She will present two US cases: “Grant Township Community Bill of Rights Ordinance” and the “Navajo Nation Bill of Rights”. These two cases illustrate the two main types of Rights of Nature actions in the US: 1) those that that explicitly challenge dominant western corporate and capitalist norms and 2) those which enforce Indigenous spiritual and cultural norms and worldviews through the western legal system.

16.35 – 16.45 **Q&A and discussion**

16.45 – 17.00 **Closing by Tineke Lambooy**



Proposal for revision of the German Grundgesetz (GG)

Article 1 GG

- ¶ 1 unchanged, (1) Human dignity shall be inviolable. Its respect and protection is the duty of all state authority.
- ¶ 2 unchanged, (2) The German people therefore acknowledge inviolable and inalienable human rights as the basis of human community, of peace and of justice in the world.
- ¶ 3 is new (3) The dignity of nature demands that the natural foundations of existence be protected, cultivated and maintained and that the intrinsic value of the natural co-environment be respected throughout all of nature.



The Albanian government formally designated the Vjosa River and its tributaries a national park on 15 March 2023. Canva



Grant Township US Ordinance Establishing Bill Of Rights

country:	United States of America
location:	Grant, Pennsylvania
status:	Overturned in 2015
legal provision:	Local law
eco jurisdiction:	Rights Of Nature
ecological actor:	Natural communities and ecosystems
ecological actor type:	All Nature
initiating actor:	CELDF and residents
initiating actor type:	Civil Society, NGO



ANNEX I: Contributors to this workshop

Prof. Dr. Tineke Lambooy LL.M.



Tineke is professor corporate law at Nyenrode Business University (Center of Entrepreneurship, Governance and Stewardship) and research fellow at Utrecht University (Utrecht Center of Water, Oceans and Sustainability Law), the Netherlands. Her research areas comprise corporate law, corporate governance, corporate social responsibility, social enterprises, biodiversity and business, biodiversity and investment, Rights of Nature. She has initiated several research projects on Rights of Nature. She also led the research project for the Dutch Waddenacademy on the question whether granting Rights of Nature would be of added value for the governance of the Dutch part of the Wadden Sea Rights. Tineke is Rights of Nature consultant for the NGO Stand Up For Your Rights. She is also a member of the NGOs Lab Future Generations and the Worldconnectors-Earth Charter and a board member of the NGOs Stand Up For Your Rights and the Dutch Club of Rome. She is the Chair of the Dutch ICSR Metal Agreement (IMVO Metaal Convenant).

Alex Putzer, LL.M., PhD fellow



Alex is writing his dissertation on the Rights of Nature in urban environments at Sant'Anna School of Advanced Studies in Pisa, Italy, with affiliations at MIT, UPenn, and the New School in the United States. Alex has lectured at the University of Amsterdam, the Netherlands, and at the University of Applied Arts in Vienna, Austria. As a United Nations Harmony with Nature Expert and a member of the Global Alliance for the Rights of Nature Academic Hub, he has conducted extensive empirical research in the field, also for the NGO Stand UP For Your Rights. As UNESCO fellow in Interdisciplinary Anticipation and Global-Local Transformation, he explores ways to advance the Rights of Nature in both theory and practice.

Mumta Ito



Mumta sees law as a vehicle for social transformation in a paradigm of restoration, reparation and healing. A former structured finance lawyer for top ranking global law firm Clifford Chance in the City of London (London's equivalent of Wall Street), advising governments, multinational corporations and investment banks - turned public interest environmental lawyer - Mumta set up an NGO in the Caribbean to create a people's' movement to successfully save an island of global ecological importance and bring about legislative change. She is one of Europe's leading experts and advocates for rights of nature, advisor to the UN General Assembly, initiator of a European Citizens Initiative to put rights of nature on the legislative agenda of the EU and founder of the charity Nature's Rights and the

International Centre for Wholistic Law. Additionally, she holds a degree in Zoology, is an award-winning public speaker and has facilitated healing workshops around the world. Her focus is on realigning law - living and written - with the universal laws that govern all life and facilitating inner and outer transformation. In 2020, she co-authored a study commissioned by the European Economic and Social Committee, Towards an EU Charter of the Fundamental Rights of Nature (<https://www.eesc.europa.eu/en/our-work/publications-other-work/studies> ISBN 978-92-830-4971-5)

Silvia Bagni



Silvia Bagni is currently Associate Professor of Comparative Public Law in the Department of Political and Social Sciences at the University of Bologna, Italy. She earned a PhD in Constitutional Law from the same University in 2005 and completed a 2 year post-doc in Bioethics, from UPRA (Università Pontificia Regina Apostolorum, Rome) in 2013. Her research interests include constitutional justice, Latin American constitutionalism, interculturalism, and ecological law. She has been visiting professor or invited speaker at Universities in Bolivia, Colombia, Ecuador, Mexico, and Peru. She is professor of the PhD Programme in Constitutional and International Law at the Universidad San Carlos in Guatemala and in the PhD Programme in Law at the University of Cádiz in Spain. In 2018, she was nominated as an expert for the United Nations Harmony with Nature Programme (<http://www.harmonywithnatureun.org>) and in 2019 she was invited to be speaker at the UN Dialogue on Harmony with Nature in New York. In 2020, she co-authored a study commissioned by the European Economic and Social Committee, Towards an EU Charter of the Fundamental Rights of Nature (<https://www.eesc.europa.eu/en/our-work/publications-other-work/studies> ISBN 978-92-830-4971-5)

Doris Huitink



Doris is policy advisor in the field of Climate and Energy for the Dutch political party Democrats 66 [D66]. She is involved in the drafting process regarding the upcoming legislative proposal on Rights of Nature of the Dutch part of the Wadden Sea.

Aafje Rietveld



Aafje is a Dutch lawyer, but not active as such, because she is living in Slovenia. Aafje is a researcher in the field of Rights of Nature and a member of the Global Alliance for the Rights of Nature. She actively supports environmental protests in the Balkan area and other countries. In Slovenia, she also rescues animals and takes care of them.

Matthias Kramm



Credit: Frank van Beek.

Matthias is a political philosopher and researches the 'Rights of Nature' in Mexico at the Universidad Nacional Autónoma de México and at Wageningen University in the Netherlands. In doing so, he also addresses the question of the extent to which Western legal concepts are compatible with Indigenous philosophies.

Leonie Vestering



Leonie is a Dutch politician, serving as a member of the House of Representatives since 2021. There, she represents the Party for the Animals (PvdD). Previously, she campaigned against circus animals, and she was a member of the States of Flevoland and the Almere municipal council. In March 2023, she announced that she is preparing a proposal to include Rights of Nature in the Dutch Constitution.

Peter Akkerman



Peter is founder and chair of NGO '*Bos dat van zichzelf is*' (The forest that owns itself) in the Netherlands.¹⁶ Peter cares deeply about the wellbeing of the Earth and her inhabitants. Therefore, although he is diplomat by training, he works as a policymaker on the National Environmental Program at the Dutch Ministry of Infrastructure and Water Management and is organizer of several events on sustainability. He is the initiator of the '*Jongerenmilieuraad*' (Youth Environment Council) with whom he pioneers progressive youth participation and advocates to adopt a generation test for public policy and decisions.¹⁷ He also is a member of Earth Charter and Worldconnectors.

Pjotr Anthoni



Pjotr is a tax lawyer at the PwC Knowledge Centre, responsible for the tax expertise within PwC, with an emphasis on social enterprises, ESG, family businesses and private wealth. He is pursuing PhD research at Tilburg University regarding tax regimes that are suitable for social enterprises. As part of PwC's Corporate Sustainability, he both conducts research on legal forms, business models and tax

¹⁶ Natuur met zelfbestuur (bosdatvanzichzelfis.nl).

¹⁷ Jongerenmilieuraad.nl

treatment of social enterprises and assists social entrepreneurs with tax, legal and governance issues. He strongly supports the growing movement of social enterprises and the stimulation of their ecosystem through the *Code Sociale Ondernemingen* and the *Leergang Sociaal Ondernemen*: 'social enterprises have an exemplary function and could hold the key to solving important social problems'. Finally, as secretary of the NOB Legislative Proposals Committee, he coordinates the NOB's comments on tax-relevant proposals and bills (and the preliminary stages thereof) and makes content-related contributions in his own field of expertise.

Ebba Toomey



Ebba graduated this spring from the University of British Columbia in Vancouver Canada with a BA in International Relations and a BSc in Environmental Science. Ebba is passionate about harnessing the power of interdisciplinary thinking, at the intersection of science and policy, to address environmental crises. Her specific interests are in restoration/reclamation, law, and systems thinking. She spent the summer of 2020 analysing Rights of Nature laws for the NGO Stand Up For Your Rights (all the US cases) and carried this research into her university projects.

Jan van de Venis - online participant (RoN consultant @ Stand Up For Your Rights)

Kees Bastmeijer (not confirmed) - online participant (Director of the Arctic Centre and Professor of Arctic and Antarctic Studies at the Faculty of Arts, University of Groningen, the Netherlands and Board Member of the Wadden Academy, Leeuwarden, the Netherlands).

Annex II: Recommended reading:

- Utrecht scholars discuss Rights of the River in special issue of *Water International* (2019); <https://www.uu.nl/en/news/utrecht-scholars-discuss-rights-of-the-river-in-special-issue-of-water-international>.
- Michele Carducci, Silvia Bagni, Vincenzo Lorubbio, Elisabetta Musarò (UniSalento-CEDEUAM), Massimiliano Montini, Alessandra Barreca, Costanza Di Francesco Maesa (UniSiena), Mumta Ito, Lindsey Spinks, Paul Powlesland, (Nature's Rights), 'Towards an EU Charter of the Fundamental Rights of Nature' (2019); <https://www.eesc.europa.eu/en/our-work/publications-other-work/publications/towards-eu-charter-fundamental-rights-nature>
- Jan DARPÖ, 'Can nature get it right? A Study on Rights of Nature in the European context (2021); [https://www.europarl.europa.eu/RegData/etudes/STUD/2021/689328/IPOL_STU\(2021\)689328_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/689328/IPOL_STU(2021)689328_EN.pdf)
- Matthias Kramm (Forthcoming). Rights of Nature and Indigenous Ontologies. In Abbed Kanoor (ed.). *The Political Dimension of Nature: An Intercultural Critique*. Berlin, Heidelberg: Metzler
- Matthias Kramm (2020) When a River Becomes a Person, *Journal of Human Development and Capabilities*, 21:4, 307-319; DOI: 10.1080/19452829.2020.1801610Hans Keune
- Marco Immovilli, Roger Keller, Simone Maynard, Pamela McElwee, Zsolt Molnár, Gunilla A. Olsson, Unnikrishnan Payyappallimana, Anik Schneiders, Machteld Schoolenberg, Suneetha M. Subramanian, Wouter Van Reeth. 2022. Defining Nature. *Transforming Biodiversity Governance*, pages 25-42.
- Miranda Willems, Tineke Lambooy, Setara Begum. (2021) New Governance Ways Aimed at Protecting Nature for Future Generations: The Cases of Bangladesh, India and New Zealand: Granting Legal Personhood to Rivers. *IOP Conference Series: Earth and Environmental Science* 690:1, pages 012059.
- Tineke Lambooy, 'What if we gave nature legal rights?', *The European*, July 2021; <https://the-european.eu/story-24638/what-if-we-gave-nature-legal-rights.html>
- Alex Putzer, Tineke Lambooy, Ronald Jeurissen & Eunsu Kim, 'Putting the rights of nature on the map. A quantitative analysis of rights of nature initiatives across the world'; <https://www.tandfonline.com/doi/full/10.1080/17445647.2022.2079432> (open access)
- Tineke Lambooy & Renske Mackor, 'Een procederende rivier'; <https://arsaequi.nl/product/ars-aequi-juli-augustus-2022/>
- Laura Burgers, Alex Putzer, Tineke Lambooy, Ignace Breemer, Aafje Rietveld and others, Special issue on Rights of Nature in *Transnational Environmental Law*, 11:3 (2022); <https://www.cambridge.org/core/journals/transnational-environmental-law/issue/7B0FA5B8D74DCA430C1E776E7C93BD52> (open access)
- Burgers, L. (2022). *Private Rights of Nature*. *Transnational Environmental Law*, 11(3), 463-474. <https://doi.org/10.1017/S2047102522000401>
- Tineke Lambooy, Renske Mackor, Jessica den Outer en Penny Simmers, 'Rechten van Natuur: een kansrijke volgende stap in het natuurbeschermingsrecht? Verkennende analyse aan de hand van de Mar Menor-casus met een schuin oog naar de Waddenzee', *Tijdschrift voor Natuurbeschermingsrecht* 2023(2)

Regarding the proposal for the Dutch Wadden Sea:

- Dutch Waddenacademy, 'Granting Rights of Nature to the Wadden Sea? An exploratory study', November 2022;
https://www.waddenacademie.nl/fileadmin/inhoud/pdf/04-bibliotheek/2022-04_Granting_Rights_of_Nature_to_the_Wadden_Sea.pdf
- Tineke Lambooy, Jan van de Venis & Christiaan Stokkermans, 'A case for granting legal personality to the Dutch part of the Wadden Sea' in *Water International* (2019)
<https://www.tandfonline.com/doi/abs/10.1080/02508060.2019.1679925>
- Tineke Lambooy, Jan van de Venis en Christiaan Stokkermans, 'Hoog tij(d) voor een Natuurschap Waddenzee. Voorstel voor een nieuwe vorm van governance van de Waddenzee, VOO (2020);
<http://files.harmonywithnatureun.org/uploads/upload919.pdf>.
- <http://www.harmonywithnatureun.org/rightsOfNaturePolicies/>