

Article

# Does the Implementation of Rights of Nature Enhance Nature Conservation in Practice?

**Tobit Lingnau \***

Auckland Law School, University of Auckland, Auckland 1010, New Zealand

\* Corresponding author. E-mail: [jiln739@aucklanduni.ac.nz](mailto:jiln739@aucklanduni.ac.nz) (T.L.)

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**ABSTRACT:** The debate surrounding Rights of Nature has been ongoing for some time, with many different concepts being put forward. Some consider them to be extremely effective, others useless or even counterproductive. The paper begins by summarising the complex debate and presents different approaches to categorising the debate. Based on those approaches, simplified categories for the various concepts for Rights of Nature are proposed: animal rights, rights for nature as a whole, and rights for non-animal natural entities, with a possible further distinction between rights for ecosystems and other natural entities. Subsequently, the paper goes on to study the effect of legally recognising Rights of Nature and finds that in South America, nations that recognise Rights of Nature perform slightly better in terms of Ecosystem Vitality and public awareness of environmental risks. While further research is needed, those results indicate that Rights of Nature may be a modest catalyst for conservation efforts.

**Keywords:** Rights of Nature; Nature conservation; Ecosystem vitality; Public awareness; South America

## 1. Introduction

‘Should trees have standing?’ [1]. This essay from 1972 is often seen as the starting point of the idea of Rights of Nature in the Western world [2] (p. 5). The idea has since evolved, influencing both legal and philosophical discussions about the rights of ecosystems, species, and natural entities across the globe. The debate encompasses a question that has been discussed extensively in recent years: Who or what is capable of bearing rights?

Many different approaches have been taken in this regard, and numerous essays, books, court decisions, and legal texts have tried to answer this question [2] (pp. 4–5). The discussion is often, but not always, conducted under the catchphrase Rights of Nature. While some commentators view them as a transformative framework for achieving equitable governance and sustainable development [3] (p. 25), the concept is not without controversy.

One problem is that rights are a Western individualistic concept; they are typically seen as being possessed or owned by individuals. However, Rights of Nature also refer to collectivistic ideas. Rights of Nature might therefore be seen as a concept combining the Western concept of rights with indigenous ideas or cosmologies [4]. On the other hand, the approach, which is alien to the Western legal world, raises the question of whether this concept is at all promising within this legal framework. It is also argued that the political dimension of the problem is significantly greater than the question of whether nature should be



granted rights [5] (p. 170). Whether Rights of Nature are meaningful would depend entirely on the local political context, which also determines the form of those rights [6] (p. 69). Therefore, protecting the environment would not be affected by whether individual or collective Rights of Nature are legally recognised, but rather by political action.

This conceptual and political complexity makes it necessary to begin the essay with an overview of the topic. A particularly debatable issue in this regard is who or what Rights of Nature can be granted to. By simplifying the structural approaches developed by other scholars, the following categories for entities capable of bearing rights within the Rights of Nature debate are proposed: animal rights, rights for nature as a whole, and rights for non-animal natural entities, with possibly splitting the latter up between rights for ecosystems and rights for other natural entities.

Subsequently, this essay aims to contribute to the ongoing debate by analysing whether the effects of introducing Rights of Nature can already be measured by assessing their impact on public awareness of environmental problems and the actual protection of the environment. To this end, two hypotheses are presented: Countries with Rights of Nature are better at protecting the environment, and people in those countries are more aware of environmental problems.

The hypotheses are tested by comparing countries in South America with and without Rights of Nature. South America is particularly suitable for this analysis due to its regional similarities and the pioneering role of countries like Ecuador in recognising Rights of Nature in law. Although the results cannot be generalised globally, a small but notable trend is showing: South American countries with Rights of Nature tend to perform slightly better in terms of ecosystem vitality and public awareness of environmental issues. These findings suggest that Rights of Nature can positively contribute to environmental protection and awareness, warranting further investigation into their broader impacts.

## 2. Rights of Nature and Effective Nature Conservation

When Rights of Nature are mentioned, it is by no means clear what this term means. The phrase refers to various legal and philosophical viewpoints, which often complicate establishing a single, universally recognised definition. Even though this paper does not seek to fundamentally contribute to this part of the debate—as much has already been written about the philosophical ideas behind Rights of Nature [7] (p. 3)—it is essential to differentiate among the different models and comprehend their implications for environmental governance, as the term Rights of Nature can represent a spectrum of ideas that range from anthropocentric to ecocentric frameworks. To this end, a brief overview of the different theories will be given to grasp the research topic.

### 2.1. Rights of Nature in Practice

In the essay that sparked the debate on rights of nature in the Western world, Stones argues that granting rights to natural entities was the obvious next step. There was a time when it was unimaginable that anyone other than a wealthy white man could have rights, but this way of thinking has clearly changed. Women have rights, children have rights, and some animals have rights, too. Accordingly, the next logical step is to extend these rights to non-human and non-animal nature [1] (p. 456). The actual legal development up to date suggests that his prediction has at least partially come true, as nature has been granted rights in several jurisdictions. A few examples of those successful initiatives will now be introduced to give an idea of what Rights of Nature look like in practice.

The concept has been applied to the Whanganui River in New Zealand by the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017. The Whanganui River was legally recognised as an indivisible living entity, encompassing its physical and metaphysical elements from the mountains to the sea [8]. There are many more examples of countries recognising rights for natural entities. For example,

the recognition of Te Urewara as a legal entity in New Zealand [9], the recognition of the Atrato River as an entity by the Colombian Constitutional Court [10], the recognition of the Turag River in Bangladesh as a legal entity [11] and the recognition of Mar Menor as a legal personhood by the ‘Mar Menor Act’ in Spain [12].

However, recognising nature as a legal person can go beyond granting rights to specific natural entities like rivers or forests. Instead, another approach conceptualises nature as an interconnected whole, deserving of protection and legal recognition in its own right. This holistic perspective seeks to ensure the intrinsic value of nature is respected, regardless of its utility to humans.

Probably the best-known example of this is Ecuador, which was the first country to include the right of ‘Pachamama’ (translation: “Mother Nature”) to be protected in its constitution in 2008 [13], but there are many more examples.

The Supreme Court of Pakistan barred the construction of new cement plants in environmentally fragile zones [14]. The decision was based on two main reasons. Firstly, the communities around the planned plants should be protected. Secondly, ‘the environment needs to be protected in its own right’ and that ‘[m]an and his environment each need to compromise for the better of both, and this peaceful co-existence requires that the law treats environmental objects as holders of legal rights’.

Older than the abovementioned concepts of Rights of Nature is the animal rights movement and animist philosophy, both of which highlight the intrinsic worth and dignity of all living entities. This viewpoint has significantly impacted legal systems, promoting the acknowledgement of animal rights in numerous national constitutions and legal statutes. Because, at least in the context of the recognition of rights in a Western sense, the discussion about animal rights is much older, they will shortly be introduced independently of the rest of the Rights of Nature.

The first country to adopt an, admittedly limited in its field of application, animist philosophy into its Constitution was Switzerland. Article 120(2) of the Constitution of Switzerland states: ‘The Confederation shall issue regulations on the handling of germinal and genetic material of animals, plants, and other organisms. In doing so, it takes into account the dignity of the living creature as well as the safety of humans, animals, and the environment, and protects the genetic diversity of animal and plant species’. This language recognises that living beings—including animals, plants, and other organisms—have a right to dignity, a concept traditionally reserved for humans. However, what this right entails and the responsibilities it imposes remain unclear. Since its introduction in 2000, Switzerland has not passed any laws to clarify how this principle should be applied in practice.

In other countries, animist philosophy is already shaping laws, driving both new legislation and changes to existing ones. This marks a significant shift in legal theory and impacts people’s lives [3] (p. 52). In a landmark case, the Indian Supreme Court prohibited bull races, emphasising that Article 21 of the Constitution, which guarantees the right to life, extends to all forms of life, including animals [15]. The Court recognised that animals possess intrinsic worth, honour, and dignity, reinforcing their status as sentient beings deserving protection.

On 27 January 2022, the Ecuadorian Constitutional Court recognised that animals have rights under the Rights of Nature provision in the Constitution (Article 71) [16]. Accordingly, animal rights should be seen as a specific dimension—with their own particularities—of Rights of Nature.

In Germany, s1 Tierschutzgesetz (translation: “Animal Welfare Act”) states that the life and well-being of animals shall be protected. The animal is protected for its own sake, namely as the bearer of its own goods such as life, physical integrity, health, and well-being, and as the bearer of its own interests [17] (s1 marg 2).

In the USA, there were several cases that granted legal standing to certain species of animals, such as the Palila, a Hawaiian indigenous bird [18], or the Loggerhead Turtle [19].

## 2.2. Categorisation of Possible Right Holders

In the light of those widely differing views outlined above, Putzer et al. [20] structurally categorised the different concepts of Rights of Nature. In this regard, they established the following categories of entities to which Rights of Nature can be granted: Animals, plants, aquatic ecosystems, and nature itself, with further subcategories for animals, aquatic ecosystems, and plants [20] (p. 90).

It should be noted that the recognition of Te Urewara as a legal entity in New Zealand [9] or the recognition of sacred forests in Benin [21] show that also non-aquatic ecosystems are recognised as having rights. Also, those categories do not necessarily cover newly emerging debates, such as granting rights to the moon [22].

Another methodological approach to categorise Rights of Nature is undertaken by the Earth Jurisprudence Monitor [23]. The Eco Jurisprudence Monitor was created through collaboration among an international team of independent researchers affiliated with the Academic Hub of the Global Alliance for the Rights of Nature and was funded by the Rockefeller Brothers Fund. The following types of nature, that were granted rights, are mentioned: All Nature, Freshwater Ecosystems, Animals, Marine Ecosystem, Forest, Urban, Mountain, Food & Agriculture, Grassland, Plant, Space, and Arctic [23].

As both those approaches show, it is not easy to categorise all the different attempts, especially because Rights of Nature is a relatively new and still emerging field. However, even without conducting an in-depth analysis of the different categories, it seems possible to propose more simplified categories based on the abovementioned work.

As the animal rights movement has a long history, it should be treated as its own category. Another category that stands on its own is nature as a whole. Furthermore, as the research mentioned above shows, it is possible to introduce many different subcategories. However, what all those categories have in common is that they concern a delimitable part of nature, such as plants, a specific ecosystem, or an object like the moon. In order to simplify the different categories found by Putzer et al. and the Earth Jurisprudence Monitor, the following categories for entities that are or can be granted rights within the Rights of Nature debate can be formed: The animal rights movement, rights for non-animal natural entities, and rights for nature as a whole. A further distinction may be made between ecosystems and other natural entities, as the former arguably raise different issues. Those categories include all of the groups mapped out by the authors mentioned above, but, due to their simpler approach, may also accommodate new ideas. It should, however, be emphasised that this very simple approach should not be seen as challenging the categories established in a very detailed research process, since there are also many obvious disadvantages to this less complex alternative.

## 2.3. Justification

When it comes to the justification of Rights of Nature, there are two main ideas for why natural entities should be granted rights.

One possible justification for recognising Rights of Nature is an anthropocentric view: Because humans are deprived of their human rights if nature is not protected adequately, recognising Rights of Nature was basically just an endorsement of human rights [4] (p. 101). This approach is taken, for example, in the German constitution. Art. 20a Grundgesetz (translation: “Basic Law”) states that the natural foundations of life and animals must be protected. However, this is not an end in itself, but is linked to a specific purpose, as the protection is based on the responsibility towards future generations (of people) [24] (marg. 12). The German Constitutional Court makes the same argument, stating that the German government must fight climate change because it violates the rights of future generations [25].

In contrast, the other main lineage of argumentation is that nature has an intrinsic value in itself [26] (p. 133). This argument is sometimes also used to criticise the ‘hard’ approach of giving rights to nature or natural entities, as it merely perpetuates the anthropocentric and individualistic tradition of rights. This way

of thinking, it is argued, was the problem that caused the global environmental crisis in the first place [27] (p. 131). While rights in the individualistic tradition might help to raise awareness of environmental problems within the public, the better approach to actually protect the environment could be to set limitations on the exercise of human rights by recognising the ‘intrinsic values’ of nature or natural entities [27]. However, especially in a society based on individual rights, the rights-based approach is also seen as being particularly effective in protecting rights holders. In this respect, granting rights could be necessary, regardless of whether one supports this individualistic tradition [28] (p. 94).

#### 2.4. *Nature and Effective Nature Conservation*

Following this introduction to Rights of Nature, the research question can now be examined in more detail. It is of great importance here to state that Rights of Nature go much further than just being a framework for environmental protection. They concern the social and legal relationship between humans and nature and entail deep cultural and religious or sacred ideas [29] (p. 16 et seq.). On the other hand, Rights of Nature are also described or studied as an effective tool for protecting the environment [30,31], and environmental protection is even seen as the ‘central tenet’ of Rights of Nature [32] (p. 449). At the same time, their ability to contribute to protecting nature is also questioned frequently [6] (p. 69, 79), [33] (p. 1406). It is this part of the debate, whether Rights of Nature can foster nature conservation, to which the article seeks to contribute, while the other important parts of the debate will not be considered in further detail [32] (p. 449).

##### 2.4.1. Nature

For an understanding of what effective nature conservation looks like, the concept of nature needs to be introduced first. The debate around this is complex and vast and there are many different ideas of what nature can mean [34] (p. 32).

Black’s Law Dictionary provides two distinct interpretations: Nature may refer to ‘a wild condition, untouched by civilisation,’ or to ‘the elements of the universe, such as mountains, plants, planets, and stars’ [35] (p. 1238). In a broader context, nature can be defined as the collective phenomena of the physical world, particularly plants, animals, and other features of the earth, distinct from human creations. The Oxford English Dictionary emphasises this distinction, framing nature as ‘the phenomena of the physical world collectively; especially plants, animals, and other features and products of the earth itself, as opposed to humans and human creations’ [36]. Similarly, the Cambridge Dictionary describes nature as ‘all the animals, plants, rocks, etc. in the world and all the features, forces, and processes that happen or exist independently of people’ [37]. An example of a definition in a legal context is the UK’s Natural Environment and Rural Communities Act 2006, which defines nature conservation as the ‘conservation of flora, fauna, or geological or physiographical features’ [38].

But next to this Western definition, there are many other understandings of nature. The Ecuadorian Constitutional Court defined nature as ‘a community of life’, meaning that ‘all the elements that compose it, including the human species, are linked and have a function or role. The properties of each element arise from interrelationships with the rest of the elements and function as a network [16]. Before Western influence, nature in the Chinese language carried more of a meaning related to the ‘inner nature of things’ and natural entities, such as Heaven and Earth and Cosmos as a whole [39] (p. 15). Additionally, nature can also, for example, include spiritual beings [40] (p. 32).

##### 2.4.2. Effective Nature Conservation

Because there are so many different understandings of nature, it is also not easy to grasp how nature is protected effectively.

For a long time, protection of nature from humans by the government or conservation organisations has been regarded as the main or even only form of proper protection [41] (p. 1). However, this ‘scientific’ approach is not the only valid approach to conservation. It is possible to determine the state of nature, and therefore how it is protected, with ‘scientific hard figures’, e.g. counting the IUCN red-listed species in an area; on the other hand, indigenous groups for example could rate the effectiveness of nature conservation by the happiness of the spirits living in a certain area or the number of species with cultural and religious significance, regardless of their appearance on the IUCN red-list [40] (p. 35). The latter, and especially also how this indigenous knowledge can positively influence the ‘scientific approach’ to nature conservation, needs more research [41] (p. 13). However, the scientific approach and other approaches to the effectiveness of nature conservation can coexist, and both have their legitimacy [40] (p. 35). Without a deep understanding of the cultural context, it is not appropriate to judge how specific indigenous groups perceive the state of nature surrounding them. For this reason, this paper focuses on the ‘scientific’ approach and will, in the following section, research the state of nature with ‘hard figures’ which are publicly available.

### 3. Rights of Nature Put to the Test

As just stated, an analysis of the practical significance of Rights of Nature will now follow. The goal is to show possible correlations between the introduction of Rights of Nature and positive effects in nature protection. The research focuses on a regional level in South America, as an analysis on a global scale and the establishment of actual causation would go beyond the scope of this essay.

South America is particularly well-suited for this. South America is the cradle of the actual implementation of Rights of Nature, as the first legal recognitions occurred here. South America (excluding French Guiana) consists of twelve countries, six of which have incorporated some form of Rights of Nature into law and six have not. To a certain degree, all countries share cultural, political, and economic characteristics.

As indicated before, positive effects will be measured using ‘hard figures’. This essay considers ‘Ecosystem Vitality’ and public awareness towards climate change as quantifiable indicators to evaluate the potential positive impact of introducing the Rights of Nature. Each indicator is explained in detail below.

At this point, it is important to note that the degree to which Rights of Nature are implemented and their effectiveness vary across the selected countries. While some countries have a comprehensive framework of Rights of Nature, others have fewer regulations. However, this essay takes a binary approach, irrespective of the effectiveness or qualitative aspects of the initiatives in the different countries, thereby leaving room for further differentiation in possible future research.

Accordingly, Argentina [42], Bolivia [43], Brazil [44], Colombia [10], Ecuador [13], and Peru [45] were classified as countries with Rights of Nature, and Chile [46], Guyana, Paraguay, Suriname, Uruguay, and Venezuela as countries without Rights of Nature for this essay.

#### 3.1. Ecosystem Vitality

Firstly, it is analysed whether there are differences between the countries in terms of actual environmental protection (see Table 1). For this purpose, the Ecosystem Vitality of the different countries is compared. Ecosystem Vitality describes how well countries conserve and protect their biodiversity and ecosystems [47] (p. 4). Ecosystem Vitality is part of the Environmental Performance Index created by the Yale Center for Environmental Law and Policy [47]. This Environmental Performance Index includes several factors that are combined and weighed to measure the environmental performance. The Environmental Performance Index, however, was not used for this paper because its use in the context of measuring Rights of Nature has been criticised for including too many unrelated factors [33] (p. 1401).

Therefore, Ecosystem Vitality is used for this study. To investigate the influence of Rights of Nature on Ecosystem Vitality, today's figures are compared with those from ten years ago [48].

A glance at Table 1 reveals that, although there are no significant differences, there does appear to be a recognisable trend. The countries with Rights of Nature are slightly better positioned on average in terms of ecosystem vitality, with an average score of 56.183 compared to 54.05. A comparison with ten years ago also shows a slightly better trend in the countries with Rights of Nature, where the score rose by an average of 3.66 points compared to an average of 3.05 points.

**Table 1.** (Data correct as of December 2024) Ecosystem Vitality.

Countries WITH Rights of Nature			Countries WITHOUT Rights of Nature				
Rank	Score	10-Year Change	Rank	Score	10-Year Change		
Argentina	116	46.7	6.1	Chile	55	57.4	4.4
Bolivia	62	56.6	-0.6	Guyana	58	57.2	2.9
Brazil	35	63.9	5.1	Paraguay	129	44.4	-0.8
Colombia	60	57	3.2	Suriname	33	64.6	7.2
Ecuador	61	56.9	5.8	Uruguay	146	39	3.6
Peru	66	56	2.4	Venezuela	43	61.7	1
Average	66.66667	56.18333	3.666667	Average	77.33333	54.05	3.05

### 3.2. Public Awareness

Secondly, the public awareness of environmental problems in the different countries is analysed (see Table 2). For this, data from the Lloyd's Register Foundation World Risk Poll [49], which consists of 147,000 interviews in 142 countries, is analysed. Based on the surveys conducted in 2019 and 2023, the analysis here compares the answers to the question of whether respondents believed that climate change would pose a threat to their country over the next 20 years. As the survey was not conducted in Guyana and Suriname, these countries are not included in the results in Table 2.

**Table 2.** (Data correct as of December 2024) World Risk Poll 2019 and 2023.

Countries WITH Rights of Nature		Change 2019–2023		Countries WITHOUT Rights of Nature		Change 2019–2023	
<b>Argentina</b>				<b>Chile</b>			
Very serious threat	63.98%	-8.21%		Very serious threat	76.19%	-11.13%	
Somewhat serious threat	15.36%	-0.64%		Somewhat serious threat	13.39%	+5.71%	
Not a threat at all	9.65%	+1.97%		Not a threat at all	6.28%	+3.35%	
<b>Bolivia</b>				<b>Paraguay</b>			
Very serious threat	60.38%	-8.87%		Very serious threat	55.20%	-16.84%	
Somewhat serious threat	18.80%	-0.49%		Somewhat serious threat	21.24%	+4.97%	
Not a threat at all	8.35%	+0.22%		Not a threat at all	11.45%	+4.81%	
<b>Brazil</b>				<b>Uruguay</b>			
Very serious threat	79.64%	+7.47%		Very serious threat	64.24%	-9.16%	
Somewhat serious threat	10.09%	+1.09%		Somewhat serious threat	23.04%	+6.97%	
Not a threat at all	4.38%	-2.34%		Not a threat at all	5.11%	-1.61%	
<b>Colombia</b>				<b>Venezuela</b>			
Very serious threat	67.59%	-8.50%		Very serious threat	57.93%	-4.80%	
Somewhat serious threat	15.57%	+2.13%		Somewhat serious threat	20.52%	-0.88%	
Not a threat at all	7.28%	+0.67%		Not a threat at all	7.60%	-4.13%	
<b>Ecuador</b>							
Very serious threat	64.11%	-0.13%					
Somewhat serious threat	18.93%	+3.25%					

Not a threat at all	7.12%	+1.57%			
<b>Peru</b>					
Very serious threat	62.88%	-7.46%			
Somewhat serious threat	19.82%	-0.60%			
Not a threat at all	10.26%	+5.67%			
<b>Average</b>			<b>Average</b>		
Very serious threat	66.43%	-5.95%	Very serious threat	63.39%	-10.48%
Somewhat serious threat	16.43%	+0.79%	Somewhat serious threat	19.55%	+4.19%
Not a threat at all	7.84%	+1.29%	Not a threat at all	7.61%	+0.61%

A similar trend as for Ecosystem Vitality can be seen in Table 2 for public awareness of environmental risks. In 2019, the results were very similar between the two groups of countries, with differences of less than 1.5 percentage points for each figure. This difference has almost doubled four years later, with 66.43% (−5.95 percentage points) in countries with Rights of Nature now seeing climate change as a very serious threat, compared with 63.39% (−10.48 percentage points) in countries without Rights of Nature.

### 3.3. Results

Countries with Rights of Nature achieve a higher average score (56.18 compared to 54.05) in Ecosystem Vitality. In addition, public awareness of climate change as a significant concern appears to be more pronounced in countries that uphold Rights of Nature. In 2023, 66.43% of respondents in these countries regarded climate change as a serious threat, in contrast to 63.39% in countries without such rights.

Furthermore, not only is the performance itself better, but the trajectory of public awareness of climate change and the vitality of ecosystems is different in the two groups of countries, with the countries that have recognised Rights of Nature showing a slightly better trend. Although overall awareness has diminished, the decline is less severe in nations that recognise Rights of Nature. This phenomenon may suggest that rights-based environmental frameworks positively influence public consciousness or educational efforts related to environmental matters.

The data shows a recognisable, albeit modest, trend: In South America, countries that recognise Rights of Nature tend to perform slightly better in the areas of Ecosystem Vitality and public awareness of the threats posed by climate change than countries that do not. These results, while not universally applicable, imply that the adoption of Rights of Nature may contribute to a modest enhancement in environmental protection and awareness. Integrating Rights of Nature into legal and policy frameworks could enhance efforts toward environmental protection.

It is, however, crucial to recognise the inherent limitations of this study. The dependence on publicly available data, the lack of data for certain countries in specific analyses, and the vast array of other factors that may affect these outcomes all limit its significance. Nonetheless, the identified trends imply that the incorporation of Rights of Nature into national policies could contribute to improved ecological results and increased public awareness of environmental hazards.

## 4. Results and Interpretation

The results of the studies conducted in this paper show that in South America, there are indications that the recognition of the Rights of Nature has a positive correlation with environmental performance.

However, the paper was only intended as groundwork to provide a basis for future, more rigorous results and does not claim to present universally applicable findings. Therefore, further research is needed in the future. For example, the investigations could be extended to other regions or the whole world, or further data could be analysed to verify or falsify the trend identified. Building on the structuring of the various approaches, a more comprehensive study could also examine the performance of the different categories of Rights of

Nature in relation to each other. Finally, statistical analysis could be used to examine actual causality, and verifying or falsifying such causality would also make a valuable contribution to the discussion.

### Statement of the Use of Generative AI and AI-Assisted Technologies in the Writing Process

During the course of this work, the author used ChatGPT, DeepL Write, and Grammarly to improve the readability and quality of the language. After using these tools, the author reviewed and edited the content as needed and takes full responsibility for the content of the publication.

### Ethics Statement

Not applicable.

### Informed Consent Statement

Not applicable.

### Data Availability Statement

Data available on reasonable request.

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### Declaration of Competing Interest

The author declares that he has no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

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