

“HUMAN” NATURE?

HOW RESPECTING THE ENVIRONMENT AS A LIVING
ENTITY COULD SAVE THE PLANET

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What would the world look like if Nature, as the all-encompassing ecosystem of our planet, were treated as a legal person? In countries around the world, the concept of the Rights of Nature (RoN) is slowly taking shape. With rivers, mountains and forests being able to defend and protect themselves by law, not just the current understanding of legal ownership is challenged.

Imagine for a moment a forest close to your home was a human being; a friendly, generous, and compassionate neighbour from across the street. How would you treat her? Would you help her in the garden and be as friendly and generous to her as she is to you? Or would you rather throw garbage onto her property, steal her precious jewellery, and take away her beloved pets?

Translating this example into the relationship between humankind and the rest of Nature, everything but the latter would mean you are lying to yourself. Were you to treat your neighbour this way, she would by all means have the legal right to sue you for the harm you have done. So, what if Nature could do the same?

The innovative concept of recognising Nature as a legal personality is gaining more and more attention around the world. Through applying the same rights to Nature as to a legal person, the environment gets attributed the legal possibility to protect and defend itself. Thereby, new doors are opened for the protection of the environment and cultural land globally (Issac Goeckeritz, 2020). Unlike one might expect, this out-of-the-box development is not a new concept but rooted in the ancient indigenous principle of the sheer impossibility to claim ownership of Nature (Tedx Talks, 2019; J. van de Venis, personal communication, November 22, 2019). Today, the first countries around the world have already taken steps to implement the rights of Nature for the sake of the land and current and future generations (Issac Goeckeritz, 2020; Kinkaid, 2019; Espinosa, 2015).

In 2008, Ecuador was the first country worldwide to recognise and implement the 'Rights of *Pachamama*' – the rights of Mother Nature in their constitution and thereby laid ground for other countries to follow their lead (Espinosa, 2015; Issac Goeckeritz, 2020; Kauffman & Martin, 2016), such as Bolivia which introduced the "Mother Earth" Law in 2012 (Chávez, 2014).

"You are the child, and that land out there, that Earth Mother of yours is your parent. No human owns your mother." – Kirsti Luke (Issac Goeckeritz, 2020)

The general idea of Rights of Nature, however, existed already long before. In indigenous cultures, there has never been the need for a law to protect Nature, as the effect of the current way of life is evaluated on the impact it has on up to seven future generations. This way, sustainability and a balanced relationship with Nature is incorporated in the foundations of everyday life and does not need any special attention. Western society, however, operates differently. With societal foundations based on ownership and regulations, law needs to be used as a 'middle step' to get the same effect. In short, through recognising the land's legal right to self-ownership and protection, a more sustainable lifestyle for a healthier future of the planet and future generations can be ensured (J. van de Venis, personal communication, November 22, 2019).

“We are Nature, so Nature is us.”

(J. van de Venis, personal communication, November 22, 2019).

While this concept might sound like a great idea in theory, one might wonder how Nature could possibly make its voices heard and defend its rights in practice. The solution is unexpectedly simple: Like a child’s rights being protected and defended by a custodian, natural areas can be represented in the same way. Members of indigenous communities, caring individuals, and even whole villages are given the right to sue in the name of the natural habit they care about (Issac Goeckeritz, 2020).

Following this ancient yet revolutionary path, countries like the USA in some states have since adapted Rights of Nature related measures, e.g., to prevent hydraulic fracking (Kinaid, 2019). And Aotearoa (Māori for New Zealand) declared the Whanganui river a legal entity to be represented by the local Māori population - the *kaitiaki* of the land (Issac Goeckeritz, 2020).

kaitiaki

(noun) guardian, caregiver, keeper
(Māori dictionary, n.d.)

Now, the Netherlands might be the next on focussing to put the rights of Nature first (Tedx Talks, 2019). The plan is to create a new legal entity in the Netherlands, a so-called Naturship, or ‘*natuurschap*’: an advisory board for Nature which perfectly fits into the national legal system, to let the Dutch part of the Wadden Sea protect and govern itself. The UNESCO World Heritage site could be the leading example for the further implementation of legal measures of this kind in other important Dutch natural areas (Lambooy, van de Venis & Stokkermans, 2019). Jan van de Venis, acting Dutch Ombudsperson for Future Generations and president of the National Park Dunes of Texel, is one of the frontrunners regarding this topic.

For many years, he has been fighting to give back land ownership to Mother Earth for the protection of natural areas like the Wadden Sea, which is threatened by climate change and other negative, man-made influences. Jan believes that bringing concepts like the Rights of Nature into the system to be able to create change from within is the way to a more sustainable future for the next generations to come (J. van de Venis, personal communication, November 22, 2019)

Image 2 Ameland, Wadden Sea



(Nieuwendijk, n.d.)

And he is certainly not the only one with this vision. Organisations such as the Community Environmental Legal Defense Fund (CELDF), the Australian Earth Law Alliance (aela) or Earth Advocacy Youth (EAY), as well as the United Nations with their own Harmony with Nature programme (United Nations, n.d.) are just a few examples. There are many local, national, and international institutions continuously advancing this global movement, by asking what is best for the land and seeing Nature and humanity connected as one instead of separate entities (Kauffman & Martin, 2016).

But even when these general premises are given, the execution of the principle faces challenges. In Ecuador, for example, inhabitants are happy and proud of their constitutional rights of Nature, but do not see them implemented to the full extent. There is a large difference between the written law and the way it is enforced. Other legal rights, e.g. those of mining companies, contradict

the Nature regulations, and Ecuadorian lawyers struggle with the strong politicization of RoN cases and the lack of knowledge from judges regarding Nature laws (Kauffman & Martin, 2016). Apart from this, it can be very expensive to sue - regardless of whether it is individuals or companies who need to pay for the litigation. In other words, even when the Rights for Nature are legally declared in a country, citizens and guardians are not yet making use of their full potential (Issac Goeckeritz, 2020).

Opposing to that, surprisingly positive outcomes in smaller scale, less politicised Ecuadorian lawsuits have been identified, with the court applying RoN laws in cases which initially were not about the violation of RoN. Further, the growing knowledge about the existence of Nature laws among judges leads to the application of RoN as a response to their professional duty of interpreting and applying the law as it is written (Kauffman & Martin, 2016).

In any case, the Rights of Nature are a crucial step. A step in a direction where human society needs to rethink its relationship with the rest of Nature (Issac Goeckeritz, 2020;

Margil, 2018; CELDF, n.d.). The movement challenges the idea of ownership as we know it and provides a fresh and inspiring perspective on how change can be created from within. On the one hand, natural guidance in a more sustainable direction is necessary within our current malfunctioning system, and on the other hand, each individual self gets the change to reconnect with Nature and to see its beauty with new eyes.

Isn't now the time to make up for what has been done to our friendly and caring neighbour? Climate change and the continuous destruction of the environment is an ongoing and urgent issue. Humans finally needs to handle and accept its dependency on a healthy planet and restore the inherent value of Nature (CELDf, n.d.). So, raise awareness for the Rights of Nature and encourage yourself, friends, and family to support the movement. Educational and professional measures are already being taken to further advance the development (United Nations, n.d.), but public awareness and action are among the most crucial steps to accelerate change!

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