

# Rights of Nature: Giving voice to natural objects

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Articles published in the first month of the new year usually focus on beginning anew, but the true new beginning, steeped in rich metaphor and ancient lore, and granted not by a mere calendar day but by the Earth's axial tilt, is Spring. According to the six-seasoned mid-latitude ecological calendar, the Prevernal season occurs on February 1, with Spring (Vernal) occurring in mid-March. As the season post-Hibernal, Prevernal paves the way for the rebirth and renewal promised by Spring, and the chance to "Begin afresh," as The Trees in Philip Larkin's onomatopoeic ode seem to say.

Worldwide Rites of Spring celebrate Nature reborn. In the West, the tradition involves reconnecting with Nature since our dualistic worldview insists on conceptualizing humans as apart from the rest of Nature. This Prevernal season, I invite you to include in your own personal Rites of Spring a contemplation of the Rights of Nature.

Rights of Nature ("RoN") is a global movement that seeks to protect Nature by conferring something akin to legal personhood on Nature, specifically on life-sustaining ecosystems and natural communities. Although legal personhood is notable both for its historical exclusion of actual humans and for its inclusion of nonhuman, inanimate entities such as corporations and ships, conferring legal personhood on ecosystems and natural communities grants those entities enforceable rights to exist and flourish.

The legal seeds of RoN were planted by Justice William Douglas in his dissent in *Sierra Club v. Morton*, 405 U.S. 727 (1972). Sierra Club sought to prevent Walt Disney World from developing a resort in the Mineral King Valley of the Sequoia National Forest because the necessary new highway and massive high voltage power lines would cut through the Forest. The majority concluded that the Sierra Club had no standing since it could not show injury to itself or its members. In his lengthy dissent, Justice Douglas stated:

The critical question of 'standing'



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would be simplified and also put neatly in focus if we fashioned a federal rule that allowed environmental issues to be litigated before federal agencies or federal courts in the name of the inanimate object about to be despoiled, defaced, or invaded by roads and bulldozers, and where injury is the subject of public outrage. Contemporary public concern for protecting nature's ecological equilibrium should lead to the conferral of standing upon environmental objects to sue for their own preservation. See *STONE, SHOULD TREES HAVE STANDING? -- TOWARD LEGAL RIGHTS FOR NATURAL OBJECTS*, 45 S.Cal.L.Rev. 450 (1972). *Id.* at 741-42.

Ultimately, the Sierra Club was able to prevent the destruction of Mineral King Valley, and over the years, Professor Christopher Stone's article cited by Justice Douglas gained traction.

In contrast to environmental laws that regulate permissible levels of pollution and degrees of environmental destruction, RoN laws authorize people, communities, and governments to defend the rights of ecosystems and natural communities to exist, persist, maintain, and regenerate. The RoN paradigm rejects the notion of Nature as a limitless exploitable resource by placing Nature's needs before human needs while recognizing that collapse of ecosystems imperil human existence. This latter point is driven home by laws passed in several European nations that recognize an enforceable human right to a healthy environment.

The first laws recognizing RoN were adopted in 2006 by municipalities in the United States starting with the Tamaqua Borough in Pennsylvania. Since then, more than three dozen U.S. communities have adopted such laws, with varying success. Ecuador was the first country to recognize RoN in its constitution in 2008. Bolivia enacted a comprehensive RoN statute in 2010. In 2016, a Colombian court ruled the Atrato River had legal personhood, and then in 2018, the Supreme Court of Colombia ruled that the Colombian Amazon had rights.

In an actual watershed event,

Maori tribes and the New Zealand government reached a treaty settlement agreement in 2017 that resulted in a law recognizing the 'legal person', Te Awa Tupua, as an "indivisible and living whole, comprising the Whanganui River from the mountains to the sea, incorporating all its physical and meta-physical elements." New Zealand that year also granted personhood status to the region Te Urewera and to the mountain Taranaki. In 2018, the White Earth Band of Ojibwe in Minnesota codified the rights of manoomin, an ancestral wild rice. Earlier this year, voters in Toledo passed a "Lake Erie Bill of Rights," and Uganda officially recognized Nature's fundamental rights.

Also in 2019, lawmakers in Sweden, working with the Community Environmental Legal Defense Fund's (CELDF) International Center for the Rights of Nature, proposed a constitutional amendment to secure RoN. Closer to home, Orange County's 2020 Charter Review Commission is proposing the "Wekiva/Econlockhatchee Bill of Rights" with drafting help from the CELDF. Lee County's environmentalists, also with the help of CELDF, plan to put the Caloosahatchee River Bill of Rights on the November 2020 ballot.

Although the current RoN laws feed the false human/Nature dichotomy, the RoN paradigm aims to embrace indigenous peoples' relationship with Nature, acknowledging the interdependence of all life, if not its indivisibility. The Whanganui law acknowledges the Maori's spiritual reality that the tribes and the River are an organic whole as expressed in their saying: "I am the river and the river is me." Perhaps reconnecting with Nature this Spring involves recognizing that humans may be just one mode of existence of Nature. In his provocative article, Professor Stone wondered if the earth and humans could not be considered a single organism. Perhaps life could be better served if conceptualized as a sum masquerading as parts, not unlike Pando, one of Earth's largest and oldest single organisms which masquerades as a grove of individual quaking aspen in Utah.

This Spring, feel the sum.