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Introduction

The mountain dominates the western coast of the North Island of Aotearoa New Zealand.[1] Its peak is like the center point of a sundial, the shadows on its slopes telling time. The cloud formations drift in and out, shaping the weather. There are several Māori stories relating the creation of this geography of Aotearoa. One tells of four mountain warriors who lived in the interior of the North Island: Tongariro, Taranaki, Tauhara, and Pūtauaki.[2] Two of them, Tongariro and Taranaki, were in love with a maiden mountain, Pīhanga, and they fought a mighty battle over her affections. Taranaki was defeated and, in his shame and sadness, left the center of the island. He dragged his club along behind him as he left, carving a deep gouge out of the land, which filled with his tears.[3] This tear-filled ravine became the Whanganui River. When Taranaki reached the sea, he turned north and saw the beautiful Pouākai mountain range and settled there.[4] The offspring of Taranaki and Pouākai became the plants, trees, animals, rocks, and rivers that flow over the slope of Taranaki maunga (Mount Taranaki) today.[5]

For the Māori, Taranaki maunga is a constant presence in their lives, a member of the family. And as of September 1, 2023, the Aotearoa New Zealand government recognizes this too. With the signing of the Te Ruruku Pūtakerongo agreement by the Ngā Iwi o Taranki (the local Māori peoples)

and the government, Taranaki maunga is on its way to becoming a recognized legal person with the right to thrive and survive. The mountain's rights are being recognized not because of its use to the communities who live in its shadows but because the mountain deserves such recognition as a living being.

The Māori have fought for decades to include the natural world in Aotearoa New Zealand's national law. Through the long process of conflict, negotiation, and reconciliation between Māori iwi[6] and the Crown, Aotearoa New Zealand is now at the forefront of the rights of Nature[7] movement, with laws enacted recognizing the rights of the Te Urewera forest and the Whanganui River and similar legislation for Taranaki maunga in the final stages of negotiation.[8]

The laws passed in Aotearoa New Zealand are the most detailed and widely known examples of what has become a growing campaign around the world to develop laws recognizing the rights—or, to put it another way, the legal personhood—of natural entities. The Te Awa Tupua (Whanganui River Claims Settlement) Act, recognizing the values and legal personhood of the Whanganui River, is probably the most famous. Although the existence of this law has been extensively covered by news stories, the process of drafting this legislation, the history behind it, and its mechanisms of implementation have received much less attention. Understanding how the Te Awa Tupua legislation came to be provides insight into whether it is possible to create a framework for successfully implementing and enforcing these kinds of laws elsewhere.

In a different context half a world away, the citizens of Toledo, Ohio, passed the Lake Erie Bill of Rights (LEBOR) on February 26, 2019. This measure, which would have been an addition to the City Charter, was the culmination of several years of citizen-led efforts responding to the increasing number of toxic algae blooms appearing in Lake Erie.[9] The proposal passed with 61 percent of the vote in favor, although the special election drew only about 9 percent of eligible voters to the polls.[10] The day after the election, a local farm filed a lawsuit challenging the new law. The complaint argued that LEBOR violated a number of constitutional protections in creating legal personhood for Lake Erie and also exceeded the authority of the City of Toledo, intruding on state and federal powers. A year later, the U.S. District Court for the Northern District of Ohio found in favor of the farm, striking down the proposed law in its entirety. Although the result was disappointing for those who worked hard to get LEBOR on the ballot, the result provides a number of key lessons for advocates, including the necessity of crafting laws that fit within the context and culture in which they will ultimately apply.

In contrast to the judicial challenges Lake Erie advocates faced in Ohio, the Supreme Court of Colombia has issued several decisions recognizing rights of Nature, the most recent of which provided rights to the Colombian Amazon.[11] The youth plaintiffs in the case, ranging in age from seven to twenty-five, based their legal argument on constitutional provisions, supported by international law, that they have a fundamental right to a healthy environment. The Court agreed and further held that the Colombian Amazon is "an entity, subject of rights, and beneficiary of . . . protection, conservation, maintenance and restoration" and that the national and local governments are obligated to protect these rights under Colombian law.[12] In its decision, the Court connected a healthy, thriving Amazon to the fundamental constitutionally protected rights of the young plaintiffs.

Each of these cases is part of a growing global movement to improve environmental justice protections and develop a more holistic human–nature relationship that treats all living things as part of a common, interconnected whole.[13] In addition to the above examples, countries such as Peru, Ecuador, India, Bangladesh, Uganda, Panama, and Sweden, along with local communities throughout the United States and elsewhere, have crafted laws recognizing these rights through a variety of legal mechanisms. These new laws provide an innovative strategy to develop better protections for people, natural entities, and biodiverse ecosystems. For advocates in the United States, in particular, where the existing efforts thus far have been local or Indigenous, learning from those places where rights of Nature laws have been successful on the national level can provide helpful insight on scaling up efforts in other communities.

The growing body of rights of Nature laws draws on an array of legal cultures and institutions and provides illustrative examples for advocates interested in developing these legal tools for environmental justice in their own communities. Although each law reflects the context from which it emerges, there is a remarkable similarity in the language used to recognize the rights of Nature. In Ecuador, this takes the form of broad constitutional recognition of Pachamama (Mother Earth).[14] Ecuador's constitution states in Article 71 that "Nature or Pachamama, where life is reproduced and exists, has the right to exist, persist, maintain itself and regenerate its own vital cycles, structure, functions and its evolutionary processes." In India and Bangladesh, public interest litigation has led to court decisions that have recognized the rights of rivers as essential for the common good of both people and the rivers themselves.[15] Uganda implemented amendments to its national environmental legislation in 2019 protecting Nature's right to "exist, persist, maintain and regenerate its

vital cycles, structure, functions and its processes in evolution."[16] Across the United States, some municipalities have passed local ordinances recognizing the rights of Nature, including in Pennsylvania, New Hampshire, Oregon, Colorado, and Florida.[17] Recently, Panama enacted legislation protecting Nature's "right to exist, persist and regenerate its life cycles" and requiring the government to ensure its "plans, policies, and programs respect the rights of Nature."[18]

Indigenous communities have been some of the strongest advocates for creating rights of Nature laws. In 1998 the Sámi Parliament in Sweden adopted a declaration supporting the "Rights of Mother Nature," followed later in the year by a proposal from a member of the Swedish Parliament for a constitutional amendment that would enshrine the rights of Nature into Swedish law.[19] In the United States, Indigenous communities such as the Ho Chunk, Ponca, White Earth Band, and Yurok have explicitly incorporated the rights of Nature into their tribal laws.[20] These Indigenous communities have taken the lead on codifying legal recognition of what has been, for millennia, a cultural and spiritual understanding of the rights of Nature to exist and flourish as independent living entities.

Although more people recognize the need to address issues of environmental justice, there are still those who are resistant to new ideas.[21] Finding ways to address these challenges is essential and requires outside-the-box thinking that a rights of Nature framework may provide. Each successful promulgation of rights of Nature laws opens more space for the idea that we need to change *how* humans think about nature, the human–nature relationship, and current legal and policy structures. The rights of Nature movement offers environmental advocates in the United States and around the world innovative legal mechanisms to do just that.

Although developing rights of Nature laws is a growing space for environmental justice advocates, the underlying concept of Nature possessing rights is not new. Many point to the publication in 1972 of Christopher D. Stone's article "Should Trees Have Standing? Towards Legal Rights for Natural Objects" as the origin for this idea of Nature having its own legal personhood.[22] But the idea of Nature as an independent and interdependent entity that has the right to exist and flourish because of its own intrinsic value and life force has been around much longer.[23] Many Indigenous communities and cultures have cosmologies grounded in the belief that Nature, ecosystems, and biomes are independent living entities, coexisting in partnership with all living things,

including human beings. In these belief systems, no living entity is more or less important than another, and all depend on each other for survival. For these Indigenous communities, and others who share these beliefs, the contemporary rights of Nature movement is a manifestation of practices that have always been part of their worldviews and values.[24]

For others, however, the idea of nature possessing rights is contrary to a worldview that holds human beings at the apex of a hierarchy, with nature below us and viewed as a commodity here for our use and abuse.[25] In the United States, and indeed in many countries in the Global North, laws have developed out of Enlightenment-era ideas about individual rights, including the right to own property. As a result, the idea of nature having independent legal standing has never been part of the conversation, either culturally or legally. This presents challenges that advocates must be aware of when thinking about developing the rights of Nature in a country such as the United States, where it is not just about changing the law, but also changing the culture.

For many people who have grown up under laws and policies that view nature simply as a resource for human use, whether in the form of industrialization or recreation, the idea that Nature in all its forms has the right to exist, be free from critical damage, and protect itself through legal mechanisms requires a shifting of worldviews and values. Changing cultural perceptions is often a long-term process, but developing strong rights of Nature laws can help shift conversations and push the process along. Ultimately, real change requires shifts in both the law and the culture, but because cultural shifts often take longer, it is incumbent on supporters of this new legal strategy to begin their work crafting new laws within existing legal and political structures. This will allow people to catch up to what some communities and cultures have known all along: Nature is an independent living entity that deserves to survive and thrive as much as human beings do.

Given these challenges, those who wish to fight for the rights of Nature must develop a two-prong advocacy strategy to integrate this concept into contemporary norms. First, cultural perceptions and worldviews must change to view human beings and natural entities as equal parts of an interdependent whole. Second, we must reinterpret current laws and make new ones that support the rights of Nature concepts while working to make more sustainable systemic changes promoting a more just world. At its core, this book is about developing this advocacy strategy and creating new and better ways to protect our planet and all the living things that call it home. Endless theoretical

debates may be had about recognizing the rights of Nature and what that means, but none of it will matter if there is no way to translate these ideas into concrete mechanisms for action. Passing a law alone is not enough if the law is not implementable and enforceable. How we move rights of Nature laws from the realm of the abstract to viable, tangible protections for Nature and communities is a fundamental question that is missing from much of the discussion to date.

The main goal of this book is to address these missing pieces and to consider the various legal and cultural contexts of existing rights of Nature efforts to help advocates create laws that will be embraced and implemented by their communities. The simple existence of these laws is important for their impact on the global conversation about environmental justice and what it means. But for long-term, substantive change, the creation of these laws is not enough. Their true impact will come only if they are able to be internalized, used, and upheld, and that is a much harder prospect.

This book takes on the question of how to craft effective rights of Nature laws by comparing approaches taken by advocates in New Zealand, Bangladesh, Colombia, and the United States. Drawing on a combination of field studies, interviews, legal analyses, and exploration of Indigenous, religious, and philosophical beliefs, this book argues that effective development and implementation of rights of Nature laws must be done in partnership with, and grounded in an understanding of, what is best within the local historical and cultural context. This requires drawing on local legal frameworks and legal cultures for best practices while also working to shift long-held ideas about the human–nature relationship to something that recognizes the importance of Nature for its own sake in addition to the benefits it brings to human beings.

Through the four case studies in this book we consider the following questions to help advocates develop and implement rights of Nature laws in their own communities: How do you define the rights of Nature, and what does it mean, practically, to recognize independent legal personality for a nonhuman entity? What is the best method for recognizing or realizing the rights of Nature in law in such a manner that it will be accepted? And, once recognized by the law, how can the rights of Nature be effectively implemented and enforced? Each of these questions plays an important role in the process of developing rights of Nature laws as a mechanism of environmental justice within a community. Using comparative analysis of the various legal traditions

and processes that shaped rights of Nature efforts in the four case studies, this book provides guidance for advocates on what has and has not worked so far. This is particularly important for those interested in these ideas in the United States, which, because of its legal history and structure as well as cultural understandings of the human–nature relationship, is currently not the most open environment for the development of rights of Nature laws.

In an effort to provide a better understanding of what the rights of Nature entail as a legal concept and a guide for advocates on how to use this idea successfully as an environmental justice tool, this book focuses on some of the most prominent examples of rights of Nature efforts around the world and considers what we can learn from them. Chapter 1 explores the distinction between "human" and "person" in the law and what assigning legal personhood to Nature means, placing the development of rights of Nature law within the broader idea of rights. Chapter 2 unpacks how legal culture and institutions, as well as context, work together to shape the development and implementation of new laws. In Chapters 3 through 6, we delve into specific examples from Aotearoa New Zealand, Bangladesh, Colombia, and the United States. In each of these chapters, we explore the history and development of rights of Nature law within the countries and analyze their successes and challenges. Chapter 7 pulls the lessons from the four cases together and provides a list of the top tools for advocates interested in developing rights of Nature laws to strengthen environmental justice efforts in their own communities. Finally, Chapter 8 recognizes some of the challenges facing the development of these laws and reflects on the importance of persistence and patience for any advocacy effort, concluding with a final reminder of the importance of this work for the future.

We know the law we currently have is not sufficient. We know that in many places, people still fundamentally hold to the idea that nature is a commodity that we are free to do with as we please, consequences be damned. Corporations still have an enormous amount of power when it comes to decisions about nature, and in many countries the corporations themselves are rights-holding entities that have been able to protect their profits while continuing to degrade the environment. To address all these issues, we must fundamentally change how we think about Nature and our relationship with the nonhuman living world. We must think of Nature as an important living entity in and of itself, one that deserves protection and existence every bit as much as human beings do.

This is not just a philosophical argument. If we do not change how we think about the natural world and if we do not adjust our behaviors, policies, and laws accordingly, there may not be a natural world left, and all the human rights that we so deeply hold and strive to protect will no longer matter. This is the heart of environmental justice: recognizing that all living things on this planet are intricately bound together, and consideration and protections must be provided for all of them, not just those with money or power or those who think they sit atop some kind of hierarchy. Protecting the right to food and water is a moot point if the land and climate can no longer sustain agriculture and drought and pollution have dried up the water supply. Protecting our right to health and the freedom to create our families becomes limited if resources are so scarce, and pollution and pandemics so prevalent, that protective measures no longer have any effect. Even our right to life, the most fundamental of all human rights, is threatened when we live on a dying planet.

Cultural shifts, modifications in our worldviews, and changes in our daily practices are never easy. For many, the idea of giving rights to nature, to ecosystems, and to other natural entities is a very difficult concept to wrap one's mind around. But this is not a new idea. The cosmologies of many Indigenous communities around the world, chthonic legal traditions, and religious cultures such as Hinduism and Buddhism have long viewed the human–nature relationship in this more holistic way and believe in the living spirituality of the natural world. These understandings and ways of life were ignored, crushed, and pushed aside during periods of conquest, colonialism, and genocide. But the power these beliefs hold about how we interact with the living world around us has never gone away. Now, more and more, communities of all kinds are recognizing the value in these knowledges and understandings of the human–nature relationship. As with many of the structures built on foundations of domination and subjugation, however, the current legal and political systems in many communities are not supportive of this recognition. But change is not impossible. We have already adjusted our thinking about rights by accepting rights for other nonhuman entities such as corporations, states, churches, and animals. Providing rights for Nature is an extension of the same logic but one that is even more historically embedded in many cultures and is more deeply essential to the survival of the planet. This change needs to come, and the goal of this book is to provide a small bit of insight as to how we make this change happen.

It is important to question whether the law can really do all these things. After all, law itself is a human creation and falls into the many traps of all

constructed institutional entities: inefficiencies, system biases, corruption, power asymmetries, and politicization. The key is that law is an important part of a solution but not the *only* solution. We still need people to learn and speak out, march and petition; we need people to talk to their elected officials and advocate for better policies but also take personal responsibility within their own homes and on their own property. No issue can be solved with only one kind of action. But legal mechanisms are a crucial part of an advocacy plan. There are ways to use the law as a tool to create better environmental protections and shift cultural beliefs about the human–nature relationship, and the rights of Nature is one of them. Law can be used to push society forward on certain issues, as it did with women's rights, civil rights, and LGBTQ+ rights. In each of these cases, in response to crises of rights (or, more accurately, lack of rights), the courts and the law acted to provide new legal protections for those lacking them. There is no reason we can't do the same for the rights of Nature.

We know, of course, that simply having laws designed to ensure protections and recognition for any marginalized group is not enough. What matters is how those laws are internalized, implemented, and enforced. But it is a place to start, a framework through which other work can then take place—through law, through policy, through advocacy, and through activism. And although the work on existing rights protections is by no means finished, current laws have had an impact on cultural understandings and perceptions on issues such as race, bias, discrimination, and equality. Would extension of rights protections have happened, for example, without *Brown v. Board of Education* and *Obergefell v. Hodges*?[26] Maybe or maybe not. But it seems certain that the fact that there was a legal framework within which other advocacy actions could take place and on which we could rely to encourage shifts in societal perceptions played some role.

Successful use of the law in this manner is not as simple as writing and enacting a new law or asking the court to issue a new decision on an issue, however. The effectiveness of the law as a tool for advocacy, particularly with a new issue such as the rights of Nature, depends on how well it is internalized within a community. Ensuring effective implementation of the law in this way requires a keen understanding of the legal culture of a place, the legal institutions and how they function, and the norms surrounding the human–nature relationship already present in the community.

So, fundamentally, this book is about law and it is about advocacy and how law can be crafted in a way that is more likely to allow advocates to use it to achieve successful implementation of the rights of Nature and a shift in

communal understandings of the human–nature relationship. The argument here is not that creating law recognizing the rights of Nature is the end-all answer for the environmental justice problems we face. Rather, law is one of the key tools we have to advocate for new ideas under current systems while advocating for changes to those very systems.

Chapter 1

Understanding the "Rights" in Rights of Nature

Throughout legal history, each successive extension of rights to some new entity has been, theretofore, a bit unthinkable.

—*Christopher Stone,* "Should Trees Have Standing?"

Does giving rights to Nature mean that trees can march into court and sue me if I chop one down? Since it now has rights, does the mountain have freedom of speech and religion? If the rivers have rights and they flood, damaging homes and harming people, do they also have the responsibility to pay for damages? These questions, though sometimes raised with a touch of sarcasm, represent some of the challenges facing the rights of Nature movement and the effective implementation of rights of Nature laws. To some extent, these questions reflect a misunderstanding of the meaning of rights of Nature laws and how they fit within a legal rights framework. But they also represent real challenges—both institutionally and culturally—that advocates must overcome for these laws to offer effective environmental justice protections and a new path toward a more harmonious human–nature relationship.

In hindsight, the rights of Nature movement may have benefited from a different name, because the word *rights* seems to give many people pause. However, the rights of Nature movement is not about applying existing human

rights to nonhumans. Rather, it is a twofold effort of encouraging people to continue to think about expanded legal protections for nonhuman entities such as nature, while also shifting their perspectives on the human–nature relationship.

There is a long history of rights expansion beyond human beings.[1] In states around the world, legal rights exist for a variety of entities, including corporations, trusts, animals, churches, and countries.[2] For example, in the United States corporations have been recognized as legal persons with constitutional rights to freedom of speech and freedom of religion.[3] In the international system, countries are treated as independent legal entities with rights and responsibilities attaching to them under international law. And in both India and Colombia, animals have been given rights to live free from harm.

Shifting perspectives on the human–nature relationship involves understanding nature as an important entity for its own sake rather than just its utility for human beings. With this more holistic worldview, all living things are thought of as equally important and mutually dependent. How easily this shift occurs is, in great part, determined by the cultural and institutional contexts present in a community, how supportive these contexts already are to the expansion of rights to nonhuman entities, and the place of nature within a community's worldview.

For advocates, it is important to explore more deeply what *rights of Nature* means, how we define this concept, and our goals in shifting the rights of Nature from abstract idea to concrete legal mechanism. It is also important to understand that implementing successful rights of Nature laws requires the establishment of a legal framework that draws on the existing legal tradition in the community in order to increase the likelihood of acceptance of, and compliance with, these new laws. This is important because in addition to the often-tongue-in-cheek queries above, serious questions may be raised about the rights of Nature: Does the concept of rights of Nature mean the same thing for everyone? Do we need it to? And how do we translate values, ideas, and worldviews about the rights of Nature and the corresponding human–nature relationship into law and policy in our contemporary world in a way that can provide an actionable framework for ensuring these protections?

Understanding the Expansion of Rights and Legal Personhood

No existing rights of Nature law says that Nature has "human rights" or the same rights as a human being. This is a common misunderstanding

surrounding the rights of Nature and one of the primary sources of conflict hindering the development of these new laws. One of the main reasons for this misunderstanding is the confusion over the idea of "human" and the idea of "person."[4] A human being is a biological entity, whereas a person is a legal construct. Although some believe that human rights are rights we have simply by virtue of being human, these rights still have to be constructed and incorporated in a tangible way into legal systems so that they may be understood, complied with, and enforced to protect human beings as legal persons. This same process used to ensure the protection of human rights can also be used for corporate rights, countries' rights, the rights of the incapacitated, animal rights, or the rights of Nature by recognizing each of these entities as legal persons. What matters is not what these laws are called but what they call for. This is where careful construction of rights of Nature laws that reflect the legal culture, institutions, and context of a community comes in (and will be discussed in detail in the next chapter).

The central tenet behind most rights of Nature laws is that Nature has the right to thrive and survive because it is a living entity, regardless of the benefit to or impact on human beings. To be successful, however, advocates must ensure that the law clearly spells out what that means in the context of the community to whom the law will apply. It is not enough to say, "Nature has the right to thrive and survive." The law needs to define exactly what that looks like, and in most situations this has taken the form of assigning legal personhood to nature.

To be a legal person is to be the subject, or bearer, of rights and duties.[5] Legal personhood, or legal personality, "enumerates privileges and obligations for a specified entity under the law, including various rights and the ability to appear before legal bodies to defend these rights."[6] Legal personhood is a legal construct defined as "a human or non-human entity that is treated as a person for limited legal purposes . . . [and] can sue and be sued."[7] Legal persons, whether a human being or a nonhuman entity, can be assured of protection only for the rights provided to them by law.[8] The creation of legal personhood for both human and nonhuman entities has been a component of legal development for centuries. Throughout this development, groups of both human beings and nonhuman entities have had to advocate to be given rights protections, which often require both changes in the law and shifts in worldviews. Advocacy for the rights of Nature is just the latest in a long line of these efforts.

Historically, various groups of people have had to fight long and hard for legal personhood and the protection of their rights.[9] For example, slaves in the

United States were not considered full persons under the U.S. Constitution and had no rights until the Thirteenth, Fourteenth, and Fifteenth Amendments were passed after the Civil War. Even with that legal codification, the fight for recognition and protection of these rights continues. Women also were not recognized fully as people with rights or legal personhood until changes in the law expanded protections that were already granted to their male counterparts. Similar histories can be found in the expansion and development of rights for other groups such as LGBTQ+ people, migrants, and children.

The law is always developing, shifting as cultural norms and human understandings shift, and, correspondingly, the meaning of rights and to whom they apply has changed and grown. This is true for human beings, as illustrated here, as well as for nonhuman entities. The law contains many "inanimate rights-holders: trusts, corporations, joint ventures, municipalities, Subchapter R partnerships, and nation-states, to mention just a few. Ships, still referred to by courts in the feminine gender, have long had an independent jural life."[10] Given this extensive list of rights, providing legal personhood to nature is simply the next step in a long history of recognizing the legal personality of nonhuman entities.[11]

Although it may seem strange to some, recognizing such rights or legal personality has been going on for centuries. Beginning with the Peace of Westphalia in 1648, the idea of sovereignty has been the foundation of the international system of states. Sovereignty provides rights for countries, including the freedom to govern affairs within their own territories without outside interference and to participate as members of the global community in agreements, alliances, and international organizations. But this is all a legal construct in which the countries are granted rights and legal personhood in order to facilitate the ordering of the global system and provide structures for the people who make up the states. For example, we speak of the United States as an actor in the international system that has rights and responsibilities under international law and is a member of organizations such as the United Nations. This status of the United States, along with all other countries, is a legal fiction, and these "rights" of the countries exist only because they were constructed and conferred. The international legal system is "one place where the recognition of legal personhood is important, where concepts of states as citizens who may be held responsible are crucial."[12]

In a similar vein, religious institutions have long held their own legal personhood. Perhaps best exemplified by the Vatican and the Holy See but true around the world, religious organizations as entities, separate from the human

beings they include, have their own rights and legal personhood. For adherents to the religion, it could be viewed that the religious organization has natural rights, akin to natural rights in humans, given by the spiritual authority. But, as with human rights, these natural rights still must be recognized and codified in existing legal and political frameworks in order to be fully realized.

The most commonly discussed nonhuman entity that has been given legal personhood is the corporation. According to lawyer Christopher Stone, "we have become so accustomed to the idea of a corporation having 'its' own rights and being a 'person' and 'citizen' for so many statutory and constitutional purposes, that we forget how jarring the notion was to early jurists."[13] Many countries recognize rights for corporations, though perhaps nowhere is this recognition stronger than in the United States. The U.S. Supreme Court has determined that, under the Constitution, corporations have rights and are able to defend those rights in court.[14] In the United States, corporations can "own property, enter into contracts, and sue and be sued."[15] Corporations also enjoy due process protections under the Fourteenth Amendment to the Constitution.[16] Recent examples of this include the *Citizens United* and *Hobby Lobby* cases before the U.S. Supreme Court, which recognized in its decisions the entities' freedom of speech and freedom of religion, respectively.[17] In those cases, the rights of the fictional legal persons (the corporations) were represented in court by natural persons (human lawyers), who had standing on their behalf.

The United States is not the only country where corporations are treated as legal persons. In China, for example, there is no distinction between types of persons. The *General Principles of Civil Law of the Peoples' Republic of China* defines legal personhood as follows: "Legal persons are organizations that have civil capacity, are competent to perform civil acts, and according to law independently enjoy civil rights and assume civil duties."[18] This definition actually lists the first type of legal person as an organization. Similarly, the Italian constitution includes "registered trade unions as legal persons explicitly and makes no reference to their artificiality."[19] And in India, corporations, the "body politic," and charitable organizations are all recognized as having legal personhood.[20]

Another trend of conferring legal personhood on nonhuman entities has come in the area of animal rights, which have been a "part of the . . . political landscape for a number of decades."[21] India has recognized legal personhood for dolphins, with the Indian Central Animal Authority stating that dolphins should be "seen as nonhuman persons and as such should have their own specific rights."[22] In Colombia, Chucho the Andean bear was the central figure in

one of that country's first animal rights cases, which recognized the bear as a sentient being entitled to rights and protections.[23] And in 2021, the District Court for the Southern District of Ohio "recognized animals as legal persons for the first time in the United States."[24] This case involved intervention and support for a lawsuit filed in Colombia seeking to protect hippos that were descendants of animals imported to the country by Pablo Escobar. In Colombia "animals have standing to bring lawsuits to protect their interests,"[25] and the plaintiffs in the U.S. case were seeking permission under 28 U.S.C. §1782 to conduct discovery in the United States for use in the Colombia case.[26]

These are just a few of the many examples available of the extension of legal personhood, and correspondingly legal rights and responsibilities, to nonhuman entities. Although some of these remain novel, such as the rights of animals, other examples such as countries and corporations have been recognized as persons by laws around the world for decades, if not centuries. Extending legal personhood to other nonhuman entities, including natural ones, is but an extension of the legal developments that have already taken place.

Perspectives on Nature as an Entity Deserving of Legal Personhood

To develop and effectively implement rights of Nature law, it is important for advocates to understand what it means to recognize Nature as an entity deserving of legal personhood. Rights of Nature as a general concept recognizes the importance of all living things, human and nonhuman, and the right of all of them to live on this planet. With this understanding, the rights of Nature creates the means for nonhuman living things to protect themselves through existing legal and political institutions. These legal means may include the granting of legal personhood before judicial bodies, designating human guardians for the natural entities to ensure their protection, and providing penalties for those who harm the natural entity in a way that impedes its ability to survive and thrive. For advocates working in a secular legal context, particularly in the Global North, these ideas might seem somewhat strange, but many cultures, religions, and philosophies recognize that the rights of Nature have always existed and been respected, even if they were not explicitly referred to in that manner. Rights of Nature advocacy therefore requires us to learn from a diverse array of communities and cultures with the goal of understanding that there may be better ways to view the world and, in turn, protect nature through the law so that all living things flourish.

Indigenous Recognition of Nature

For many Indigenous communities around the world, the rights of Nature is a concept integral to an overarching worldview that recognizes the spirituality and personality of all living things, as well as the relationship between them.[27] Most Indigenous communities "did not, and do not, operate with a Nature–culture opposition" but rather have at the core of their belief systems a harmony with Nature that sees a valuable essence in all living things and recognizes that each ultimately depends on the other for survival.[28] It is a commonality among many Indigenous peoples around the world that their culture and spirituality reflect a communal view of land, a more respectful view of the natural world, and an ecocentric cosmology regarding the human–nature connection.[29]

Although it is important to recognize that there is not a universal, homogeneous Indigenous cosmology, there are many similarities between Indigenous belief systems regarding the rights of Nature and the relationship between human beings and the rest of the natural world.[30] Much Indigenous knowledge, sometimes also called traditional ecological knowledge, "recognizes connectivity between different roles and responsibilities within a system."[31] Nature is seen as an ancestor, a spiritual being, and a living entity as deserving of respect and protection as any other living thing. Human beings depend on Nature for our survival, and Nature depends on us.

Given the longstanding belief in these ideas, it is no surprise that Indigenous communities are leading the way in the recognition of the rights of Nature. Sometimes this occurs explicitly, as in Ecuador, where Indigenous communities were central in amending the Ecuadorian constitution to include new sections recognizing both their close connection to their land and recognition of the rights of Nature (Pachamama).[32] In other places, such as the United States, it has been incumbent on Indigenous communities to codify their longstanding beliefs for themselves through tribal laws in the absence of federal or state action. This recognition of the rights of Nature becomes law on sovereign Indigenous territory, but the structure of U.S. law is such that these laws do not extend beyond those boundaries and will not necessarily be upheld in any court other than a tribal one.[33] This is because, as stated by Chase Iron Eyes of the Standing Rock Sioux, the United States and other Western countries currently "lack a place intellectually or spiritually to comprehend the sacred relationship between the original peoples of this hemisphere and the waters, the sacred sites, and the lands."[34]

Codifying Indigenous beliefs into mainstream law may seem contradictory, particularly given the treatment Indigenous peoples have suffered at the hands of colonial states whose legal structures still prevail in many places. But it is an important step not only to protect nature but also to find ways to bring together Indigenous and non-Indigenous beliefs and laws to shape better environmental justice protections.[35] Because nature is shared by all peoples, the use of the rights of Nature as a cornerstone of environmental justice principles may facilitate a more supportive relationship between Indigenous concepts and state processes of law.[36]

There are examples around the world where Indigenous communities have written their cultural and spiritual histories reflecting the rights of Nature into state laws. For example, Māori communities in Aotearoa New Zealand "were instrumental in creating new legal frameworks that give legal personhood, and thus rights, to land and rivers."[37] To date, this has resulted in the recognition of rights for the Te Urewera Forest and the Whanganui River, and final negotiations are under way for similar recognition for Taranaki maunga.

The Sámi people in Sweden voted to endorse the Declaration of the Rights of Mother Earth, which includes the rights of Nature to live, be respected, and "maintain its identity and integrity as a distinct, self-regulating and interrelated being."[38] Although this is not binding law on the country of Sweden, the actions of the Sámi have led to a Swedish member of Parliament proposing a constitutional amendment that, "if passed, would ensure the rights of Nature in Swedish law."[39] The proposed amendment was the first of its kind in the European context, and although efforts were interrupted during the COVID-19 pandemic, advocates continue to fight.

In contrast, in the United States, the relationship between federal and state law and Indigenous law remains more contentious, given the country's history. Within sovereign Indigenous territories, however, many peoples including the Ho Chunk Nation in Wisconsin, the White Earth Band of Chippewa (Anishinaabe) in Minnesota, the Ponca Nation in Oklahoma, and the Yurok Tribe in northern California have recognized the rights of Nature. The Ho Chunk Nation added a rights of Nature provision to its constitution, with the goal of protecting "ceremonial grounds and other lands."[40] The amendment calls for the respect of the rights of Nature, its life cycles, structures, and functions. It also says Nature has a right to be restored.[41] Similar efforts have been made by the White Earth Band, which has recognized the rights of manoomin (wild rice) to "exist, flourish, regenerate, and evolve, as well as inherent rights to restoration, recovery, and preservation."[42] In 2019, the Yurok

Tribe passed a resolution recognizing "the Rights of the Klamath River to exist, flourish, and naturally evolve; to have a clean and healthy environment free from pollutants; to have a stable climate free from human-caused climate change impacts; and to be free from contamination by genetically engineered organisms.[43] And in Oklahoma, the Ponca Nation was one of the first to incorporate recognition of the rights of Nature into their sovereign law. According to Casey Camp-Horinek, a councilwoman of the Ponca Nation, "These are the natural laws that have always existed prior to the poisoning of the land by the extractive industry. . . . If you eat, if you breathe, if you drink water, then it's an undeniable connection between human and Nature."[44] Each of these efforts to codify rights of Nature law reflects an underlying belief, widely held among many Indigenous peoples: Nature has a life force of its own, separate from human beings, that must be respected and protected.

Spiritual Recognition of Nature

A number of religions also include within their belief systems the underlying principles of the rights of Nature movement and see all living things as part of an integrated whole. Buddhism, for example, recognizes the concept of tomoiki, which "encapsulates the interrelationship of humans and the natural world."[45] In Cambodia and Thailand, Buddhist monks have engaged in environmental actions such as protecting forests by blessing the trees and working with reforestation projects, while also providing community education programs recognizing the integral relationship between humans and nature.[46] Confucianism, as highlighted by the International Confucian Ecological Alliance in 2015, holds as a core tenet that the "sustainable harmonious relationship between the human species and Nature is not merely an abstract ideal, but a concrete guide for practical living."[47]

Hinduism contains many precepts supporting the idea of a deeply spiritual relationship between all living things. For example, the concept of Vasudhaiva Kutumbakam reflects the belief that all the world is one family composed of all living things.[48] As stated by Indian spiritual leader Amma in 2011, "There is an inseparable bond between man and Nature. For man, there cannot be an existence removed from Nature."[49] In a rights of Nature case that came before the court in India regarding the rights of the Ganges and Yamuna Rivers, the High Court of the State of Uttarakhand drew specifically on the sacredness of the rivers for Hindus in issuing their decision in favor of the rights of the rivers.[50]

The monotheistic religions—Islam, Judaism, Christianity—all also contain underlying values that support the rights of Nature, although we sometimes see more conflict within these traditions over the question of stewardship and its meaning. There are some who believe that God made human beings stewards over the Earth, and therefore they are "above" the rest of the natural world and are able to dominate it.[51] Increasingly, however, there is movement within these religious traditions toward the understanding that stewardship focuses on a more balanced and equal relationship between human beings and nature rather than a relationship of domination.[52]

Within the Catholic tradition, St. Francis of Assisi was one of the first to call for a more balanced relationship between human beings and nature. He "advocated for the equality of all creatures, referring to the sun, the Earth, the water, and the wind as his brothers and sisters."[53] Centuries later, Pope Francis echoed these sentiments in his encyclical *Laudato Si'*, in which he issued "a call for a change in consciousness and a world view from the dominant paradigm of the domination over Nature and its destruction, to one where we see the Earth as our Mother, as our common home."[54] This sentiment was echoed in 2010 by the ecumenical patriarch of the world's Orthodox Christians, who stated, "We must treat Nature with the same awe and wonder that we reserve for human beings."[55]

Islam also includes a strong recognition of the independent importance of the natural world, holding the foundational belief that the "Earth is a Mosque, and everything in it is sacred."[56] Among the many principles of Islam that reflect the values of the rights of Nature are "understanding the Oneness of God and his creation (tawhid); . . . being a steward of the Earth (khalifah); . . . and living in balance with Nature (mizan)."[57] It is a primary purpose of the Qur'an to "establish the equilibrium and the state of tranquility between man and his environment."[58] Although Islam, like Christianity, has different branches and jurisprudences, the foundational religious texts and practices are inherently supportive of the rights of Nature. The "Holy Qur'an sets out a complete spiritual and moral guide" for human beings, in which "humans are to walk humbly; not to be wasteful or extravagant; not to disrupt the balance that exists in Nature and not to change the creation of God."[59]

As with Indigenous cosmologies, not all religions are the same in their approach to nature or the human–nature relationship. But as briefly illustrated here, underlying many of them are similar values that give weight to the understanding that Nature has a place as an independent, living entity of its own accord and, as such, has rights that should be protected. Because religious beliefs

are often central to a person's worldview, understanding the deep support for a more balanced human–nature relationship within religious traditions can help shift cultural understandings and increase support for the rights of Nature concept. This can be important, especially in communities where religious law forms a part of the legal culture and therefore is integral to the successful framing of rights of Nature laws and their effective implementation.

Environmental Philosophies and Activism Centering on Nature

Environmentalist philosophers, ethicists, and conservationists have written about the human–nature relationship and the importance of seeing Nature as an independent and important living being for centuries.[60] A number of early U.S. environmentalists such as John Muir, Aldo Leopold, and Henry David Thoreau incorporated elements of the rights of Nature concept into their work. Thoreau said that "in wildness is the preservation of the world."[61] He continued, "There is a higher law affecting our relation to pines as well as to men. A pine cut down, a dead pine, is no more a pine than a dead human carcass is a man. . . . Every creature is better alive than dead, men and moose and pine-trees, and he who understands it aright will rather preserve life than destroy it."[62]

In *My First Summer in the Sierra*, John Muir similarly recognized the integral connection of the human–nature relationship: "When we try to pick out anything by itself, we find it hitched to everything else in the Universe."[63] Even Albert Einstein once said in a 1950 letter that we must find a way to look beyond the immediate interests of ourselves and those closest to us, that in fact a narrow focus on those most similar to us is a "prison," and "our task must be to free ourselves from this prison by widening our circles of compassion to embrace all living creatures and the whole of Nature."[64]

Aldo Leopold, in the "Land Ethic" section of his seminal work *A Sand County Almanac*, lamented how "we abuse land because we regard it as a commodity belonging to us" instead of viewing land as a "community to include soils, waters, plants, and animals." To Leopold, the individual is a member of a community of interdependent parts whose role must change from conqueror of the land-community to members and citizens of it.[65]

Leopold was followed decades later by Thomas Berry, a Catholic priest and cultural historian who believed that rights originate with existence, apply to all, and give every living being its due.[66] Berry argued, "Every being has rights to be recognized and revered. Trees have tree rights, insects have insect

rights, rivers have river rights, mountains have mountain rights. So too with the entire range of beings throughout the universe."[67] As with the contemporary rights of Nature movement, Berry was not arguing that all living things have the *same* rights. He recognized that "rights are limited and relative" and must be tied to the needs of each entity. But he emphasized that, in general, every member "of the Earth community, living and non-living has three rights: the right to be, the right to habitat or a place to be, and the right to fulfill its role in the ever-renewing processes of the Earth community."[68] These three rights espoused by Berry have formed the foundation of much of the rights of Nature law being developed today.

Biologist Rachel Carson also recognized the importance of a more equal and respectful human–nature relationship. Carson, best known for her book *Silent Spring*, which brought to light the dangers of the overuse of toxic chemicals, had an "environmental ethic" that was "driven by awareness and sharing knowledge, so that we can live harmoniously with Nature."[69] Although Carson's *Silent Spring* was heavily criticized after its publication in 1962, many of the critiques lacked scientific evidence and instead were based on sexism and driven by corporate greed. Since that time, however, her warnings have been recognized as some of the earliest environmental activism and have had significant impact on the environmental justice movement. Carson's work "challenges the thinking that Nature is to serve people and is to be controlled, and implies our moral responsibility to Nature, that we must not cause unnecessary loss of non-human or natural life and reminds us we share the same environment."[70]

Following in the footsteps of Rachel Carson, contemporary environmental scientists, scholars, and activists such as Vandana Shiva and Wangari Maathai have also centered the rights of Nature in their work, even if not calling it that specifically. Maathai's creation of the Greenbelt Movement and work on environmental justice in Kenya was grounded in the traditions of her community and the recognition of the independent value of Nature.[71] Maathai believed that we "are faced with a challenge that calls for a shift in our thinking, so that humanity stops threatening its life-support system," and we "are called to assist the Earth to heal her wounds and in the process heal our own—indeed, to embrace the whole creation in all its diversity, beauty and wonder."[72] She said that this "will happen if we see the need to revive our sense of belonging to a larger family of life, with which we have shared our evolutionary process."[73] Maathai's tireless efforts on behalf of her community

and her country demonstrate the impact advocates can have in changing both the laws and cultural perceptions on an issue.

Vandana Shiva, an activist focused on the environment, food security, and the role of women in the environmental movement, also has at the core of her work a recognition of the integrated relationships of all living beings on the planet. In her efforts, she has highlighted the importance of understanding biodiversity and the unique role all living things possess, stating that it has "been my teacher of abundance and freedom, of cooperation and mutual giving. . . . When Nature is a teacher, we cocreate with her—we recognize her agency and her rights."[74] Shiva argues that we need to recognize "freedom for all species to evolve within the web of life, and the freedom and responsibility of humans, as members of the Earth family, to recognize, protect, and respect the rights of other species."[75] Like that of Maathai, Shiva's activism has changed both law and policy at the state level, as well as the way people in communities in India, and around the world, think about environmental justice and the human–nature relationship.

Bringing Nature to the Law and the Law to Nature

In 1972, Christopher Stone published his seminal article, "Should Trees Have Standing?," and introduced the concept of the rights of Nature as a legal construct and a concrete mechanism of environmental protection.[76] Stone's thesis centered on the idea that Nature could have legal personhood, allowing it to protect itself through the institutional legal mechanisms present in the United States.[77] He argued that the expansion of rights protections to nonhuman entities has been taking place for centuries, so the expansion of rights to Nature should not be any different.

In the decades since Stone's work was published, there has been an increase in legal theories and approaches recognizing the rights of Nature. Scholars such as Cormac Cullinan, Roderick Nash, Erin O'Donnell, and David Boyd and organizations such as the Community Environmental Legal Defense Fund, the UN Harmony with Nature program, and the Global Alliance for the Rights of Nature have expounded on Stone's work and developed legal frameworks for the rights of Nature, building on the idea of recognition of such rights both within and outside existing legal systems.[78] While taking slightly different approaches, all of these efforts focus in some way on understanding the cultural drivers behind the development of rights of Nature laws

and the political and legal institutions that have framed the expansion of this movement around the world.

These legal approaches have been given a variety names, including *eco-jurisprudence*, *ecocentric rights*, *Earth law*, and *wild law*. Although the names differ, all these legal paradigms have at their core the recognition of legal personhood for Nature.[79] Moreover, as with the knowledges and philosophies that have come before them, they are grounded in a belief that "protecting the environment is impossible if we continue to assert human superiority and universal ownership" over the land.[80] They further agree that we need to recognize instead that humans are part of "an interconnected web of other species and landscapes, decentering human interests."[81]

This incorporation of the concept of the rights of Nature into law is perhaps best reflected in the Universal Declaration of the Rights of Mother Earth, a nonbinding but aspirational set of principles created in Cochabamba, Bolivia, in 2010 during the World Peoples Conference on Climate Change and the Rights of Mother Earth.[82] This declaration recognizes the inherent rights of the natural world and also discusses human responsibility to Nature.[83] Though not a binding document, the declaration has helped generate more global interest in these ideas, including the United Nations General Assembly taking up a broader discussion about these issues through the Harmony with Nature platform.[84] Much of the discussion has centered on ways to transform systems from ones with domination of people over nature, men over women, and rich over poor, into new systems based on partnership and equity. The UN secretary general's report *Harmony with Nature*, issued in conjunction with the conference, elaborates on the importance of reconnecting with Nature.[85]

Extending Legal Personhood to Nature

The rights of Nature movement today is grounded in the idea that Nature has the right to survive and thrive and protect itself as a legal person. To date, this or similar language is present in all efforts to recognize the rights of Nature. The Lake Erie Bill of Rights, for example, recognized the right of Lake Erie and its watershed to "exist and flourish."[86] Te Awa Tupua, the Māori name for the Whanganui River and its surrounding ecosystem, begins with recognition of the intrinsic values of the river and then codifies that it "has all the rights, powers, duties, and liabilities of a legal person."[87] The Constitution of Ecuador, Article 71, provides that Pachamama "has the right to integral respect for its existence and for the maintenance and regeneration of its life cycles,

structure, functions and evolutionary processes."[88] And in Bangladesh, the Supreme Court declared all rivers in the country are living entities that have the rights of legal persons.

Rights have been continuously developed and extended to both humans and nonhumans as long as there have been laws. Giving legal personhood to a natural entity is simply the latest in this long history of legal developments and is, in essence, no different from conferring it on a state, corporation, or animal as described above. The law constructs whatever rights, responsibilities, and legal standing an entity may have within a particular legal system. The "right" in the rights of Nature includes the ability, usually through guardians or representatives appointed by the law, to file a legal claim for damage that is, or that may be, inflicted on it. This is as true for Nature as it is for a corporation, a country, or a hippo. At its core, providing rights to Nature creates standing for the natural entity to bring a lawsuit on its own behalf. This provides a more straightforward path to protection and legal remedy based on the importance of the natural entity itself rather than its importance for human beings.

Despite this, it has been true that "each time there is a movement to confer rights onto some new entity, the proposal is bound to sound off or frightening or laughable."[89] Critics of the rights of Nature often fixate on this idea of Nature bringing a lawsuit because, obviously, the natural entity itself cannot go into a courtroom or protest at city hall. In all of the successful rights of Nature law that has been promulgated so far, a key part of the law is *who* may bring a claim on behalf of the natural entity. In some cases, as in New Zealand, specific guardians are appointed, and in others, as in Ecuador, any person or group may file a complaint on behalf of the natural entity. Neither of these procedural constructs is new. The concept of the law appointing a guardian, representative, or trustee to take legal action on behalf of someone or something else has been around for a long time and is present in countries around the world.[90]

Legal personhood is one of the recurring themes in conceptions of the rights of Nature. For some communities and cultures, this role for Nature as a subject of the law is readily accepted as part of the cosmic relationship between all living things. For others, it is purely a legal construction, along with all the other legal rules that shape a community. In either case, recognizing the legal personhood—the legal standing—of Nature is one of the key facets of creating and implementing successful rights of Nature law. Without some form of legal personhood or legal standing, Nature has little recourse to protect itself even if its right to survive and thrive is recognized.

Giving legal personhood to a natural entity is no different from a legal perspective than giving rights to any other nonhuman entity. Privileges and responsibilities are outlined by the law and then carried out through representatives. This does not mean that Nature has the same rights as a human but rather that the natural element in question will have the status and protections given to it by the law, and that law is responsible for illustrating what those are. The key for successful rights of Nature law is that all these elements must be clearly delineated in order for there to be effective implementation and enforcement. But it is also equally important that the community in which the law applies understands and accepts the law, because effective implementation can come only with community support.

One of the best ways to ensure clarity and garner support within the community is to clearly explain this relationship between the new rights of Nature law and other already-existing rights. To address the questions posed at the beginning of this chapter, advocates working on developing effective rights of Nature law, in addition to specifically defining what that means, need to be clear on how the rights of Nature interact with all other existing rights. Conflicts between rights for both humans and nonhumans are common causes of tension in many legal systems throughout the world. Addressing this problem is not new, but for advocates it is very important.

Conflicts of rights happen all the time and range from one person's freedom of expression conflicting with another person's right to security of person, to rights of freedom of religion clashing with rights to marry and found a family, and rights to property clashing with rights to clean water. Similarly, individual human rights can come into conflict with measures taken by the state, with the latter taking some kind of action that is seen as an infringement on the former, most recently illustrated in the United States and around the world through the protests against COVID-19 mask mandates and lockdowns allegedly impinging on individual freedoms. In any of these scenarios, the question arises as to how to balance rights protections, which merit greater attention, which may be infringed upon, and how such decisions are made. Creating rights for Nature does not change this process; it just adds another layer to be balanced.

In many places, courts have developed methods of analysis to apply to a case when there are competing rights. When the state is the alleged infringer on human rights, the U.S. Supreme Court, for example, has developed a set of "balancing tests" to apply, depending on the seriousness of the infringement. The rational basis test is used in situations where there is no conflict with

fundamental rights and requires an infringing law to have a legitimate state interest and a legitimate link between the law's means and ends. The strict scrutiny test, on the other hand, is used when fundamental constitutional rights are affected. The strict scrutiny test requires the state to demonstrate a compelling interest that adopts the least restrictive means possible to limit any infringement on rights.

In Canada, rather than creating a series of balancing tests, the courts have said that the process to make decisions when rights come into conflict with each other must be handled on a case-by-case basis.[91] The Ontario Commission on Human Rights has gone so far as to write a *Policy on Competing Human Rights*, which outlines considerations for, and steps to take, when conflict arises.[92] In other communities, competing rights may be assessed in terms of the good of the society versus the good of the individual. For example, in a series of cases in Europe (France, Switzerland), Turkey, and Egypt over the wearing of headscarves in public, courts consistently balanced the individual rights to freedom of religion and culture with the state's rights to protect public safety and the common good.

Balancing of competing rights also occurs outside the courtroom. Anytime a government—whether national, provincial, or local—enacts new policies, there is the potential for some rights to be limited. It is a given that, at times, rights will collide, yet no one argues that we should not have human rights because they might come into conflict with each other. Rather, the approach in most places has been to figure out the best way of balancing protections to do the most good for the largest number, with the least amount of infringement or harm. The effective protection of rights and the functioning of law depend on having clear guidelines as to how to balance rights when they are at odds, and this applies whether we are considering solely the rights of human beings or all kinds of rights.

Because so much of the rights of Nature law around the world is new and has not yet been actively tested, it remains to be seen how these questions about extending the concept of rights to natural entities and balancing these rights against other human and nonhuman rights will ultimately unfold. In many ways, this issue mimics what has been a longstanding challenge for environmental justice advocates: the tension between environmental justice and the right to development. Communities have a right to development and a right to use their natural resources, but these rights often come into conflict with other rights, such as the right to a healthy environment, the right to water, the right of Indigenous peoples to their cultural lands and resources, and

the rights of Nature. But just because there may be conflict does not mean that the rights should not exist. Conflicts of rights in these instances should undergo review just as any other conflicts of rights would in order to assess what is ultimately the best path forward for the greatest number. Moreover, there is nothing in most rights of Nature laws that forbids use of natural resources. Rather, well-crafted rights of Nature laws require that consideration is taken of the impacts on Nature of any proposed activities that may affect it, and they provide an avenue for redress if such consideration is not taken.

Expanding Rights as an Advocacy Tool for Environmental Justice

Passing laws protecting the rights of Nature can be an effective new advocacy tool to promote environmental justice for the natural world itself, as well as present and future generations of human beings. Environmental injustice is one of the biggest challenges we are facing in the world today. In fact, it is perhaps *the* biggest challenge because it brings to the fore a host of intersecting issues, including climate change, environmental degradation, displacement, poverty, food insecurity, lack of development, the wealth gap, adverse environmental impacts on marginalized communities, and a whole host of other inequities. Finding ways to better support environmental justice efforts is an immediate need, and if the rights of Nature can serve as one tool to do so, then it should be used. But it must be created and implemented in a way that is most likely to be effective.

Given the long recognition in many cultures of Nature as an independent living being, as well as the historical granting of rights to nonhuman entities through the law, it is not a new idea to propose recognizing the rights of Nature in the same manner. In fact, unlike many of the other nonhuman entities that have already been granted rights, the recognition of the rights of Nature has already existed for a long time in the traditions of Indigenous communities around the world, as well as through some religious norms and in the advocacy of some environmentalists. Recognizing the rights of Nature, predominantly in the form of legal personhood of natural entities with standing under the law to protect themselves, draws from the existing recognition of corporate rights, animal and countries' rights, and the methods of protection for the human rights of persons such as children and those who are incapacitated such that they can't represent themselves. In other words, this is not a new idea.

Some may question why, if the normative ideas of the rights of Nature

have existed for so long without codification, the law needs to be developed now. The answer is simple: Incorporating these beliefs about Nature and the human–nature relationship into the law is one of the strongest ways to effectively use these ideas as tools for environmental justice advocacy. In order to change the existing system and the set of ideas on which it is grounded, you need to work both from the inside by changing the laws themselves and from the outside by shifting communal understandings. Perhaps sometime in the future we won't need constructed political and legal systems to recognize the importance of Nature as a living entity with the right to thrive and survive, but we do not currently live in such a world, and until we do it is important to continue using the law as a tool of advocacy.

For communities reluctant to accept rights of Nature law, it is important for advocates to remember that community beliefs can change; indeed, think of how vilified Rachel Carson was upon the publication of *Silent Spring* and how we know now how prescient she was. Sometimes the needed change can be pushed by the law, sometimes the law is pushed by shifts in community values, and often the two are moving side by side, reacting to each other, to produce change. There are many examples throughout history, but some recent ones are changes in ideas and laws regarding LGBTQ+ rights and same-sex marriage, as well as changing norms and corresponding laws about the death penalty, especially for juveniles. In these cases, we have seen community values and the law shift over time to a place of acceptance of different normative standards and different views of the rights that should be explicitly recognized for different groups of legal persons. That is the place in which we currently find debates over rights of Nature laws. In some places, culture and values have already shifted to recognize this place for Nature within the community and in the law, and in others this has not yet occurred. Rights of Nature laws, and the conversations, debates, and even setbacks surrounding these laws, all help shape cultural understandings on this issue.

All rights require manifestation, internalization, implementation, and enforcement through some form of construction. The human rights we hold so dear today have all been legally codified by us, and in fact many would argue they have largely been constructed by certain groups at the expense of others. But our understandings, and hence or constructions, of these rights have changed over time. In the eighteenth and nineteenth centuries, rights did not apply to women, certain races and ethnicities, certain religions, and certain socioeconomic classes. Slowly, over the course of the late nineteenth and twentieth centuries this changed as the recognition of rights holders expanded. But

there were, and still are, groups that struggle for equal rights. Our notion of rights changes, and can be changed, so it is not far-fetched to think that they can change again to include Nature.

Being human "cannot continue to be the sole benchmark against which other beings must be measured in order to count."[93] When it comes to values, norms, and concepts, including those surrounding ideas about rights and who should have them, human beings must "reflect critically upon them, re-interpreting, enriching, and extending them in response to changing knowledge and the possibilities that the world presents to us."[94] We need a "fundamental re-orienting and enlarging of the human moral imagination."[95] Expansion of these ideas to nature is not new; in fact, history provides us with "many examples of precisely this expansion of the moral imagination in the evolution of relationships among diverse human groups."[96]

But it doesn't just happen. Creating new law that helps to address the urgent issues we face regarding climate change, food scarcity, displacement, and myriad other environmental justice issues requires a thoughtful process reflective of communities, as well as a shift in our relationship to nature. Though challenging, these kinds of cultural and institutional shifts have happened before to push ideas about rights forward, and they can happen again with the rights of Nature.