

Cole Krah

Professor Evelev

English 1000

10 November 2021

Problem Solving: The Rights of Nature

Since the beginning of the Industrial Revolution corporations have been taking advantage of the environment and natural resources for the growth of their company and their own wealth. The problem arose after the severe impacts of carbon emissions on our environment along with mass deforestation and immense water pollution; while yes this will not kill a planet in a year, in 10 years, or even in 20 years, but it gives it a good 400 years and exponential population growth combined with capitalist greed and you get the problem we face today. As nature cannot speak for itself or stop continued destruction, there is seemingly no end to this unless the perpetrators are the ones that take action. The planet that we all call home is falling apart around us as a result of our selfish and oblivious actions. Fortunately, there is action being taken across the country and across the world in the form of “The Rights of Nature” which has been nationally accepted by 7 different countries. Invisiblehandfilm.com defines the writes of nature as “...the beginning of a new legal paradigm in western culture. The idea argues that nature holds inalienable rights, and that vital parts of Nature — a river, watershed, or ecosystem — shall be granted personhood in the court of law and be provided with legal standing to defend itself.” The current litigation from our government and the efforts to protect the environment have been unsuccessful. By giving rights to nature, we can give this living

planet a fighting chance to combat the immense destruction instilled by humans. Law makers and law professionals are attempting to fight for nature via the establishment of “Rights of Nature.” As rights are a concept and not tangible, the actual cost of the implementation would be nothing. This resolution grabs the problem of climate change right by the horns and can be a certain solution to our climate problems.

Deconstruction rates have been exponentially increasing since the Industrial Revolution which has aided damage to not only our planet but our wellbeing. The increase in use of energy by burning fossil fuels led to the creation of new industries, transport, and materials. During this time factories were being made pumping fumes into the air polluting it, and families were rapidly growing and moving from the countryside to the cities and towns towards the factories to work. The mass production of factories, buildings, homes, roads, etc., resulted in what we now know today as industrialization. Industrialization is the destruction of our environment and its resources by humans to continue preparing for the large influx of people that was seen during the Industrial Revolution. Meaning, to make room for any of these amenities, deforestation and the simultaneous destruction of ecosystems was necessary. Air and water pollution began to rear their heads due to the rise in coal emissions polluting the environment. This led to water-borne diseases such as Cholera and Typhoid and there was often exposure of families to hazardous materials. Ecomena.org states, “The United States EPA regulates more than 80 different toxins that can be found in industrial pollution, from asbestos and dioxin to lead and chromium. Despite these regulations, industries are among the worst generators of air pollution in the world.” (4) As for water pollution, this is caused by factories being implemented near

natural water resources. The pollutants come in the form of solid, liquid, and gas contaminating local water supplies, and even landfills and waste disposals can end up contaminating the water supply. Soil pollution happens when chemicals from factories find their way into waste disposals and landfills, or when people illegally dump their hazardous waste. Activities as ordinary as driving a car, smoking a cigarette, or an accidental spill or leak while cleaning up or storing chemicals, all contribute to soil pollution. The most ordinary form of soil contamination is by lead, but other toxins and heavy metals are also contaminants. This is a problem for farmers as all their crops will be contaminated by the soil in which they are planted.

The Rights of Nature aims to give our environment and nature rights such as the ones that are given to us in our very own constitution. This means that nature has personhood status and can legally defend itself in a court of law against harm including projects, deforestation, and even climate change. This law acknowledges that an ecosystem has the right to, “exist, flourish, regenerate its vital cycles, and naturally evolve without human-caused disruption.” (5) When given these rights, the right to representation by a guardian is also given. The guardian is someone who acts on behalf of the environment and in its best interest. While yes this does not eliminate the climate crisis; it surely puts a hold and barrier between our environment and destruction. Legal implications and giving rights to nature is a historically significant step being taken towards repairing and restoring our planet back to health. Humans are not taking enough preventative action surrounding the health and stability of our environment, so legal action is beginning to play a role. The implication of The Rights of Nature means that it would be harder to live in the ignorant

bliss that is our dying planet. We would no longer be legally allowed to treat our planet in such harsh ways and further damage the place we call home.

The rights of nature are not only in place to protect our climate and environment, but to all species that inhabit Earth alongside us. There is currently a case being decided involving an elephant cruelly placed in the Bronx Zoo. After having the elephant at the zoo for over thirty years, the zoo stated that it would be inhumane to enclose such a social animal by itself. However, that is exactly the situation Happy has been in since 2002 when the other elephant Grumpy died. Speaking on this matter, nonhumanrightsproject.org states, “Happy is a 47-year-old, wild-born Asian elephant living in captivity at the Bronx Zoo. The Nonhuman Rights Project filed a petition for a writ of habeas corpus in October 2018 in Orleans County, New York. The petition requests Happy’s transfer from her unlawful imprisonment at the Bronx Zoo to an elephant sanctuary, based on her right to bodily autonomy.” (2) This organization worked to get Happy the right to bodily autonomy which is one of the most known human rights. Bodily autonomy means that the person in said body has control over their body, their life, and their future. Since the conditions in which Happy resided were immensely poor, given the choice, Happy would thrive and be happy to live in their natural habitat. The right Habeas corpus is a legal resource through which one may file or report the unlawful capture or imprisonment of another. After a habeas corpus is filed the court orders the defendant to appear. The issue that is preventing this from being sure fire is that the law is applied to two things: either a “thing” or a person. The prosecution will have to prove that animals such as happy and many others are more than just things. If this elephant is released from this zoo and placed in a sanctuary the

Rights of Nature movement will have another recorded success and can continue to release animals from their inhumane captivity.

After decades of effort to protect and sustain Lake Erie thus far the attempts have been unsuccessful. Recently a “Bill of Rights” was proposed for one of the great lakes, Lake Erie. However, this bill was unfortunately struck down by a federal judge as it is much more of a hill to climb than a single animal as it is an entire ecosystem with thousands of different animals and plants living in and off of it. This bill would have introduced basic rights to Lake Erie and the ecosystem that has grown in and around it. In specific it would have granted “Irrevocable rights for the Lake Erie Ecosystem to exist, flourish and naturally evolve, a right to a healthy environment for the residents of Toledo, and which elevates the rights of the community and its natural environment overpowers claimed by certain corporations.” (1) This was the first proposed US law that would give rights to an entire ecosystem and with such high prowess it received equal backlash. The bill was deemed to go over Toledo’s municipal authority. Though it did receive support from the agricultural company Drewes Farms who immediately filed a lawsuit against the city of Toledo the day after the ruling. This bill had legal grounds and could have been passed if there was more force and public attention to the rights of nature movement.

In countries across the world outside of the United States progress and advancements with the adoption of the rights of nature has been immense. In Bolivia during 2009, the rights of nature were officially recognized in the country’s constitution. Bolivia also passed legislature which was titled *Law of the Rights of Mother Nature*. While yes this is great progress to have made; Bolivia has not yet instilled an enforcement mechanism, so

we have yet to see their policies be efficiently enforced and enacted. In the country India, which is ranked 3rd in global pollution, the supreme court has made it possible for rights of nature cases to be presented and heard stating that “humans are only one more event within a long evolutionary chain [and] in no way... owner of other species, biodiversity or natural resources, or the fate of the planet.” India, which is a major country with a population that is 1/7 of the entire world is acknowledging that this planet is not for us to destroy. As well as rejecting the anthropocentric notion that our existence is more than a footnote in the history of the planet.

It is clear that a solution for the rapid degradation of our planet is necessary and the Rights of Nature seem to be that solution if it is implemented correctly. How might this be? To make an impact our government needs to implement laws that hold themselves, people, and corporations accountable for their actions that are speeding up the process. Seen in governments via places such as New Hampshire, Denver, Lincoln County, Mexico City and several other governments, laws regarding the Rights of Nature are lessening the consistency of degradation to our planet. For example, *Colorado River v. State of Colorado* was a lawsuit in which “an ecosystem sought recognition of its legal rights.” This has led to a significant increase in conversations surrounding this topic in Colorado and has encouraged other movements. Additional organizations such as “Rights of Nature for Rivers” have been created since the implementation of rights for nature. Not only do our governments need to be held accountable, but us the people need to raise our voices and advocate for change because there is no change big or small that is accomplished without using your voice. Those who do know the law and how complex it

can be must be there to support fellow activists and help people on the outside understand. This solution would be exceedingly difficult to accomplish as there are many different groups that would do anything in their power to prevent it. These factors include the United States Federal Government, Big Oil, Lobbyist, the Coal industry. Without the overwhelming support of the general public, these companies and groups will continue to silence people whether it be through the media or the court room. Their pockets are endless, and they will put up a fight.

Nonetheless, the Rights of Nature organization is working to prevent further damage as well as fix the damage that humans have created on this planet in attempt to salvage it. The more that laws are implemented and the more action that communities and governments take, the longer Earth stays habitable. Rights of nature emphasize that no human life is more important than that of an animal life and such should face the same court of law. Through their rescue of animals in inhumane captivity, their ability to establish rights for animals, and their implementation of laws which when broken will result in consequences, they have managed to contribute to our environmental health.

Bibliography

1. "Federal Judge Strikes Down 'Lake Erie Bill of Rights'." *Animal Legal Defense Fund*, 29 Mar. 2021, <https://aldf.org/article/federal-judge-strikes-down-lake-erie-bill-of-rights/>.
2. Nonhuman Rights Project. "Client: Happy." *Nonhuman Rights Project*, 28 Oct. 2021, <https://www.nonhumanrights.org/client-happy/>.

3. Journal of Law, Vermont. “Rights of Nature: Seeing the Forests and Trees.” *Vermont Journal of Environmental Law*, n.d.
 , <https://vjel.vermontlaw.edu/topten/rights-nature-seeing-forests-trees>.
4. Folk, Emily. “The Environmental Impacts of Industrialization.” *EcoMENA*, 29 Nov. 2021, <https://www.ecomena.org/environmental-impacts-of-industrialization/>.
5. 22, Tiffany Challe April, et al. “The Rights of Nature - Can an Ecosystem Bear Legal Rights?” *State of the Planet*, Columbia Climate School, 23 Apr. 2021, <https://news.climate.columbia.edu/2021/04/22/rights-of-nature-lawsuits/>.

