Natalie Beecher

ENG 302

Dr. Sultzbach

16 December 2019

Anthropocentrism, Ecocentrism, and the Concept of Nature

In many ways, humanity has a complicated relationship with Nature. According to the Smithsonian, some experts are arguing for a new geological epoch, called the “Anthropocene” (Stromberg). This epoch is defined by the intervention and disruption of the global environment by human activity, and though it is not yet the official epoch according to the International Union of Geological Sciences (IUGS), the professional organization in charge of defining Earth’s time scale, the suggestion of this new Epoch implies important issues in the context of climate change and environmental study (Stromberg). To facilitate more effective legislature and policy created to protect the interests of Nature, we must consider the ways in which legal texts approach the concept of Nature and environmentalism. These approaches range from anthropocentric to ecocentric perspectives, and while each has both benefits and drawbacks, replacing some aspects of the existing anthropocentric laws with those from an ecocentric perspective is important for environmental law and in the effort to prevent irreversible damage to the global climate.

In 2015, a group of youths filed a constitutional lawsuit against the United States of America for damages inflicted against the environment and the government’s role in Climate Change. Titled *Juliana v. United States,* the lawsuit’s goal is for the judicial system to force the United States’ federal government into action against ecological destruction. According to the plaintiff team’s website, *Ourchildrenstrust.org,* their allegation against the government is that “through the government's affirmative actions that cause climate change, it has violated the youngest generation’s constitutional rights to life, liberty, and property, as well as failed to protect essential public trust resources” (“Landmark U.S. Federal Climate Lawsuit”)**.** Without even reading the *Juliana v US* Opinion and Order for the district of Oregon, in which Judge Ann Aiken upheld the court decision to grant the plaintiffs the ability to sue, a defining feature of the case becomes clear. Although the plaintiffs are suing essentially on behalf of the environment, they are forced, because of the requirements in place by law, to focus their allegations on human injury rather than ecological injury. To demonstrate standing, according to Judge Ann Aiken in *Juliana v. US*, “a plaintiff must show she suffered an injury in fact that is concrete, particularized, and actual or imminent” (9). This requirement is useful for almost all kinds of lawsuits; it prevents people from filing for frivolous lawsuits when no injury or damage has been committed. But in environmental law, the requirement to have an occurrence of “concrete, particularized and actual or imminent” human injury makes it difficult to gain standing to sue (*Juliana v. U.S.* 9). Judge Aiken articulates this barrier for environmental cases: “a plaintiff cannot demonstrate injury in fact merely by alleging injury to the environment; there must be an allegation that the challenged conduct is harming (or imminently will harm) the plaintiff” (*Juliana v. U.S.* 9). This requirement for lawsuits exemplifies the current perspective that is customary in American law: anthropocentrism. Under this perspective, it is impossible to sue based solely because of the government’s role in damaging the environment, confronting those involved in *Juliana v. U.S.* with a challenge in how the case is to be argued. According to Judge Aiken’s Order and Opinion, the plaintiffs ask the court to order the government “to prepare and implement an enforceable national remedial plan to phase out fossil fuel emissions and draw down excess atmospheric CO2” (*Juliana v. U.S.* 11). To a degree, their goal focuses on the welfare of the environment. Humanity stands to lose more than just economic opportunities if the climate warms past the point of no return. Because they cannot argue directly on behalf of the environment, however, the youth plaintiffs include individuals who have allegations of personal injury, and these allegations are argued in the anthropocentric perspective that the law expects and requires. If that requirement allowed for the youths to sue on behalf of the welfare of Nature’s future as well, this case might have been argued in more of a balanced perspective, rather than entirely anthropocentric.

In comparison with the laws that shaped the nature of *Juliana v. United States,* the “World Charter for Nature,” the United Nations attempted to create a single, balanced policy to protect the environment. In many of the principles and functions outlined, there seems to be a goal of restricting the exploitation of Nature, which would seem to be attempting to move away from an anthropocentric perspective. For example, the first General Principle listed mandates that “Nature shall be respected and its essential processes shall not be disrupted” (“World Charter for Nature”). A significant factor to consider in this document is the way that the word Nature is used. In that principle, Nature seems almost to be an entity on its own, a single force to avoid disturbing, all but referencing Mother Nature. This presents a problem that would apply to any legislation or policy that might be implemented in the future. Because the UN uses the word “Nature” in this broad, undefined way, they might have the ability to apply their policies to encompass a wide variety of situations, leaving them to interpret on a case-by-case basis if need be.But where is the line between Nature and Human? The UN seeks to limit human intervention in Nature, but they do not define the terms they use, leaving their policies open to interpretation that could diminish their enforceability.

This instability in the interpretation of the word Nature could be elucidated by Derrida’s method of literary analysis, deconstruction. Derrida wrote thatlanguage systems are unstable and that on their own, words hold no inherent meaning outside of the contexts the words are used in (Reynolds). Words hold meaning, according to his theory of “Différance,” only in comparison to everything they do *not* mean (Reynolds). For example, the word “tree” holds meaning because it does not mean “flower” or “bush.” If Derrida’s theory was applied to the UN’s “World Charter for Nature,” the meanings of the passages begins to raise more questions. The writers didn’t define what they believe constitutes “Nature,” and it isn’t clear, in some of the passages, where the line should be drawn between the natural and unnatural, the natural and human. When the “World Charter for Nature” mentions in Function 11(c) “Activities which may disturb Nature,” it is unclear what situations the writers intend to apply this policy to. Might the protections extend to places like a vacant lot in the middle of a highly populated suburban area that happens to be home to a family of ground squirrels?

If the word “Nature” only holds meaning because of what it is not, what does it exclude? The “World Charter for Nature” seems to exclude from their conception of Nature anything that humans change about the world’s original and wild features. For example, Function 7 declares that “In the planning and implementation of social and economic development activities, due account shall be taken of the fact that the conservation of Nature is an integral facet of those activities” (“World Charter for Nature”). The Charter aims to protect natural systems against the intervention of human activity, not by prohibiting development altogether, but by mandating careful planning and consideration for the health of the local ecosystems. In this way, the Charter still holds some aspects of the anthropocentric perspective; it views Nature from the perspective of a human society which depends on it for resources, both those which are harvested for human use and affected by other areas of human development. The Charter attempts to create a middle ground between ecocentrism and anthropocentrism, but while doing so, it also overlooks some areas of non-human life which highlight the document’s instability in meaning. For example, how would the “World Charter for Nature”, which requires that “the conservation of Nature is an integral facet of [human] activities” (Function 7), apply to the animals and other non-human life thriving within urban areas, such as the large populations of peregrine falcons, rats, opossums, raccoons, and pigeons that have flourished in New York City? When creating a policy that strives to protect the health and interests of Nature, it is important to consider how intertwined humanity already is with it. Using a broad, vague term like “Nature” might work to protect areas from *new* human exploitation, such as in places like the inner Amazon rainforest, but how would this term contend with environments that have been subjected to human influence for so long that it is difficult to determine what parts are considered part of Nature?

Broad terms without stable definitions are commonly used in law because of the wide possibilities for application; terms like “liberty” and “justice” are examples of this. Derrida’s theory of language argues that these words don’t have inherent value or meaning, and it is impossible to analyze any words without comparing them to the meanings of other words, describing them using other words that carry other meanings (Reynolds). The instability of the meanings of terms like this in legislature has led to a history of controversy and debate, including much controversy about approaches to interpreting the U.S. Constitution. The everlasting debate, however, doesn’t significantly hinder the functions of the United States because of the considerable power that government systems hold, allowing the dominant interpretation to become precedent and enabling the consistent enforcement of laws. The broad interpretations of these laws, especially constitutional ones, are why cases like *Juliana v United States* are able to appear in court. There is little precedent for plaintiffs suing the government for climate change, so the existing laws in the constitution and other precedents are used in new ways to apply to the new situation. For example, Judge Aiken rejected the US government’s attempt to argue for the application of precedent from *Washington Environmental Council v.* *Bellon—*In which the plaintiffs “sought to compel the Washington State Department of Ecology…to regulate greenhouse gas emissions from five oil refineries” and were denied standing to sue based on inadequate causation—by arguing that the cases differed in important aspects, and deciding that the youth plaintiffs had adequately argued for causation (*Juliana v. U.S.* 10). The comparison of *Bellon* to *Juliana v. US* was important to include in Judge Aiken’s ruling because it allowed her to highlight important aspects of the youth plaintiffs’ argument that showed that their allegations met the requirements of the laws.

The UN, however, is very different from the US government and must contend with the difficulty of enforcement. In the “World Charter for Nature,” the UN is trying to create policies that could be very expensive to comply with, such as Function 11(b), which declares that

“Activities which are likely to pose a significant risk to Nature shall be preceded by an exhaustive examination; their proponents shall demonstrate that expected benefits outweigh potential damage to Nature, and where potential adverse effects are not fully understood, the activities should not proceed” (“World Charter for Nature”).

Those that might be affected by the constraints of the “World Charter for Nature,” especially businesses, might not be very keen to comply with the expensive requirements of passages like this. Additionally, the UN does not discuss what a “significant risk to Nature” would look like, giving any signers the opportunity to interpret the passages using whatever methods that might successfully benefit them. Furthermore, there are no passages that outline the possible enforcement of their policies. Although the Charter attempts to make the signers responsible for the environment through their actions, there are no written consequences should any of these people shirk their responsibilities. A document such as the “World Charter for Nature,” when enforced, would affect the everyday business practices of private (and public) companies. Who would be capable of enforcing this policy? The UN is most likely not powerful or wealthy enough to hold the signers accountable in every aspect of the Charter. A section in documents such as the “World Charter for Nature” which outlines plans for enforcement is necessary for the policy to carry any strength.

The problems with enforcement are not unique to the UN “Charter for World Nature,” but other government bodies have employed methods that the Charter doesn’t. One method some have used to mitigate the problem of enforcement is by giving groups of people the ability to sue on behalf of a natural body, such as a river. In American law, plaintiffs are only able to sue on the behalf of themselves or that of a dependent, having to prove “injury in fact” to gain standing to sue (*Juliana v. U.S.*). But according to Ashley Westerman, writing for NPR in the article “Should Rivers Have Same Legal Rights As Humans? A Growing Number of Voices Say Yes,” Ecuador granted legal rights to nature in their constitution in 2008, granting appointed guardians the right to sue on behalf of a natural feature. These guardians could be anyone, even a government body, which, Westerman noted, “may have chosen not to participate in environmentally friendly practices in the past.” Westerman uses the example of when a NGO “sued a construction company trying to build a road across the Vilcabamba River and initially won in court.” But when the construction company proceeded with their plans for the bridge anyway, “the NGO could not afford to run a second case,” according to a 2018 study by Erin O’Donnell (qtd. in Westerman). The new environmental laws in Ecuador’s constitution opened the possibility for groups to sue for specific business practices that harm the environment, but this method of protecting the environment is not unflawed. One drawback of this method, exemplified in the event of the NGO running out of the funds to be able to sue, is the fact that the ability to pursue a lawsuit is dependent on the funding of the designated guardian, but those appointed may not have the ability to quickly fund such endeavors. Additionally, these groups appointed to these natural bodies are able to sue at their own discretion; if one group, such as the Ecuadorian government, was not environmentally inclined, there would be no legal requirement to pursue these issues. Because lawsuits can be very expensive, few people are willing to involve themselves in the legal systems of the world without a personal injury being involved. Because of this, when the legal protection of the environment is delegated to *anyone,* it also remains the actual responsibility of *no one*. This method of protecting the environment is a very important gateway for groups to hold others responsible for their actions against the environment, but it does not add binding personal obligation to the equation, and the issue of enforcement falls on those who have the inclination and proper funding to run a lawsuit.

One way that these problems were mitigated was by assigning the legal protections of a river to two specific groups. According to Ashley Westerman’s article for NPR,New Zealand granted the Te Awa Tupua river the same legal rights as a person after the “settlement of the country’s longest-running case” (qtd. in Westerman). “They did this,” said Westerman, “by recognizing it as an ancestor of the local Maori tribes, the Whanganui.” The law appointed responsibility for the river to two groups of people, one from the New Zealand government, and the other from the Whanganui tribe (Westerman). Although the guardianship of the river in Ecuador was similarly assigned to a specific group, there is an important difference between these methods. One difference is the level of importance the river holds to the Whanganui people in New Zealand. If a group that doesn’t hold any particular connection to a river is assigned to its guardianship, it might not feel the same level of personal responsibility in their role. Ecuador’s laws could have allowed for the guardianship to be assigned to parties that might not be so interested in environmentalism, including a governmental body. The Maori group, in contrast, feels a close spiritual relationship with the Te Awa Tupua river, and the law assigning the river to the group reflects this. Westerman wrote that under this law, “harming the river is tantamount to harming the tribe itself.” Additionally, the guardianship of the Te Awa Tupua river is shared by the New Zealand government, which could decide to provide supplementary funding for lawsuits. New Zealand, by essentially giving this river the legal protections of a person, adopts an ecocentric perspective.

The laws in Ecuador and New Zealand allowing these people to go to court on behalf of the environment—in these examples, rivers—contrasts sharply with the laws that come into play with the *Juliana v. U.S.* case. Each plaintiff was required to provide an example of personal injuries that have occurred because of climate change, including the lead plaintiff, Kelsey Juliana, who alleged that “algae blooms harm the water she drinks, and low water levels caused by drought kill the wild salmon she eats” as well as other plaintiff’s allegations along the same trend (*Juliana v. U.S.* 9). New Zealand, in contrast, gave the Te Awa Tupua river environmental personhood, elevating its protections to that of a human, and lawsuits that are pursued on behalf of the river would not require proof of human injury. The law allows for the individual protection of the river based on its own fundamental rights rather than based on whatever human injuries are indirectly caused.

Not every natural resource or structure is going to have a group that has a personal connection to it, as the Maori do. But the examples of the river in Ecuador and in New Zealand highlight two aspects that might be most important to consider when applying an ecocentric law such as these. First, to choose groups for guardianship that are environmentally conscious and likely to keep the best interests of their assigned charges at the forefront. Second, to have an adequate system for funding; the New Zealand river was assigned to both the Maori group and the government itself, which might be ideal: one group to bring the lawsuit forward (the Maori), and the other to supplement the funding of the lawsuit and enforce the decision (the government).

Considering the idea of environmental personhood might be a vital step in adapting laws to the recent political and social relationship with the fight against climate change. The United States government, in response to the allegations of the plaintiffs, argued that “these injuries are not particular to the plaintiffs because they are caused by climate change, which broadly affects the entire planet (and all people on it) in some way,” saying that this renders the plaintiff’s injuries “nonjusticiable generalized grievances” (*Juliana v. U.S.* 9). Judge Aiken discards this argument, but the implications of “nonjusticiable generalized grievances” are interesting in the context of the anthropocentric and ecocentric perspectives. The plaintiffs chose to utilize the anthropocentric perspective which is written into the legal system and laws. To do this, they argue along a chain of causation: the government has contributed to climate change on a “catastrophic level” and if left to continue unchecked, will, therefore, cause irreversible damage to the plaintiffs’ property, health, opportunities, and livelihood (*Juliana v. U.S.* 13). The implied injury in *Juliana v. U.S.* was against the environment, and therefore the actions of the government only indirectly caused injury to the plaintiffs. Judge Aiken decided that the youth plaintiffs had “adequately alleged a causal link between [the United States government’s] conduct and the asserted injuries” (*Juliana v. U.S.* 11). This suggests that, if the plaintiffs were able to argue on behalf of the environment itself, they could have had a causational chain between the government’s policies and the damage to the climate. This could open the door for an even more dramatic decision, depending on the outcome of the completed lawsuit, and could theoretically force the federal government to accept responsibility for their part in contributing to climate change. If the United States could expand legal protections to the environment in a step—even a small one—toward environmental personhood, it could have a significant impact on making progress toward environmental accountability and toward making progress in the struggle against climate change.

*Juliana v. United States* could lead to extraordinary changes in the government’s role in mitigating the causes of climate change, and despite the restrictions in the kinds of arguments that are allowed in the court system, there is hope that, through fresh interpretations of the language in the laws, the first steps toward ecocentrism could be made. In order to protect our Earth and all societies that inhabit it, and in order to adapt to the changing climate—both political and scientific—the methods and language we utilize need to adapt accordingly. When creating policies for the protection of Nature, the writers need to consider what, exactly, they are trying to protect. “Nature” might not hold meaning alone, but alongside a collection of related texts and precedent, terms like Nature may gain consistency—though not stable meaning—in their use in environmental law and literature. We are limited by viewing the Earth from a single, anthropocentric perspective, and if we wish to preserve the climate and creatures whose lives are even more delicate than our own, refocusing the concern for human interests to include those of Nature (all non-human life and the ecosystems they depend on) is the first step.

Works Cited

“Landmark U.S. Federal Climate Lawsuit.” *Our Children's Trust*, <https://www.ourchildrenstrust.org/juliana-v-us>.

Reynolds, Jack. “Jacques Derrida (1930-2004).” *Internet Encyclopedia of Philosophy*, [www.iep.utm.edu/derrida/#SH3c](http://www.iep.utm.edu/derrida/#SH3c).

Stromberg, Joseph. “What Is the Anthropocene and Are We in It?” *Smithsonian.com*, Smithsonian Institution, 1 Jan. 2013, [www.smithsonianmag.com/science-nature/what-is-the-anthropocene-and-are-we-in-it-164801414/](http://www.smithsonianmag.com/science-nature/what-is-the-anthropocene-and-are-we-in-it-164801414/).

United States District Court for the District of Oregon, Eugene Division. *Kelsey Cascadia Rose Juliana, Et Al., Plaintiffs, v. United States of America, Et Al., Defendants*. no. 6:15-cv-01517-TC, 10 Nov. 2016.

Westerman, Ashley. “Should Rivers Have Same Legal Rights As Humans? A Growing Number Of Voices Say Yes.” *NPR*, NPR, 3 Aug. 2019, <https://www.npr.org/2019/08/03/740604142/should-rivers-have-same-legal-rights-as-humans-a-growing-number-of-voices-say-ye>.

“World Charter for Nature.” *Environmental Conservation*, vol. 10, no. 1, 1983, pp. 67–68. *Spring 1983*.

**GENERAL COMMENTS**:

Bravo, Natalie! The time you took to craft this essay with lucid prose and convincing, careful reasoning has yielded a compelling and sophisticated assessment of the gaps in current policies, created primarily by a cultural reliance on humans as the measure for all things. The tension between the plaintiff’s stated goals in their website and the legal test of standing based on anthropocentric injury alone really stood out clearly from your quotes and analysis. I was also pleased to see such clever close reading of the ways in which the UN Global Charter for Nature seems to desire to personify Nature in its language even though its policies do not go that far: “Nature seems almost to be an entity on its own, a single force to avoid disturbing, all but referencing Mother Nature”—great literary insight. The complexity of Derrida’s theory is skillfully explained and then really creatively applied to the process of legal reasoning, itself! First, by showing how the word “Nature” contains associations through time and place that create ever-proliferating traces of meaning (the question of how to think of “Nature” in places where some of those traces seem less obvious between past and present uses is particularly astute). But then the argument takes another clever turn, showing how important Constitutional rights actually rely on the very ambiguity and instability of language so that new needs can be met and words can enter into a “play” of meaning with enough elasticity to account for those changing needs. Your analysis of Judge Aiken’s use of what standing is NOT (referencing *Belkin*) to show what it IS was superb. Yet, then you take the argument again farther by also pointing out the pitfalls and dangers of unstable meaning in relation to environmental policy. These maneuvers demonstrate a savvy ability to not just rest on a single claim or “answer” but to explore the multiple facets of interpretation as it applies to your thesis.

The comparison of two ecocentric environmental models was equally successful. By showing how giving Nature standing then still relies on some form of human advocacy and that “when the legal protection of the environment is delegated to *anyone,* it also remains the actual responsibility of *no one*” you point out the risk of not acknowledging the way the legal system is inherently anthropocentric, and if the wording is overly idealistic it will not be effective in a system that depends on human operators. But again you also play out the ways in which ecocentric ambiguity can be detrimental if divorced from any anthropocentric anchor but still beneficial if used in measure with a human advocate (like the Maori), striking a balance between an ecocentric injury for standing and a human-managed legal justice system. Showing how this is indeed hinted at by Judge Aiken (keen eye!) demonstrates that this approach might be what would need to be recognized if US environmental law is to progress as well. Excellent recognition of a complex problem and a multi-faceted, yet ultimately hopeful analysis.

Grade: A+

If you wanted to expand this paper to consider the language of the Paris Climate Accord too, and would be interested in getting it published or presenting it at a conference, I would be happy to help you look for opportunities to do that next semester!