

A dense forest scene with tall trees and sunlight filtering through the canopy. The image has a warm, golden-brown color palette, suggesting a late afternoon or early morning setting. The text is overlaid on the upper half of the image.

15. The Rights of Nature

Should Nature Have the Same Rights as
People?

ENGL133 Imagining Nature

Course stuff

- Final Exam ADS accommodation reservations:

For those with ADS testing accommodations and who plan to take our final with ADS, please schedule your exam time asap and ideally by this Friday 5/9

- Writing Assignment #2 will be graded in the next week

- Please bring a web-enabled device to class next Monday if available. You'll have some time to do course evaluations in lecture

- Final Exam: Monday 5/19 in Tawes 1100 from 4-6 pm

- Study Guide will be available by this Friday

How do the Voice and Tone of the Paris Agreement and the Laudato Si Differ?

Paris Agreement

1. main point of Paris Agreement is phrased in terms of scientific quantification—2 degrees above pre-industrial (cf. Enlightenment idea of quantifying nature)
2. doesn't acknowledge that something is wrong with current situation (“adverse impacts” or “effects”)
3. what is the solution? the phrasing of the problem assumes a technical solution; also “finance flows” and emission targets
4. “environmental justice”
5. audience? Parties and stakeholders

“Laudato Si”

1. frames the climate crisis as primarily a moral and ethical problem
2. criticizes current practices as well as the church's past interpretations (“crisis” “disaster” “catastrophe”)
3. what is the solution? Individual and political; care for home; the earth itself is like the poor; outcome is awareness and conversation
4. environmental justice!
5. audience? every person living on Earth, regardless of their faith or background

Why is it important to identify who speaks for nature and in what voice?

- because the voice tells you what is being assumed or hidden
- diction, rhetoric, and tone signal what is left unsaid

Beyond the 2015 Paris Agreement and the “Laudato si”: Where are we now?

Paris Climate Agreement

- raised awareness about climate change
- made countries revisit their targets every 5 years
- sparked low-carbon solutions and encouraged renewable energy markets
- more than \$430 million has been pledged for countries most effected by extreme weather
- commitments from almost all countries demonstrates the most international agreement on a single issue to date

BUT

- the agreement had no penalties for nations not meeting their goals
- compliance has been mixed
- in US there have been continued arguments about potential economic impacts of the climate treaty
- it is technically still possible to get on the 1.5-degree pathway; emissions would have to fall by 42 percent globally by 2030 and by 57 percent by 2035, compared to 2019 levels.



Beyond the 2015 Paris Agreement and the “Laudato si”: Where are we now?

Laudate deum

-in 2023 Pope Francis issued an apostolic exhortation as a follow-up to his 2015 encyclical “Laudato si.” This treatise argues for quicker action against the climate emergency and it forcefully condemns climate change denial.

Main points:

-cautions that we cannot geoengineer our way out of the current crisis:

“To suppose that all problems in the future will be able to be solved by new technical interventions is a form of homicidal pragmatism, like pushing a snowball down a hill.” (¶ 57)

-the solution lies not just with individuals but at the corporate and political levels, particularly at the national and international levels

- connections between lifestyle and impact:

If we consider that emissions per individual in the United States are about two times greater than those of individuals living in China, and about seven times greater than the average of the poorest countries, [44] we can state that a broad change in the irresponsible lifestyle connected with the Western model would have a significant long-term impact. As a result, along with indispensable political decisions, we would be making progress along the way to genuine care for one another. (¶ 72).

A serene forest scene featuring a small stream flowing over moss-covered rocks. A large, dark, fallen log lies across the stream, partially submerged. The surrounding forest is dense with green foliage, including ferns and tall trees. The water is slightly blurred, suggesting a long exposure. The overall atmosphere is peaceful and natural.

What are the Rights of Nature?

The Rights of Nature (RoN)



- a legal theory that began in the 1970s that proposes that nature and natural phenomena should be recognized as having inherent rights, similar to human rights
- such rights may be assigned to nature as a whole, particular ecosystems, species, or specific landscape features (such as rivers or mountains)
- multiple legal mechanisms have been used to guarantee these rights
- “legal personhood” allows them to sue in their own name and seek legal remedies for damages
 - legal personhood has been used successfully to protect rivers in New Zealand, Colombia, India, and Bangladesh
- How do RoN legal arguments differ from environmental protection laws?
Environmental protection laws are usually aimed at limiting pollution and protecting human health (anthropocentrism), while RoN laws aim to prevent harm to ecosystems and ensure their integrity (ecocentric)
- RoN is not a singular movement but a variety of legal tactics used in different places
- RoN laws raise many questions:
 - Are these kinds of rights a good mechanism of environmental protection?
 - what are the benefits and challenges of the RoN as both a legal tactic as well as an ethical philosophy?

RoN 1: Constitutional Rights for Nature in General: Ecuador, Bolivia, and (not) Chile

Ecuador

- in 2008, Ecuador was the first country in the world to accord legal rights to nature in its constitution
- it recognizes the rights of “Pachamama” (Mother Earth) to “maintain and generate its cycles, structure, functions, and evolutionary processes”
- reflects a more Indigenous worldview and it often linked to indigenous recognition and rights
- this article was added to the constitution after its high court ruled that mining in a protected region of the Ecuadorian rainforest violated the rights of nature

Bolivia

- in 2010, Bolivia enacted the Law of the Rights of Mother Earth
- but its implementation has been uneven
- in May 2014 the government enacted a new mining and metallurgy law, which limits the protection of Mother Earth by keeping pre-existing mining rights concessions and contracts

Not Chile

- in 2022, a proposed Chilean constitution that would have recognized the RoN was defeated by voters in a referendum in 2022 (62% against).
- while several factors contributed to its defeat, a large lobbying campaign against the constitution was undertaken by mining, agricultural, and energy companies, whose interests were potentially impacted by the proposed RoN changes
- also a defeat for expanded indigenous rights
- cf Make America Beautiful campaign with the Crying Indian (follow the \$\$)



RoN 2: Grassroots Organizing: Protecting A Lagoon in Spain



- in 2022, the first RoN case in Europe granted legal personhood to a lagoon in the Murcia region of southeast Spain

- Mar Menor is the largest saline Mediterranean lagoon in Europe and has great habitat and species biodiversity; however, it experienced rapid environmental degradation due irrigation for agricultural and livestock purposes

- a local petition signed by 700k people lead to national legislation that created a series of national and local bodies that have legal authority to act on behalf the lagoon

- what is **legal personhood**?

- it extends the idea of a "person" beyond humans, granting legal rights and obligations to non-human entities, such as corporations, trusts, or in this case, an ecosystem

- where did it come from? corporate personhood was elaborated in medieval law which recognized religious organizations and universities as distinct entities with the ability to own property, enter contracts, and sue or be sued, separate from their individual members

- today, corporations are people too (cf 2010 Citizens United v. FEC that said corporations have First Amendment rights to free speech, including the right to spend unlimited amounts of money on political campaigns)

RoN 3: Legal Personhood of the Whanganui River in New Zealand

-in 2017, the Whanganui River was granted legal personhood and became the first river in the world to be recognized as a legal entity

-the Te Awa Tupua Act (Whanganui River Claims Settlement) attempted to resolve over a century of conflict between the local Māori and the government over the river's management (indigenous cultural, spiritual and fishing concerns vs. settler steamer service and mineral extraction)

-recognized the area around the Whanganui River and all its physical and metaphysical elements as an indivisible whole with the rights of a NZ citizen

-also provided \$80 million to redress the environmental degradation and community impacts

-there was a conflict between govt and local Māori communities over who would own the area

- -the compromise was that the area could own itself by recognizing the “spirit” of the river, that it is above human sovereignty and therefore owned by no one
- -these *mouri* (vital essences of nature) guard over specific parts of a river



-the law refers to the two human guardians that govern the new legal person as the river’s “human face”
-this is a version of **prosopopoeia** (like nature in Coleridge or storms in Defoe or Hurricane Katrina in Patricia Smith’s *Blood Dazzler poems*)

The RoN in the US?

-2010, **Pittsburgh** became the first major municipality in the United States to recognize the RoN

- the goal was to protect the city's natural environment from the negative impacts of shale gas drilling and frack waste
- allows citizens to bring legal actions

-in 2019, **Toledo** passed the **Lake Erie Bill of Rights (LEBOR)**, which granted legal rights to Lake Erie and its watershed

- why? Agricultural and industrial runoff that leads to algal blooms and drinking water emergencies
- advocates had collected 10k signatures to trigger a referendum on LEBOR that passed with over 60% of the vote and was added to Toledo's City Charter.
- importantly, the bill stripped corporations charged with a violation of their legal personhood (so that companies and individuals could be held responsible for polluting the lake and its watershed)
- in 2020, a federal judge ruled that LEBOR was unconstitutional on the grounds that it was too vague (what is healthy? What is clean?), that it violated the 14th Amendment's due process clause, and that it infringed on states' authority
- plaintiff in this case was an agricultural group (follow the \$\$\$)



-local cities and municipalities have tried to adopt RoN laws with varying degrees of success despite the judicial challenges, RoN laws have been passed in more than 30 localities across the US

-BUT in April 2025, the Trump administration directed the Justice Department to block all state and local climate initiatives “that threaten American energy dominance and our economic and national security”

Are the Rights of Nature Necessary or even Desirable?



1. Rights tradeoffs

- individual liberty and personal property vs collective health and future well-being of humankind
- if nature has rights, then human beings have new responsibilities and will have to restrict certain activities that unjustifiably impair those rights.
- this is similar to other hot-button issues in US (guns, pandemic restrictions)
- how do you value the common good against individual freedoms?

2. Is legal personhood a bad version of anthropocentrism?

- do we have to turn nature into a person before we respect and protect it?
 - if taken to the extreme, can anyone own anything in relation to nature (land or homes)?
- How does one draw the line?
- some expand indigenous models of knowing and kinship with nature but have to be converted into Western legal models that pit private vs. public property

3. RoN Guardianship model

- the Lorax problem: who speaks for the trees? Who has legal standing or, if granted rights, who has guardianship?
- ideally RoN is an ecocentric vs anthropocentric view of nature
- but this model usually assumes some kind of legal guardianship
- but human interests are not fully identical with those of the natural world
- for example, in the NZ Whanganui River case, should all pollution be prohibited? What about diversions for irrigation? How much pollution and diversion is enough?

4. Trusteeship rather than Guardianship model?

- guardianship can be seen as problematic
- trusteeship means holding something not just for future human generations but also for nature itself

Other Legal Mechanisms: Ecocide?

- a recent legal movement that criminalizes egregious environmental damage and aims hold perpetrators accountable
- the movement has lobbied for “ecocide” being a crime that could be heard before the Hague-based International Criminal Court (ICC) alongside genocide and crimes against humanity
- the proposal came from Vanuatu, Fiji, and Samoa
- goal=to treat harm to nature as seriously as we treat harm to people
- one rationale for this movement is that global multilateral agreements such as the 2015 Paris Climate Agreement do not have legal sanctions
- another rationale is that environmental disasters often have planetary rather than local consequences
- examples of potential cases: Deepwater Horizon oil spill, a Chernobyl-like nuclear event, or the mass deforestation in the Amazon rainforest



- challenges? Long shot at getting this approved at the ICC
- also agreeing a definition of ecocide
- currently the definition pits human benefit against environmental damage
- what one critic calls an “anthropocentric cost-benefit analysis”
- who decides what level of harm is acceptable?