

Nature as a Rights Holder

Legal Standing for Natural
Objects



Should Trees Have Standing?

Christopher Stone - 1972

“ It is not inevitable, nor is it wise, that natural objects should have no rights to seek redress in their own behalf. It is no answer to say that streams and forests cannot have standing because streams and forests cannot speak. Corporations cannot speak either; nor can states, estates, infants, incompetents, municipalities or universities. Lawyers speak for them, as they customarily do for the ordinary citizen with legal problems. ”



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“ On a parity of reasoning, we should have a system in which, when a friend of a natural object perceives it to be endangered, he can apply to a court for the creation of a guardianship. ”



Ecuador

The Constitution of the Republic of Ecuador, 2008

- Article 71: **Nature**, or Pacha Mama, where life is reproduced and occurs, **has the right to integral respect** for its existence and for the maintenance and regeneration of its life cycles, structure, functions and evolutionary processes.
All persons, communities, peoples and nations can call upon public authorities to enforce the rights of nature.
- Article 72: **Nature has the right to be restored**
- Article 73: The State shall apply preventive and restrictive measures on activities that might lead to the extinction of species, the destruction of ecosystems and the permanent alteration of natural cycles.



Ecuador

Notable Cases

- 2011 *R.F. Wheeler and E.G. Huddle v Attorney General of the State of Loja* – For the first time in the world a court upheld the constitutional rights of a river
- 2012 road construction in Galapagos Islands, and 2017 illegal shark fishing in Galapagos National Park and Marine Reserve – Established rights of nature can be enforced against private entities and government





Bolivia

Political Constitution of the State, 2009

- Environmental Rights:

“Everyone has the right to a healthy, protected and balanced environment. The exercise of this right must be granted to individuals and collectives of present and future generations, **as well as to other living things**”





Bolivia

The Law on the Rights of Mother Earth, 2010



Mother Earth has the right:

- 1) To life
- 2) To the diversity of life
- 3) To water
- 4) To clean air
- 5) To equilibrium
- 6) To restoration
- 7) To pollution-free living



New Zealand

- *Te Arawa Lakes Settlement Act, 2006*
- Transferred ownership of lakebeds from Crown to a trustees



New Zealand

- 2011 Treaty settlement recognizing that the Whanganui River has the rights of a legal person
- Formalized into legislation in 2017
- River as a living entity, not as property



New Zealand

- *Te Urewera National Park Act, 2014*
- Transformed the national park from Crown-owned property into a legal entity that owns itself and has the rights of a person



Other Examples

- India

Ganges river, Himalayas and related natural features

- Colombia

Amazon rainforest

- United States of America

Klamath River



Recommendations

- Inclusion in the constitution
- Inclusion in human rights codes
- Inclusion in existing environmental legislation
- Stand alone legislation

