

Rights of Nature

by Karen Coulter

Why Rights for Nature?

The Rights for Nature concept would create an ethical and legal system, which is necessary to counter capitalist or corporate exploitation of Nature. The aim of converting Nature into commodities without reference to ecological limits fails to account for losses of life sources and potentially irreparable harm to life support systems. It is necessary to cap the rate of economic increase in the “standard of living” by stabilizing and reducing the total human population and human consumption of Nature.

Rights for Nature concepts are necessary to develop an effective body of law fully protecting Nature in order to influence societal ethics and norms needed for a shift from the view that Nature exists for humans. Whether we will be able to bring about the needed institutional and human population and consumption changes depends upon affecting a radical shift in our societal perception of human’s place in Nature. Throughout legal history, each successive extension of rights to a new entity has been at first socially unthinkable, such as extensions of rights in the U.S. to women, children, African Americans, and indigenous peoples. Until the rightless entity receives its (or their) rights, people can’t see it or them except as a thing for the use of those holding rights.

Our reliance on property concepts as the basis of our law and societal value system has a stultifying effect on personal growth and satisfaction. Christopher Stone, the author of Should Trees Have Standing, quotes Hegel’s justification of private property as typifying the blindness and egoism of viewing the world through a property ownership lens: “A person has as his substantive end the right of putting his will into any and everything and thereby making it his, because it has no such end in itself and derives its destiny and soul from his will. This is the absolute right of appropriation which man has over all ‘things’.” (G. Hegel, Hegel’s Philosophy of Right)

This cultural view of the domination of humans over Nature allows for even our environmental protection laws to be grossly biased toward usefulness to humans taking priority over ecological integrity, with functioning ecosystems and biodiversity. For instance, the preamble declaration for the National Environmental Policy Act states goals of “restoring and maintaining environmental quality *to the overall welfare and development of man*” and creating and maintaining “conditions under which man and nature can exist in *productive harmony*.” (emphasis mine) Moving away from the view that Nature is just a collection of useful non-sentient objects

cultivates deepening of our humility, empathy, and love.

Disappearing Biodiversity

The perils of not developing respect and empathy for Nature as a life supporting system are real. According to the biologist Edward O. Wilson in his 2016 book, Half Earth, Our Planet’s Fight for Life, the rate of human-caused extinction is 100 to 1,000 times higher than before humans entered the scene about 200,000 years ago. Based on a 2015 study, the current diversification of species rate is now 10 times lower in genera, which are groups of closely related species. This data, when translated into extinctions, suggests species extinction rates closer to 1,000 times higher than before the spread of humans.

Every expansion of human activity reduces the populations of more and more species, raising their vulnerability and rate of extinctions. A 2008 mathematical model by botanists predicts that 37 to 50% of rare tree species in the Brazilian Amazon rainforest will succumb to early extinction caused by contemporary logging, road building, mining, and the conversion of land to agriculture. The sixth mass extinction is underway, with human activity as its driving force, based on the available evidence.

A 2010 survey conducted by close to 200 experts on vertebrate land mammals (including birds) analyzed the status of all 27,780

known species. They found that one fifth were confirmed as threatened with extinction, and of those, only one-fifth had populations stabilized by conservation efforts. An independent study found that the extinction of bird species was reduced by 50% as a result of conservation efforts during the last century. Thirty-one bird species still live because of people's efforts on their behalf. Global conservation so far has lowered extinction rates by about 20%. The Endangered Species Act has resulted in a quarter of the 1,370 U.S. plant and animal species classified earlier as Threatened achieving new population growth, with 13% of listed species improved enough to be taken off the Endangered species list. However, meanwhile 40% of threatened species declined. Twenty-two species went extinct while 227 species were saved that would likely otherwise have disappeared. So conservation works, but at the current level of effort falls far short of what is needed to save the natural world.

What fraction of wild species now surviving will last until the end of this century? If present conditions persist, perhaps half, but more likely fewer than one fourth will survive, according to E.O. Wilson. Considering the unprecedented rapid escalation in current global warming effects, which have already passed multiple tipping points, E.O. Wilson's pessimistic prediction is plausible. Loss of 50 to 75% of wild species would likely result in ecosystems unraveling, which threatens human survival as well as the survival of biodiversity.

Human-caused Destruction

Considering the climate change-related unraveling of ecological webs across the world that is now appearing in the news (unprecedented droughts and flooding; far more intense storms;

dramatic changes in patterns of seasonal precipitation and temperatures; and sea level rise), species occupying niche habitats or depending on forage plants or animals vulnerable to climate change hardly have a chance. Recovery efforts for highly vulnerable species like the Whitebark pine, the polar bear, and the pika will likely be abandoned if their survival in the wild seems impossible. Extinctions of keystone species like the Whitebark pine and the polar bear would further destroy interconnected ecological relationships, with chain reactions throughout the associated food chains. Due to habitat loss alone, the rate of extinction is rising in most parts of the world. The greatest sites of biodiversity loss are tropical forests and coral reefs so far. However the most vulnerable habitats, with the highest rates of extinction include both tropical and temperate rivers, streams, and lakes.

The most destructive human activities include habitat destruction, including from climate change; exotic invasive species; pollution; human population growth; and over-hunting or fishing. Demographic projections indicate that the human population will rise to 11 billion or more by the end of the century, then peak and begin to subside. Per capita consumption is also expected to rise, perhaps more steeply than human numbers.

Human-caused agents of extinction are synergistic, causing many sources of species vulnerability at once. For instance, clearing a forest for agriculture reduces habitat, diminishes carbon sequestration, and introduces pollutants to waterways. Based on conservation biology, if 90% of a forest is logged, about half the species will soon disappear that would otherwise have persisted. They may survive for a while, but about half will have populations too small to persist. The clearing

of all the rainforest around the Bogor Botanical Gardens of Indonesia resulted in loss of 20 of its 62 breeding bird species in the first 50 years.

The Endangered Species Act as a Rights for Nature Arena

Under existing U.S. law, the most important rights for species arena is the Endangered Species Act. The effect of listing a species as "Endangered" or "Threatened" is akin to providing the species a right that can only be infringed upon with the strongest showing of necessity. The ESA provides a listed species with a right that the government does nothing to jeopardize its existence or destroy its critical habitat. The ESA also creates a government duty to protect the species from third parties and take active measures to ensure the species' survival, such as preparing a recovery plan for the species. Endangerment of the species can't be defended on utilitarian grounds, as with the famous Snail darter (fish) case, where a major dam project had to be stopped without any consideration of the economic impact of the decision.

The downside of the ESA is that listing of a species is in the hands of the U.S. Fish and Wildlife Service, who often take so long to list species that they may go extinct before being listed. The Fish and Wildlife Service issued more "incidental take" permits to allow the loss of threatened-listed Northern Spotted owls to logging on the Gifford Pinchot National Forest in Washington state than the number of Spotted owls that actually existed there – even though they were listed as "Threatened" under the ESA. This means that the U.S. Fish and Wildlife Service is allowing the Northern Spotted owl to eventually go extinct. Meanwhile the Trump administration and right wing Congress members are threatening to eviscerate the Endangered

Species Act and already pushed through limitations on Polar bear protections to allow for oil drilling in the Arctic.

Legal Standing for Non-human Species

Consciousness is not only human but within other animal species and possibly plants, based on recent science observations and indigenous people's knowledge over millennia. Could legal standing for non-humans be expanded to better protect them? There have already been lawsuits in the name of wildlife species, with varying court determinations giving the plaintiff wildlife species their own legal standing to sue for injuries. In the 1988 case of *Palila v. Hawaii Dept. of Land and Natural Resources*, native Hawaiian birds were given standing to sue to remove invasive goats destroying their habitat. Yet in the case of *Marbled Murrelet v. Babbitt* in 1996, the court unambiguously disowned the expansive language of giving birds standing in the Palila case. The 1998 case of *Loggerhead Turtle vs. County Council of Volusia County (FL)* remains unchallenged in court, clearly granting the turtles legal standing. The court cited the Palila case and permitted the complaint to be amended to add the Leatherback turtle as a party to the suit. The court even stated that: "Since both the Loggerhead sea turtle and the Green sea turtle are named plaintiffs in this action, the case will proceed regardless of the motivations of the human plaintiffs."

Other countries have also named non-human animals as plaintiffs, including an Israeli Supreme Court decision invoking the Israeli gazelle as co-plaintiff. As of 2016, all the non-human federal cases included a human as co-plaintiff as insurance against the dismissal of the non-human plaintiff. All the U.S. federal non-human plaintiff cases used the Endangered Species

Act to get as far as they did in the courts. This leaves out species as plaintiffs that are not listed under the ESA.

The Need to Connect to the Earth

Christopher Stone makes the argument that while there are obstacles to species obtaining legal standing, lawsuits on behalf of Nature are better for moral development of society. Animal welfare itself was clearly the motivation for the Animal Welfare Act. The law was inspired by the popular sense that mistreating animals is immoral. Stone points out that the laws can have both an educating function and a spiritualizing role in our society.

By returning to earlier stages of civilization and childhood in which we interacted much more directly with Nature and trusted or feared elements of our environment because we lacked the power to master or control it, we free ourselves of illusions of human dominance and alienation from the rest of the world.

We need the equivalent of a myth, or guiding story, to fit our growing body of knowledge of physics, biology, and the cosmos that indicates everything is connected and that animals are sentient emotional beings while plants communicate, help each other, and form communities. Returning to more indigenous ways of thinking by seeing other animals as our relations represents knowledge based on a much more intimate connection with Nature over a much longer period of time than the industrial revolution era. Regarding the Earth as an organism, with humans as just one of many functional parts may not only better reflect current science findings but also better guide us in how to support the Earth's survival in the current global ecological crisis.

The Interconnected Web of Life

International scientific studies have shown that the Earth as a whole is an organized system of closely inter-related and interdependent processes and roles. Ecosystems and the many plant and animal species are dependent upon each other for survival in a balanced condition of planet-wide existence. They depend on an environment conditioned by oceanic and atmospheric currents and the protection of the ionosphere and many other cyclical interacting aspects of Nature. Human civilization can't continue in isolation from Earth systems. People need to take action to reverse their role in destroying planetary balance and Earth's life support systems. Humans are subsidiary to and dependent on complex interdependent ecological relationships within the planetary organism. We need to stop seeing the Earth as nothing but a mass of material substances moved by mechanical laws and life as nothing but a chance combination of molecules.

The value that people in a future time and setting may place on something like songbirds is a function of the legacy we leave them. If we leave them a diversity of songbirds, they will likely appreciate them. If not, they will resort to an artificial source of pleasure like electronic sounds and images, further distancing themselves from the real world.

Progress in Other Parts of the World

There are many species and richly diverse ecosystems in other parts of the world. Fortunately there are other countries far ahead of the U.S. in recognizing the rights of Nature. Bolivia passed national legislation in 2010 and 2012 to institute radical new conservation and social measures, which acknowledge the rights of Nature. The laws recognize the

following rights of Nature: the right to life and to exist; the right to continue vital cycles and processes free from human alteration; the right to pure air and water; the right not to be polluted; and the right not to have cellular structure modified or genetically altered. The laws also enshrined the right of Nature “to not be affected by mega-infrastructure and development projects that affect the balance of ecosystems and the local inhabitant communities.” The law is part of a complete restructuring of the Bolivian legal system and was heavily influenced by a resurgent indigenous Andean spiritual worldview, which places the environment and the Earth deity known as Pachamama at the center of all life.

On March 1, 2019 two United Nations Rights of Nature experts presented a request to the court of Ecuador to suspend the construction of tailing dams for the mega open pit mine project called “Mirador”. David Deme, one of the UN experts, said: “When the Mirador dams fail, they will completely annihilate the life cycles of the Quimi, Tundayme, Zamora and Santiago rivers, which are tributaries of the Amazon...when the Mirador mine dams collapse...the impact on ecosystems and loss of biodiversity will be catastrophic.” An Ecuadorian lawyer representing the plaintiffs, Juan Pablo Saenz, stated that “this action is aimed at suspending the construction of tailings dams until their design is re-evaluated and updated, for which best practices and technologies should be adopted that guarantee the protection of the Rights of Nature, recognized by the Ecuadoran Constitution.” Gabriela Espinoza, an expert in constitutional law, explained: “Since rights of Nature are Constitutional rights, the mining company is constitutionally obligated to respect them.”

In January 2019 environmental lawyer Hugo Echeverria presented a legal brief based on the rights of Nature to the Supreme Court of Ecuador, the first case reaching the Supreme Court related to rights of Nature for the Galapagos Islands. This case was in response to a Chinese ship with about 300 tons of marine species and 6,626 dead sharks likely destined for the Asian shark fin market. The ship was discovered in the Galapagos National Park marine sanctuary. Sharks help manage and maintain the health of marine ecosystems, provide food sources for scavengers, and regulate species abundance, distribution, and diversity. About 10,000 sharks an hour are being removed from the oceans. Sharks are declining in population and are in danger of extinction. Without sharks, coral reefs could shift to algae dominated systems, seagrass beds would decline, ecological chain reactions would be activated, and there would be severe loss of habitat in the oceans. Sea Shepherd Australia has stated that sharks “are a critical component in an ecosystem that provides one-third of our world with food, produces more oxygen than all the rainforests combined, removes half of the atmosphere’s anthropogenic carbon dioxide (a greenhouse gas), and controls our planet’s temperature and weather.”

The Ocean as a Commons

The ocean is a global commons that crosses national boundaries. The ocean is besieged by chemical pollution; sewage; agricultural runoff; radioactive waste; offshore oil spills; tremendous loss of fish populations to over-fishing; expanding plastic dead zones; major die-offs of marine mammals such as seals, dolphins, and orcas; and now climate change, with induced acidification killing off coral reefs. Every year tens of thousands of marine mammals, turtles, and sea birds die from

entanglement with or ingestion of millions of tons of plastic and abandoned fishing nets in the ocean.

Ocean guardians are needed to monitor the health of oceans; gather science and evidence relevant to damages; monitor compliance with applicable laws and treaties; serve a legislative advisory function; and represent the ocean before national legislatures to address the impacts to the ocean of proposed actions such as dams, development of wetlands, and fishing practices. Guardians for the ocean need legal staff to appear as intervenor/legal counsel for the ocean victims of bilateral and multilateral disputes. International treaties should be used to give the guardians standing to initiate diplomatic and legal action on behalf of the ocean ecosystem.

The National Oceanic and Atmospheric Administration (NOAA) is currently the designated trustee for fish, whales, marine mammals, and their supporting ecosystems within the U.S. fisheries zone. NOAA has the authority to institute lawsuits to recover restoration costs against any part that injures its “ward”. The U.S. government used these powers to sue Montrose, a major chemical corporation, for years of dumping DDT and PCBs into the ocean off Los Angeles, damaging the food web. The defendants paid \$64 million to the natural resource trustees to restore wetlands and the ocean as much as possible.

The Global Commons

The global commons is currently understood to encompass those parts of the Earth and surrounding atmosphere, outer space, and oceans that exist beyond the territorial claims of any nation. Currently Antarctica falls into this category, but with rapid ice melt under climate change, Russia is now trying to stake

claims to the continent, apparently for minerals and shipping lanes.

The global commons can also be defined in a broader sense of natural connectivity with no boundaries to achieve aspirational international goals. Problems that cross national borders include acid rain; ozone depletion; climate change; nuclear war; nuclear power plant radioactive contamination fallout; and decline or extinctions of migratory species. There are many far-ranging and migratory species crossing national boundaries, such as whales; dolphins; sea turtles; seals; ocean fish; and far-ranging land species like Gray wolves; Grizzly bears; lynx; wolverine; marten; bison; caribou; and moose.

One problem plaguing the global commons is that laws are binding on nations, but international treaties usually only have voluntary compliance or noncompliance. International conventions exist, such as the Montreal Protocol to eliminate the production of ozone depleting substances; the international climate change agreements; a ban on weapons testing in space; the International Convention for the Regulation of Whaling; and the London Convention on Prevention of Marine Pollution by Dumping of Wastes. However much of the global commons is only weakly protected, if at all.

The Atmosphere as a Commons

Extreme climate change is the biggest global crisis in our time, accelerating rapidly to the point of biosphere collapse. Problems with giving the climate itself legal standing include every person being a prospective defendant as well as a prospective plaintiff. Potential remedies to the climate as a defendant with legal standing would be difficult to determine. Climate litigation faces conflicts with national governments' foreign policy negotiation prerogatives. Since the climate is a set of

parameters, it is hard to conceive of how the climate itself would be injured, as opposed to climate-dependent species. Climate cases are very high stakes cases for courts to decide regarding status quo energy use and livelihoods versus avoidable ecological catastrophes and systems failure. There are also high stakes involved regarding a court outcome in terms of setting bad legal precedents barring some issues from being re-litigated and potential use of an anti-environmental jurisdiction that forecloses comparable actions elsewhere.

However a number of things have changed that now facilitate litigation on damages to climate stability. Scientists have gotten much better at quantifying the links between greenhouse gas emissions and impacts. Evident climate change effects like severe storms; droughts; floods; and sea level rise have led plaintiffs to argue that they don't need to prove specific disasters were directly caused by climate change because global warming makes future disasters more likely and governments must take steps to adapt now. We can now establish fault that meets the required standard of substantially contributing to a harm by combining actual emissions data with recent revelations that oil corporations knew of the climate dangers of fossil fuels as early as the 1960s but actively worked to undermine the public's trust in climate science.

Fighting Back

Richard Heede, Director of the Climate Accountability Institute in Snow Mass, Colorado discovered that just 90 corporations are responsible for two thirds of all the greenhouse gases emitted between 1751 and 2016. More than half those emissions occurred since 1988.

Since 2017, eight U.S. cities, including New York and San

Francisco; six counties; one state and the West coast's largest association of fisher people have brought a lawsuit against Exxon Mobil; Royal Dutch Shell; BP (British Petroleum); Chevron; Peabody Energy; and other corporations for selling products that caused the world to warm dangerously while misleading the public about the damage they knew would result. The plaintiffs are demanding compensation for adaptation and damage expenses such as building sea walls; suppressing wildfires; holding back floods; and dealing with pine beetle infestations and agricultural losses.

Ralph Regenvann, the foreign minister of the Pacific nation of Vanuatu, expressed the new reality for island peoples under climate change, saying: "My government is now exploring all avenues to utilize the judicial system in various jurisdictions, including under international law, to shift the costs of climate protection back onto the fossil fuel companies, the financial institutions and the governments that actively and knowingly created this existential threat to my country."

Protecting Future Generations

As the dire threats from extreme climate change become more and more evident, there is increasing concern that future generations are most at risk and that something needs to be done to protect them. Rights for future generations of people to thrive are inseparable from acting in accordance with rights for Nature.

Malta made a proposal for the 1992 Rio Earth Summit that the world community appoint an official guardian to represent the interests of future generations. Although the proposed guardian is limited to representing humans, there also need to be guardians for future generations of other members of the global commons, such as marine mammals, arctic

wildlife, and Neotropical migratory songbirds.

An example of a legal case representing future generations is Hungary terminating its international obligations to Czechoslovakia to build a joint canal system, based on the need for reforestation and preservation of animal species as a moral obligation to future generations.

There is now a public trust doctrine lawsuit, *Juliana vs. the United States* filed in 2015 that is being brought by 21 youth plaintiffs against the US and several of its executive branch positions and officers, including former President Barack Obama and President Trump. The youth plaintiffs are suing over the government's failure to adequately take action to reduce global warming and uphold the right to a climate system capable of sustaining human life. The plaintiffs are represented by the non-profit organization Earth Trust Guardians and include Xiuhtezcatl Martinez, the members of Martinez's organization Earth Guardians, and climatologist James Hansen on behalf of future generations. Despite the Juliana case being accepted by Federal District court, upon an appeal a Ninth Circuit Appeals court panel recently dismissed the case, telling the young appellants it was more appropriate for them to work through the political (electoral) process even though they were explicitly representing youth too young to vote. The attorney representing the youth will be requesting a review of the case by the full Ninth Circuit court.

There is also the Climate Strike movement being waged by high school students in various countries through student walk-outs, which was started by now 16 year-old Swedish environmental activist Greta Thunberg. Thunberg started the student walkouts with Fridays for Future in Sweden. Her climate change campaigning has gained international recognition,

with protests in the September 2019 Climate Strike taking place across 4,500 locations in 150 countries as part of the school strike for climate movement. The Climate Strike movement is organizing job actions in cities across 30 countries with a demand to transition to 100% clean energy.

Extinction Rebellion is a global environmental movement with the stated aim of using nonviolent civil disobedience to compel government action to avoid tipping points in the climate system, biodiversity loss, and the risk of social and ecological collapse.

Potential objectives for guardians for future generations to accomplish include ensuring the welfare and equality of future generations by equalizing opportunity and putting a minimum floor on basic needs to be provided. Guardians would need to internalize negative costs of human actions that would otherwise be passed on to future generations. They could serve a precautionary activist role to prevent future calamities and protect planetary values for the future. Guardians could act to prevent irreversible harms and to maintain ecological options, such as by not converting forests to agriculture use. This could increase future generations' flexibility to deal with both known and currently unforeseen risks.

Losing the Battle but Winning the War-- Innovative Strategies

A good example of a lawsuit that was successful despite losing standing to sue is the German *Seehunde v. Bundesrepublik* 1988 case. This was a global commons guardianship-type case started due to about 15,000 dead seals washing up on the beaches of the North and Baltic seas. A group of German environmental lawyers responded to widespread public concern by initiating litigation, with the North Sea seals named as the lawsuit's principal plaintiffs. The lawyers

acted as guardians for the seals, speaking for them. The German administrative law court rejected the seals' standing on the grounds that the seals were not "persons" and that there was no special legislation offering standing on their behalf. However just the filing of the case brought about considerable favorable news coverage, with the result that the German government did not renew an ocean dumping permit and committed to reduce or phase out disposal of heavy metals in the North Sea. So the seals lost the battle but won the war. Symbolic and image values of such lawsuits affirm the importance of empathy and protective action.

Novel legal strategies include 2008 litigation to designate ESA critical habitat for polar bears off Alaska's coast to stave off offshore oil exploration and drilling. *Kivalina versus Exxon Mobil* in 2006 is also instructive, where an Inuit village, not individuals, sued 24 oil, coal, and electric corporations, claiming that their emissions are partly responsible for their village becoming uninhabitable due to climate change. Global warming is shortening the season when ice is frozen and making the community more vulnerable to winter storms. Such cutting edge lawsuits have the advantage of a lower standard for establishing "imminence of a threat" for an injury claim and the "irrevocability of harm" for a restraining order.

Beyond Litigation Alone— Multifaceted Campaigns

There are also many other means for achieving rights for Nature beyond litigation. The hybrid campaign to save Lake Erie is a great example of groups with different approaches complementing each other and the use of a ballot initiative to obtain the legal rights of people for Lake Erie.

Lake Erie is besieged by about 775 hog, poultry, and dairy confined animal feeding operations in the Maumee River watershed upstream from Toledo and Lake Erie. These factory farms generate more than twice the amount of sewage of Los Angeles and Chicago combined. The resulting pollution flowing through the Maumee River into Lake Erie includes antibiotic-resistant bacteria, hormones, viruses, and E. coli. This has caused eutrophication from excess nutrients within the lake's ecosystem, with nearly 90% of the waste coming from agriculture, especially from the factory farms.

Advocates for a Clean Lake Erie used traditional organizing strategies to successfully raise the profile of the pollution problems killing Lake Erie and the corruption of regulatory agencies. Their creative tactics included street protests; picket lines; showing their "Third Battle for Lake Erie" presentation to over 40 groups; generating hundreds of calls and letters to public officials; suing the US EPA; and dumping water choked with toxic algae and dead fish into the fountain at Toledo's Government Center.

Toledoans for Safe Water worked with the Community Environmental Legal Defense Fund (CELDF) on a complementary approach, collecting 10,000 signatures to place a city charter amendment on Toledo's ballot establishing that Lake Erie has inherent legal rights. Despite multiple challenges to the measure by the County Board of elections and a \$320,000 effort to keep it off the ballot by a cabal of corporate lobbying groups, the Lake Erie Bill of Rights was passed on February 26th, 2019. The lobby groups composing the "Vote No" campaign included the Affiliated Construction Trades unions; the Ohio Chamber of Commerce; American Petroleum Institute; Ohio Oil and Gas Association; the Farm Bureau; and

the hog, poultry, and dairy factory farms.

Notable outcomes of the overall campaign included public rejection of absurd scare tactic messaging by the industry lobby groups, which included threats that rights for the lake would "raise the cost of food and nearly everything" and that it would negatively affect "even churches." It was also encouraging that many people readily stated that if corporations have the rights of people, why shouldn't Lake Erie? This was a result of long-term strategic focus and messaging by the Program on Corporations, Law and Democracy and like-minded groups such as the Community Environmental Legal Defense Fund and Toledoans for Safe Water.

However the corporate interest groups launched a federal lawsuit against the Lake Erie Bill of Rights the day after the election, enlisting a farmer to be the plaintiff. When Toledoans for Safe Water filed a motion to intervene as the authors of the city charter amendment, the U.S. District judge, Jack Zouhary, issued his decision on May 7th, claiming that the rights of Nature are not recognized by federal courts and finding that allowing Toledoans for Safe Water to intervene would "unduly delay this lawsuit" even though he allowed the state of Ohio to intervene against the Lake Erie Bill of Rights. The day after Zouhary's ruling, the Ohio House Finance Committee included a last minute provision in the state's \$69 billion budget bill stating that no one can file a lawsuit in state court on behalf of "nature or any ecosystem," effectively nullifying the Lake Erie Bill of Rights.

It's important to remember that every challenge to major norms of society involves a "two steps forward, one step back" shuffle toward lasting systemic change across the dance hall of history. By contrast with the local industry and state attacks on rights for Lake Erie, the United Nations invited

the lead organizer for Toledoans for Safe Water, Markie Miller, to speak on Earth Day to the UN General Assembly about Toledo's ballot measure success. Reporters from around the world called to find out more about the rights of Nature. This is what it will take to achieve a major shift from the devastating exploitation of Capitalism and corporate crony governments to biocentric social norms that could save the planet: dedication, creativity, and persistence—the snowball effect.

Abolishing Corporate Constitutional Rights

Implicit in the Rights of Nature movement as promoted by the CELDF is the core concept that Supreme Court-anointed constitutional rights for corporate entities should not exist, as they pre-empt the inalienable rights of human persons and the rights of nature. Abolishing corporate constitutional rights (often referred to as "corporate personhood") has been a core principle of POCLAD's work for the past quarter century. Corporate entities have not only hijacked a range of constitutional amendments intended for human beings (i.e. First, Fourth, Fifth and Fourteenth Amendments), but have used sections of the original constitution, including the Commerce Clause, to trump the ability of local individuals and public officials to protect their communities and the natural world, as thoroughly detailed in Gaveling Down the Rabble by former POCLAD principal Jane Anne Morris.

CELDF's "rights of nature" and "local Bill of Rights" initiatives are one strategy toward ending corporate constitutional rights. Move to Amend has pursued a different approach – working to pass a constitutional amendment, the We the Amendment (HJR48) to abolish all corporate constitutional rights and political

money defined as First Amendment-protected free speech. Abolishing corporate constitutional rights is an essential component toward creating a livable world for human beings and all living things.

Adopting a Biocentric Value System

Underlying the concept of Rights for Nature is the necessity of changing the value system of human cultures to respect and honor the rights of other species, natural processes and ecosystems over private property and human consumptive or extractive uses. It's important not to assign prices to ecological values, which would make violations of Earth rights the invasion of a property interest. Instead we need to collectively lay out the parameters for what society is going to value, rather than relying on "market" evaluations. Not prioritizing the Earth's life support systems, including the intricate inter-relationships that support ecological processes and biodiversity, over human excesses and greed is tantamount to willfully destroying the viability of the planet and the future of human civilization.

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A Publication of the PROGRAM ON CORPORATIONS, LAW & DEMOCRACY

By What Authority (ISSN: 524-1106) is published by the Program on Corporations, Law & Democracy. The title is English for *quo warranto*, a legal phrase that questions illegitimate exercise of privilege and power. We the people and our federal and state officials have long been giving giant business corporations illegitimate authority. Today, a minority directing giant corporations and backed by police, courts, and the military, define our culture, govern our nation and plunder the earth. **By What Authority** reflects an unabashed assertion of the right of the sovereign people to govern themselves.

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BWA is a tool for democracy proponents to rethink and reframe their work. To that end we encourage readers to engage us with comments, questions and suggestions.

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