

Homogenizing Community, Homogenizing Nature: An Analysis of Conflicting Rights in the Rights of Nature Debate

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Abstract

In less than half a decade, the idea that nature possesses inalienable rights akin to human rights has gone from a strictly theoretical concept to the basis for policy changes in several countries and U.S. municipalities. This paper explores the tensions between community decision-making and the rights of nature by focusing on how the implementation of these theories has played out in Ecuador and how similar laws might function in the city of Spokane, Washington.

On one hand, the laws assume that local communities will act in the best interest of society and the environment, without acknowledging the heterogeneous interests and power dynamics within communities and between non-locals and a given community. On the other hand, the laws assume that nature's needs are always compatible with community needs and that nature itself is a homogenous entity rather than a complex ecosystem of competing interests. Together, these bifurcated oversights represent the existential tension of rights discourse in which community, societal, and environmental needs come into conflict. This paper seeks to explore the tensions of current initiatives and inform alternative framings for future initiatives in Spokane and elsewhere.

In less than half a decade, the idea that nature possesses inalienable rights akin to human rights has gone from a strictly theoretical concept to the basis for policy changes in several countries and U.S. municipalities. In 2008, Ecuador became the first country to constitutionally guarantee the rights of nature. Attempting to use this momentum, a community group in the city of Spokane, Washington has put forth three voter initiatives that include provisions granting rights to nature—the first was soundly rejected by over 75 percent of voters, the second was voted on in November of 2011 and missed passing by less than one percent, and the third will be on the 2013 ballot [i]. The recurrence of these initiatives and similar proposals in other cities presents a unique opportunity to explore the implications of rights of nature initiatives, their potential, and the unproductive contradictions inherent in their current framing.

This paper will focus on the tensions between community decision-making power and the rights of nature in the context of rights of nature initiatives in Spokane and Ecuador. On the one hand, the laws implicitly assume that local communities will act in the best interest of society and the environment, without acknowledging the heterogeneous interests and power

dynamics within communities and between non-locals and a given community. This oversight reinforces power disparities by facilitating claims that are disconnected from broader societal needs and obscuring potential ulterior motives of lawsuit plaintiffs. On the other hand, the laws assume that nature's needs are always compatible with community needs and that nature itself is a homogenous entity rather than a complex ecosystem of competing interests at different scales. This misunderstanding undermines the very principle that nature possesses inalienable rights by naturalizing human culture as harmonious with nature and romanticizing nature itself. Together, these bifurcated oversights represent the existential tension of rights discourse in which community, societal, and environmental needs come into conflict. While there are continuous tensions between the full expression of universalized rights, recognizing these points of conflict is the starting point for a thoughtful and contextualized prioritization of diverse rights. This paper seeks to explore the tensions of current initiatives and to inform alternative framings for future rights of nature initiatives in Spokane and elsewhere.

Human Rights and Rights of Nature in Ecuador

The expansion of the human rights framework has occurred at an astounding pace over the 21st century. While many national constitutions (especially in the West) historically recognized certain human rights, such as the first-order rights to life and liberty, the concept of human rights exploded internationally in the post-World War II era with the emergence of post-colonial nation-states and the 1948 United Nations Universal Declaration of Human Rights. Since then, the recognition of rights has grown exponentially to encompass prisoner's rights, religious rights, voting rights, disability rights, and more [ii].

While international bodies and individual nation-states have quickly jumped on the human rights bandwagon, they have been extremely hesitant in granting rights to nature. The movement to guarantee legally enforceable rights of nature has come mainly from the United States, yet draws inspiration from indigenous paradigms of the relationship between humans and the environment. Since the 1940s, scholars such as Aldo Leopold, James Lovelock, and Arne Næss have developed the framework for the recognition of rights that acknowledged human interdependence with the environment [iii]. In 1972, Christopher Stone proposed the first mechanism for codifying nature's rights in an essay titled "Should Trees Have Standing?." That same year, Supreme Court Justice William O. Douglas entertained Stone's concept in his dissenting decision in *Sierra Club v. Morton*, stating outright that "the critical question of 'standing' would be simplified and also put neatly in focus if we fashioned a federal

rule that allowed environmental issues to be litigated...in the name of the inanimate object about to be despoiled, defaced, or invaded by roads and bulldozers, and where injury is the subject of public outrage” [iv]. Rights of nature advocates have wistfully held up Douglas’ dissenting opinion for multiple decades as a representation of what might be possible.

However, only over the last four years have rights of nature moved from theory to practical recognition and enforcement. The 2008 Ecuadorian Constitution was a bold and exceptional affirmation of both nature’s inherent value and indigenous worldviews. It recognizes rights belonging to Pachamama (the Quechua world correlating to Mother Earth) including those to “integral respect for its existence,” “maintenance and regeneration,” and “restoration.” In addition, Article 73 states that “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.” Article 74 states that “persons, communities, peoples, and nations shall have the right to benefit from the environment and the natural wealth enabling them to enjoy the good way of living [life in harmony]” [v].

While these provisions are certainly significant, there are several important subtexts to the Ecuadorian case. First, the rights of Pachamama are surrounded by a laundry list of other rights, including those to “nutritional food, preferably produced locally,” “universal access to...communication technologies,” “the practice of sports and free time” “tax exemptions for elderly persons,” and the free “develop one’s personality” [vi]. The inclusion of such a wide spectrum of rights risks a complete inability to prioritize the enforcement of these rights, diminishing the urgency of the entire list. The fact that most of these rights are being violated in continual and significant ways suggests that the list is more of a national vision statement than a State obligation. Second, the new constitution is Ecuador’s twentieth since its independence in 1822. The rapid turnover rate suggests that each constitution is given relatively less significance and that the current version may not last past the current presidential term [vii].

Community Rights and Rights of Nature in Spokane, WA

Emboldened by the recent constitutional changes in Ecuador, the movement in the U.S. to add rights of nature to city and town charters is growing. Spokane, Washington is an interesting case study as it has attempted to pass several different rights of nature proposals [viii]. As the result of a multi-year partnership between neighborhood advocates, labor union locals, and community activists, a group called Envision Spokane placed the first Community Bill of Rights (titled Proposition 4) on the 2009 municipal ballot. The initiative, though not quite as expansive as the Ecuadorian Constitution, had nine main provisions including the subordination of corporate rights to community rights, rights for nature, and enhanced rights to neighborhood decision-making. In respect to the rights of nature, the initiative included a fairly expansive definition of nature and its rights:

Ecosystems, including but not limited to, all groundwater systems, surface water systems and aquifers, have the right to exist and flourish. River systems have the right to flow and have water quality necessary to provide habitat for native plants and animals, and to provide clean

drinking water. Aquifers have the right to sustainable recharge, flow and water quality...Enforcement actions shall [include] restoration of a damaged ecosystem. [ix]

The long list of rights without any clear plans for enforcement and the broad definition of ecosystem mirror the expansiveness of the Ecuadorian Constitution. Despite its lofty goals, or perhaps because of them, Proposition 4 was soundly defeated at the polls by over 75 percent of voters.

Envision Spokane put forth their next attempt in November 2011. The 2011 Community Bill of Rights (Proposition 1), was much more focused than the previous version and included only four provisions: the right of neighborhoods to approve all development-related zoning changes, the right to healthy water systems, the subordination of corporate rights to community rights, and worker’s rights to constitutional protections in the workplace. The first three provisions are the most salient to the current discussion. In regards to environmental rights, the provision was significantly narrowed: “The Spokane River, its tributaries, and the Spokane Valley-Rathdrum Prairie Aquifer possess inalienable rights to exist and flourish, which shall include the right to sustainable recharge, flows sufficient to protect native fish habitat, and clean water.” The latest version of the bill, which will be most likely be on the 2013 ballot, has no significant changes, except for adding language that guarantees the right of Spokane residents to sustainably use water resources [x].

The limitation to particular water systems, the removal of the right to restoration, and the elimination of several provisions were probably factors in the relative success of Proposition 1 and explain why is being introduced with very few changes in 2013. This accomplishment is even more surprising given that Proposition 1 (as with Proposition 4) was supported by only two businesses in Spokane and that opponents of the initiative outspent the proponents by over 5 to 1 [xi,xii]. Even the campaign director for the initiative said that he was expecting to receive only 35 percent of the vote (Huschke K, personal interview, Nov 22, 2011). Although there are certainly many factors that may have affected the bill’s surprising success, the increasing support for the initiative indicates that the concepts of nature’s rights and community-based decision-making are gaining ground. However, as these ideas become more mainstream, it is important to look not only at the underlying objectives, but also at how these provisions play out in the real world.

Not In [Nature’s] Back Yard: NINBYism as a cover for NIMBYism

One of the most pressing practical conundrums in implementing rights of nature proposals is who should act as nature’s representative, given that nature cannot represent itself in the legal system. As rights of nature have gone from theory to practice [xiii], the trend in Ecuador and Spokane has been to grant standing to everyone, regardless of whether or not they suffered direct harm (the typical standard in a lawsuit), while naively assuming that the provisions will be used primarily by idealized communities that have nature’s best interest at heart [xiv]. However, open standing (actio popularis) is not as democratic or unequivocally good for an ecosystem’s best interests as it may seem. Because anyone, including foreigners, people unfamiliar with the local environment, and corporate interests can sue on behalf of nature under an open standing doctrine, there is the

possibility that claims supposedly based on nature's rights will be used to further the personal interests of those people in power. This not only reinforces existing political and economic disparities, but also permits claims that are disconnected from local needs and obscures ulterior motives of lawsuit plaintiffs. In part, the idealization of a homogenous community serves to hide disparities and conflicting interests within the community, as well as between the community and society more broadly.

The first (and so far, only) case where the courts have recognized the rights of nature, already shows signs that the law obscures resource disparities and conflicting interests between different community groups. The case was presented to the Loja Provincial Court of Justice in Ecuador in March of 2011, on behalf of nature, specifically the Vilcabamba River, and against the Provincial Government of Loja. The suit sought to stop the widening of the Vilcabamba-Quinara road that runs past the river. The plaintiffs, Richard Frederick Wheeler and Eleanor Geer Huddle, argued on behalf of nature that new construction was adding debris to the river, thus "increasing the river flow and provoking a risk of disasters from the growth of the river with the winter rains, causing large floods that affected the riverside populations who utilize the river's resources" [xv]. Environmental groups applauded the courts for allowing Wheeler and Huddle to file a lawsuit on behalf of the river rather than out of direct personal harms.

On an environmental level, the suit may prevent a minimal amount of environmental damage, but further investigation indicates that the case was primarily a victory for Wheeler and Huddle, two American residents who live part-time in Ecuador and own property downstream of the road construction. According to their website, the couple have plans to develop a "Garden of Paradise Healing and Retreat Center" outside of Vilcabamba, with plots along the river selling for \$30,000 to \$150,000 [xvi]. The land slated for development was most likely that which was flooded by the new road construction—one of the reports from the Global Alliance for the Rights of Nature states that the 3.7 acres that flooded as a result of the road construction were "of the most valuable land in the Uchima Neighborhood" and that approximately 15,404 feet of the Wheeler-Huddle land was affected [xvii]. To be sure, the case most likely did prevent a minimal amount of erosion in the Vilcabamba River, but it is questionable whether the construction of a full-scale retreat center and multiple houses along the river that cater to Western tourists, will not have an equal or greater impact on the river and surrounding environment.

While the true environmental impact remains ambiguous, the suit had clear social implications that were not taken into account. Basing the claim on nature's rights sidestepped the issues of resource disparities and competing rights claims between foreign interests and the local community. The case briefly mentions the impact on the surrounding community that uses the river, but it appears that no local people were asked to testify, and local perspectives were not a major part of the judge's decision. Furthermore, there is no evidence on how the development affected the lives of local people. What was the economic impact of the road construction on surrounding communities? Were local people supportive of the lawsuit? Did the road increase mobility and access for local people? These questions become irrelevant when the rights of nature provisions are examined in isolation, without regard to provisions that

guarantee the human right to benefit from the environment (such as Article 74) and to lead productive and meaningful lives. In fact, the Vilcabamba case generated absolute, unadulterated praise from environmental organizations, with no one bothering to examine the motives behind the suit or consider how the road might benefit the surrounding communities [xvii]. Organizations such as the Global Alliance for the Rights of Nature specifically praised the Loja court for focusing exclusively on the violation of nature's rights rather than comparing the competing interests of the river and surrounding communities [xix]. This praise not only overlooks any potential ulterior motives of the plaintiffs, but also neglects a discussion of the comparative value and risks of development and conservation. Even if the suit had a net positive impact for the Vilcabamba River, it shows the risks of overlooking tensions between the rights claims of humans and nature.

While Ecuador certainly faces unique problems such as instability and corruption within its court system and large wealth disparities between foreigners and citizens, which would enhance the possibility for successful personal interest claims, the threat of NIMBYism also applies to the United States [xx]. It is easy to imagine situations in which a proposed development would be in the best interest of society as a whole, but have some negative impacts for nearby residents. Schools, light rail lines, halfway houses, and waste treatment facilities are all necessary, but create some annoyances for residents in the immediate vicinity. The risk is that claims on behalf of nature—cutting down tress, clearing brush, impinging on animal habitat—would be used by more powerful groups to simply relocate development to poor neighborhoods, where the environmental impact could be equivalent or even greater.

Proponents of granting rights to nature envision the laws being used to assist communities in fighting back against corporations and developers, and largely deny the possibility of personal interest claims. For example, when asked if individuals could use their advocacy for nature to advance their own interests, the Envision Spokane campaign director indicated that communities are less likely than corporations to make self-interested claims. He did not take other possibilities seriously, saying only that democracy is almost necessarily "messy" (Huschke K, personal interview, Nov 22, 2011). Even Thomas Linzey, one of the main people involved in drafting the provisions for U.S. municipalities and Ecuador, admits that the laws make it possible for a developer to argue that it is in the "best interest of the river to be diverted, or used, or put to some other 'higher and better' purposes." Linzey's proposed resolution is to trust that the laws' true intent will be "vindicated" by well-meaning communities [xxi]. However, the cases above suggest that local communities may not have the resources, power, or even desire to uphold the best interests of the local environment. While combating the threat of corporate power is certainly one application of the proposed laws, it is likely not the only—the lack of attention to local resource disparities and heterogeneous interests within a community threatens to silence certain perspectives and even well-meaning communities may not act solely in nature's best interest.

Nature's Rights as Human Rights and Nature as Homogenous

The homogenization of divergent interests within a community parallels the assumptions that nature's needs are inseparable from those of the community and that nature is

a homogenous entity with only a single set of needs. These assumptions naturalize human culture (and especially indigenous cultures) as existing in harmony with nature and romanticize the environment as a homogenous, harmonious entity. While both the naturalization of indigenous culture and the anthropomorphization of nature is more direct in Ecuador, much of the same framework is appropriated in spirit, if not in direct wording, in the Spokane rights of nature provisions. This rhetoric undermines the very premise of ecocentric policies, and fails to acknowledge competing interests within an ecosystem and between ecosystems of different geographic scales.

Most prominently, rhetoric in the Ecuadoran constitution and some United Nations documents fails to make distinctions between the rights of nature as a separate entity and the indigenous right to culture, which not only undermines the principle of nature's rights, but also glosses over the potential for conflict between human rights and nature's rights. The Ecuadorian constitution uses multiple indigenous Quechua words interchangeably with Spanish terms when referring to environmental issues, including Pachamama for Mother Nature, or nature more broadly, and *sumak kawsay*, meaning the good way of living or life in harmony [xxii]. While these terms partly affirm indigenous cultures and worldviews, worldviews are not simply transferable to a static and legalistic framework of inalienable rights for nature—closing the gap between a particular worldview and its enshrinement in national law necessitates a conflation of the indigenous right to culture and nature's rights as a separate entity. For example, the United Nations "Study on the rights of Mother Earth" contends that nature is so intertwined with humanity in the indigenous worldview that "Nature, of which mankind is a part, is Pachamama." Thus, "the rights of Pachamama could be inherent in the rights of humankind, human rights" [xxiii]. While humans certainly depend on the environment and can have deep connections to land, the idea that nature's rights are subsumed under human rights seems to weaken the very principle of distinct rights for nature. In addition, the conflation of humans and nature as the same entity glosses over the difficulty in presuming that humans (indigenous or not) know what is best for the environment. Even if humans could know what would be best for an ecosystem, the conflation assumes that people would always act in nature's best interest, even when it went against their own self-interests.

The rhetoric of nature's rights in Spokane parallels that of Ecuador in some ways, but is also unique in that it is framed in a historical context of extending rights to different human groups. In an adaptation of Pachamama as a member of the human community, all three initiatives in Spokane included the rights of nature as part of the Community Bill of Rights—the right to a healthy Spokane River and Aquifer is subsumed under the Community Bill of Rights, but also includes the rights of the Spokane River and Aquifer. This framing can be extrapolated in several ways: that nature is a part of the community (presumably the community that is geographically nearby), that humans are inseparable from nature (in the sense of an ecosystem), or that a community has the right to nature's existence. The fact that the propositions do not acknowledge or delineate between these different possibilities suggests that perhaps all three are intended or cannot be separated from one another [xxiii].

The anthropomorphization of nature and conflation of human rights with nature's rights has several implications. First,

the slippage undermines the very premise of ecocentric policies—nature is conserved not for its own inherent value, but for its value to cultures and societies. This justification then legitimizes the conservation of only the elements of nature that humans value, rather than those most important to the functioning of the ecosystem. Although many of the potential cases may directly benefit the environment and preserve parts of nature that people value for cultural, spiritual, economic, or other reasons, not recognizing the slip between these two sets of needs allows a dangerous type of anthropocentrism to continue. As Myrl Duncan argues, the anthropocentric model is less damaging than a purely egocentric (self-centered) model, but it is more "insidious" as it "permits us to think we are protecting 'the environment' when we are primarily protecting human beings" [xxiv]. As Proposition 1 shows, groups have already begun to focus on granting rights to parts of nature that "resonat[e] with folks" (Huschke K, personal interview, Nov 22, 2011). While this may be a strategic decision for the time being, it also opens the door to only preserving the elements of nature that appeal to humans—jungles that are useful for bioprospecting, the endearing panda bear, waterfront ecosystems frequented by tourists—rather than protecting endangered fish species or desert wildlife that are harder to capture in a postcard image.

Second, the homogenization of nature ignores questions about what actually counts as "nature" and fails to grapple with the divergent needs within a single ecosystem—just as a human community is not a homogenous entity with a single set of needs, the Western conception of nature implies a false sense of homogeneity. Under the Ecuadorian constitution for example, "nature" is not defined explicitly, meaning that it could reasonably include "entities like pests, viruses, bacteria, tornadoes, and intangible entities like climate" [xxv]. Within the concept of nature, there is no way to mediate between competing claims. For example, how should judges weigh the loss of wetland habitat with the potential for the restoration of fish habitat in a dam removal project? What if overpopulation of an individual species threatens other elements of an ecosystem [xxvi]? According to the legal scholar, Michelle Bassi, this lack of specificity then creates the potential for judges and legislators to define nature in "anthropogenic" terms, which might also allow "corporate interests... [to] define nature in ways that would justify destruction in the name of defending other "rights of nature" [xxvii].

Lastly, the local character of legislation in Spokane and the romanticization of nature in both Ecuador and Spokane overlook the potential for conflicting interests between ecosystems of different scales. While local ecosystems are valuable, the localized rhetoric of Proposition 1 obscures the fact that the rights of local ecosystems may conflict with broader environmental rights. For example, given that hydropower can substitute for fossil fuel use, how should a court balance the right of a river to not be dammed versus the harms caused by air pollution and oil extraction from fossil fuels? These conundrums are especially acute when only certain elements in an ecosystem have rights. Proposition 1 only gives rights to the water systems in the Spokane area, but what happens when the rights of the Spokane River to not be dammed conflict with the non-legislated right of the Alaskan wilderness to not be drilled for oil? If only some rights are protected, how should courts mediate a case if proposed development would negatively affect a watershed area but moving it would have a

greater negative impact on a nesting ground for endangered birds? Rather than grappling with these questions, rights of nature proposals assume that nature is a single and homogenous entity.

Conclusion

As with any other ballot initiative or constitutional amendment, the full significance of rights of nature laws will have to be clarified and defined over time through judicial review. Nevertheless, future rights of nature laws anticipated from Spokane to Bolivia can adapt both their wording and their framing to the successes and failures of existing laws. Rather than *actio popularis*, the judicial system must hold plaintiffs accountable to truly acting in nature's best interest as defined to the best of human capabilities. In practice, this means that judiciaries should adopt a "liberal interpretation of sufficient interest" guideline, meaning that a plaintiff must have "knowledge of the injured community or ecosystem, . . . genuine interest, and [be able to] accurately represent nature in litigation" [29].

While a different standing doctrine would resolve some of the problematic aspects of enforcing nature's rights, policymakers and judges will inevitably have to make tough decisions about how to prioritize rights in different contexts. Primarily, there must be recognition that local communities do not always represent the best interests of the environment and that even the vision of well-meaning communities can be undermined by personal interest claims. Perhaps also, the flaws of localist rhetoric in Spokane can help problematize this same rhetoric in talking about indigenous Ecuadorian communities or even raise the question of whether U.S. organizations writing and advocating for provisions in the Ecuador constitution is its own sort of NIMBYism—the West experimenting in the Global South with policies that they are not yet ready to try on themselves. As currently framed, rights of nature laws risk undermining both community interests and environmental interests, by letting non-locals and privileged interests exploit nature's rights to promote their own interests. Prioritizing rights will entail inevitable sacrifices, but is a necessary mode of resolving tensions that exist whether or not they are acknowledged.

End Notes

- [i] "2011 Washington General Election: Spokane Proposition 1, Community Bill of Rights." (2011, Nov 14). The Spokesman-Review Election Center. [Online]. Available: <http://www.spokesman.com/elections/2011/washington-general-election/measures/citytown/city-of-spokane/46/>.
- [ii] Stacy H, *Human Rights for the 21st Century: Sovereignty, Civil Society, Culture*. Stanford, CA: Stanford U Press, 2009, pp. 5.
- [iii] U.N. Economic and Social Council, "Study on the need to recognize and respect the rights of Mother Earth," report to Permanent Forum on Indigenous Issues 9th Session held in New York, April 2010, pp. 15.
- [iv] *Sierra Club v. Morton*, 405 U.S. 727 (1972).
- [v] Constitution of the Republic of Ecuador, art. 71-74. Available: <http://pdba.georgetown.edu/Constitutions/Ecuador/english08.html>.
- [vi] Constitution of the Republic of Ecuador, art. 13, 16, 24, 37, 66. Available: <http://pdba.georgetown.edu/Constitutions/Ecuador/english08.html>.
- [vii] Ecuador ranks fourth in the world for the number of different constitutions it has had. Cordeiro JL, "Latin America: Constitution Crazy," *Latin Business Chronicle*. Oct 2008. Available: <http://www.latinbusinesschronicle.com/app/article.aspx?id=2799>.
- [viii] The city also has noteworthy connections to Ecuador given that Thomas Linzey, the founder of the organization that helped Ecuador craft the articles about rights of nature, lives in Spokane (Huschke K, personal interview, Nov 22, 2011).
- [ix] The excerpted wording is from the proposition itself as included in the

news story. Brunt J, "Prop 4 supporters, opponents make cases; Point by point arguments on proposed community bill of rights," *The Spokesman-Review*, online edition 11 Oct 2009. Available: <http://www.spokesman.com/stories/2009/oct/11/defining-community-rights/>.

- [x] "Proposition 1 - Community Bill of Rights," *Envision Spokane*, Available: <http://envisionspokane.org/2011/08/17/proposition-1-community-bill-of-rights>. The 2013 version of the initiative made no significant changes, except for adding the right of Spokane residents to use water resources: "All residents of Spokane possess fundamental and inalienable rights to sustainably access, use, consume, and preserve water drawn from natural cycles that provide water necessary to sustain life within the City." See "Community Bill of Rights: Initiative 2012-13," *Envision Spokane*, Available: <http://envisionspokane.org/2011/08/17/community-bill-of-rights>.
- [xi] It is worth mentioning that of the two businesses listed as endorsers, one is a Fair Trade import business and the other is a non-profit community kitchen. *envisionSPOKANE*, Spokane: Envision Spokane. Available: <http://envisionspokane.org>.
- [xii] According to Public Disclosure Commission, the Envision Spokane Political Committee spent \$18,344.57, while the opposition PAC, the Jobs and Opportunities Benefiting Spokane Political Committee spent \$104,730.60. "Cash Contributions for: ENVISION SPOKANE POLITICAL COMM," Public Disclosure Commission," Available: <http://www.pdc.wa.gov/MvcQuerySystem/CommitteeData/contributions?param=RU5WSVNQIDIwMg====&year=2011&type=single>; and "Cash Contributions for: JOBS & OPPORTUNITIES BENEFITING SPOKANE POLITICAL COMM," Public Disclosure Commission Available. <http://www.pdc.wa.gov/MvcQuerySystem/CommitteeData/contributions?param=Sk9CU09CIDIxMw====&year=2011&type=continuing>;
- [xiii] In *Should Trees Have Standing?*, Stone asserts that trees themselves should have legal standing, but he breezes over the difficulty of who should advocate for the trees (and the rest of the ecosystem), arguing that nature's inability to speak should not be grounds for denying nature standing. He points out that many other entities including, "corporations...states, estates, infants, incompetents, municipalities [and] universities" cannot speak for themselves, yet are represented by lawyers. However, the difficulty is not who will represent nature in the courtroom, as the majority of legal cases are argued by lawyer. Rather, it lies in who should be able to hire legal council on behalf of nature, who is recognized as having nature's best interests at heart, and what parts of "nature" deserve rights when rights conflict with each other. Stone CD, "Should Trees Have Standing--Toward Legal Rights for Natural Objects," *Southern California Law Review* vol. 45, pp. 454, 1972.
- [xiv] The Ecuadorian constitution, for example, states that "each person, community, neighborhood and nationality shall have the power to enforce the rights [of nature] before the public authority." Most scholars agree that this language correlates to the legal concept of *actio popularis*, under which any of "nature's millions of potential representatives can earn standing," regardless of whether or not they have been directly harmed. Proposition 4 in 2009 was similarly broad, stating that "any person seeking to enforce the rights of ecosystems, may enforce these rights." The 2011 and 2012 version significantly limited who had standing to enforce nature's rights to only people living within the City of Spokane, but did not place restrictions on the motives of those bringing cases. They both state that: "the City of Spokane and any resident of the City or group of residents have standing to enforce and protect these rights."
- [xv] Greene N, "The first successful case of the Rights of Nature implementation in Ecuador," *The Global Alliance for the Rights of Nature*. Available: <http://therightsofnature.org/first-ron-case-ecuador/>.
- [xvi] Richard Wheeler seems to be the quintessential new-ager, his personal website describes him as a "multi-talented artist whose visual & musical creativity was irrevocably influenced in the famous '60s by immersion in the psychedelically-enhanced Sensory Isolation Tank." Wheeler R. (2006). *WheelerWhirled I* [Online]. Available: http://www.tarpitboss.com/tarpitboss.com/WheelerWhirled_I.html
- [xvii] Greene, "The first successful case of the Rights of Nature implementation in Ecuador."
- [xviii] Daly E, "Ecuadorian Court Recognizes Constitutional Right to Nature," *Widener Environmental Law Center: The Blog*. 12 July 2011. Available: <http://blogs.law.widener.edu/envirolawblog/2011/07/12/ecuadorian-court-recognizes-constitutional-right-to-nature/>.
- [xix] The logic here is a little hard to follow as it seems as though any rights claim would have to balance different interests claims. The text is excerpted below for analysis. "The Provincial Court of Loja... establishes:... That the argument of the Provincial Government that the population needs roads does not apply because there is no collision of constitutional rights of the population, nor is there any sacrifice of them, because the case does not question the widening

of the Vilcabamba-Quinara road, but the respect for the constitutional rights of nature.” (Greene, “The first successful case of the Rights of Nature implementation in Ecuador.”)

- [xx] Whittemore ME, “The Problem of Enforcing Nature’s Rights under Ecuador’s Constitution: Why the 2008 Environmental Amendments Have No Bite,” *Pacific Rim Law & Policy Journal Association* vol. 20, no. 3, pp. 671-675, 2011.
- [xxi] Linzey T, “The Implementation of Rights for Nature,” 2008.
- [xxii] Constitution of the Republic of Ecuador, art. 71, 275.
- [xxiii] U.N. Economic and Social Council, pp. 14.
- [xxiv] When asked about this issue during an interview, Kai Huschke replied that “it’s really about nature having the inalienable right to exist in and of itself... exclusive really of human beings...It is our responsibility to be stewards of those natural systems, for them, but also understanding that we’re linked to the natural system as well.”
- [xxv] Duncan, ML, “The Rights of Nature: A Triumph for Holism or Pyrrhic Victory,” *Washburn Law Journal* vol. 31, pp. 67, 1992.
- [xxvi] Whittemore ME, “The Problem of Enforcing Nature’s Rights under Ecuador’s Constitution: Why the 2008 Environmental Amendments Have No Bite,” *Pacific Rim Law & Policy Journal Association* vol. 20, no. 3, pp. 669, 2011.
- [xxvii] One example of this type of scenario come from Kenya’s Amboseli National Park where elephants in a park are destroying a woodland ecosystem that also had a right to exist. See Thompson C, “Competing Philosophies of Nature,” in *Complexities: Social Studies Knowledge*, Eds. A Mol and J Law, Durham, NC: Duke U Press, 2002, pp. 167-190.
- [xxviii] Bassi M, “La Naturaleza O Pacha mama de Ecuador: What Law Should Grant Trees Standing?,” *Oregon Review of International Law* vol. 11, pp. 468, 2009.
- [xxix] Bassi M, “La Naturaleza O Pacha mama de Ecuador: What Law Should Grant Trees Standing?,” *Oregon Review of International Law* vol. 11, pp. 473, 2009.

References

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