Guest editorial: Rights for rivers special issue

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Over the last decade a vocal Rights of Nature movement has emerged within scholarly, activist and policy-making circles. This movement asserts that existing anthropocentric modes of environmental law fail to give adequate protection and entitlement directly to the creatures, structures and systems of the non-human 'natural' world. Within this movement rivers have had a particular prominence as entities whose rights should be better protected, often via a proposal that some form of separate legal status (i.e. legal personhood) should be acknowledged and defended for these essential worldly systems.

Whilst the talk within the Rights of Nature movement has asserted the 'Rights of Rivers' this Special Issue is framed around the alternative formulation of 'Rights *for* Rivers'. This reframing is intentional (and somewhat provocative). Holding that rivers and other natural things have separate existence as entities to which certain rights are pre-existing (and thus should be acknowledged by humans and their laws) is primarily a matter of philosophy. By focussing this Special Issue on Rights *for* Rivers, the aim is to foreground matters of how such rights (regardless of their philosophical foundation) are implemented into human law and thereafter implemented into environmental governance practices. In short, the Special Issue seeks to explore the opportunities, challenges and emergent techniques by which any such asserted rights are operationalised.

To achieve this goal the Special Issue brings together a diverse range of perspectives, ranging from keen advocates of the Rights of Nature, to more critical voices who question whether that new approach to environmental law is either needed, or workable. The assembled commentators comprise both established voices within the field and its debates and also more junior scholars who raise new issues (or clarify older ones) in order to hopefully draw a range of readers into this rapidly expanding field. Furthermore, the six articles presented in this Special Issue have a global span, presenting insights into the development of Rights for Rivers in the Americas, Africa, India, the Middle East, Europe and Australia, notably adding new areas of consideration (Middle East and Africa) which have tended not yet to feature in the scholarship.

Oluwabusayo Wuraola presents a cogent introduction to the proposition that rivers should be accorded rights, and those rights need to be implemented via new laws. She argues that such laws are necessary and deserved because of the intrinsic value of rivers, and that (in essence) environmental law should be adjusted so as to give rivers the right to flow (and to otherwise express their natural capabilities). This encapsulates the Rights of Nature perspective. Wuraola is also concerned to emphasise that the accordance of such rights to rivers will be meaningless (in terms of providing any actual protection) unless backed-up with effective representation and advocacy (i.e. guardianship) structures, by which humans can act on behalf of rivers and their rights. Anticipating Rights of Nature critics Wuraola also presents a conceptual defence of why affording rights and legal personhood to rivers is both possible, and necessary.

Kellianne Elliott and her colleagues, also seek to explore and sketch-out possible counters to critics of approaches who argue that various core features of anthropocentric law point against the workability of Rights of Nature implementation via legal personhood and guardianship. Elliott et al as staffers and interns at Earth Law Center in the United States, collaborated on their exploratory project in order to advance the Center's advocacy of creative and enhanced approaches to delivering Rights of Nature within environmental law frameworks. The Center, has been prominent in advocating for a Universal Declaration of the Rights of Rivers (in collaboration with the campaigning organisation International Rivers), as detailed at https://www.rightsofrivers.org/. From their North America perspective they point particularly to the limitations of anthropocentric modes of river management and protection before presenting indigenous and other Rights of Nature-based action around the world. In doing so they address head-on the question of whether if rivers are to have the benefit of rights they should also have the burden of duties and liabilities, presenting a reasoned rebuttal to this dichotomy, seeking to show why rivers can validly be said to bear rights but not have duties. They then develop a positive assessment of the viability (in legal terms) of human guardianship for river rights, drawing insightful parallels to the legal status of company directors and legal guardians of humans.

Ebba Hooft Toomey and Tineke Lambooy present a global survey of legislative attempts to apply the Rights of Nature framework to rivers, to create various forms of what they call "legally living rivers". They do so by drawing from the Eco Jurisprudence Monitor (available at https://ecojurisprudence.org/dashboard/), a Rights of Nature database established in 2022 and maintained by the Global Alliance for the Rights of Nature. In their article they identify new analytical dimensions which they propose will help to refine the taxonomy by which the varied manner of implementing Rights of Nature approaches can be classified and interpreted. This entails looking closely in any specific example at who instigated the granting of river rights; what the declared rationale was; and, which mode of representation was selected for the operationalisation of the river's rights. Hooft Toomey and Lambooy argue that a full characterisation of drivers for implementation of

a Rights of Nature approach for any particular river, will show the wide diversity of ways in which Rights of Nature are being implemented across the world. They then illustrate the benefits of a thorough, case-specific situational analysis by applying their characterisation approach to the implementation of the regime of river rights developed for the Birrarung (Yarra) river, a 242 km waterway in the Australian State of Victoria.

Angela María Sánchez Alfonso and Rana Göksu present an in-depth consideration of the conferment (via a decision of the Columbian Constitutional Court) of a Rights of Nature approach to the Atrato river in Columbia. They ask how legal systems set out to 'know' nature and its capacities and needs, and in reply they detail how the court's chosen process for building an understanding of the requirements of the case, and of the particular river at the centre of it, involved a variety of knowledge-forming strategies. These included in-person attendance by the court at the river and hearing a wide range of indigenous and other user testimony about local river-relations alongside an investment in scientific expertise regarding alleged pollution of the river by illegal mining activities. Applying feminist and legal geographic lenses they further illustrate the situatedness (i.e. locally grounded nature) of formulating knowledge, decisions, approaches and modes of protection and governance accorded to a particular river. Notably they point to a "localisation" of law and an attentiveness to context and place arises from a Rights of Nature approach to environmental litigation. This both echoes and underpins Hooft Toomey and Lambooy's call for attentiveness to the diversity and plurality of approaches by which Rights of Nature are being implemented, and also sets a stage for Francine Rochford's article and its arguments.

Rochford, presents two Australian case studies, the 2024 Tiwi Islands pipeline case and the 1996 Hindmarsh Island bridge case, in each of which indigenous notions of environmental personhood were invoked in litigation opposing development works that would affect water bodies that were held to be sacred by local indigenous communities. She argues that each of these cases shows that purported attempts to progress litigation or legislative protection on behalf of a non-human entity (in her cases rivers or coastal waters) are frequently motivated and underlain by the goals and partialities of particular human actors. In contrast to the other contributors Rochford is less sure of the need for, wisdom of or effectiveness of imposing Rights of Nature approaches to usurp existing modes of (modernist, post-enlightenment) environmental law and governance. In particular, she seeks to show how the intertwining of co-options of others' spirituality, simplifications of indigenous stewardship and very diverse modes of knowledge may often be found within Rights of Nature thinking and case-pleading. Rochford's position here builds upon her 2024 monograph, *Environmental Personality* which set out at length her critique of those arguing, within Rights of Nature frameworks, for the need to accord independent legal rights to non-human features such as rivers.

Finally, Souad Ezzerouali and her colleagues present an alternative perspective on how a human legal system can value and protect river systems. They point out that the Rights of Nature discourse has not to date had a significant impact in the Muslim world, but that Islamic Law (*Sharia*) can be seen as having within it an innate cherishing of river systems. Here a spiritual commandment to prevent harm to rivers; to regard them as a communal asset and something worthy of careful trust and stewardship operate within Islamic law but without the connotation of rivers as rights-bearing and/or legally distinct entities. They suggest that this could be seen as a mid-position between the anthropocentric, individualistic and property-based notions underlying Western environmental law and a Rights of Nature re-casting of that law. Their paper further boosts this Special Issue's global range, with its consideration of river regulation under these Islamic law principles in Bangladesh, Pakistan, Iraq, Morocco and Indonesia.