

An aerial photograph of a river winding through a dense, green forest. The river is the central focus, curving from the top left towards the bottom right. The surrounding landscape is covered in thick, lush vegetation, with some patches of lighter green fields visible on the right side. The overall scene is a natural, undisturbed environment.

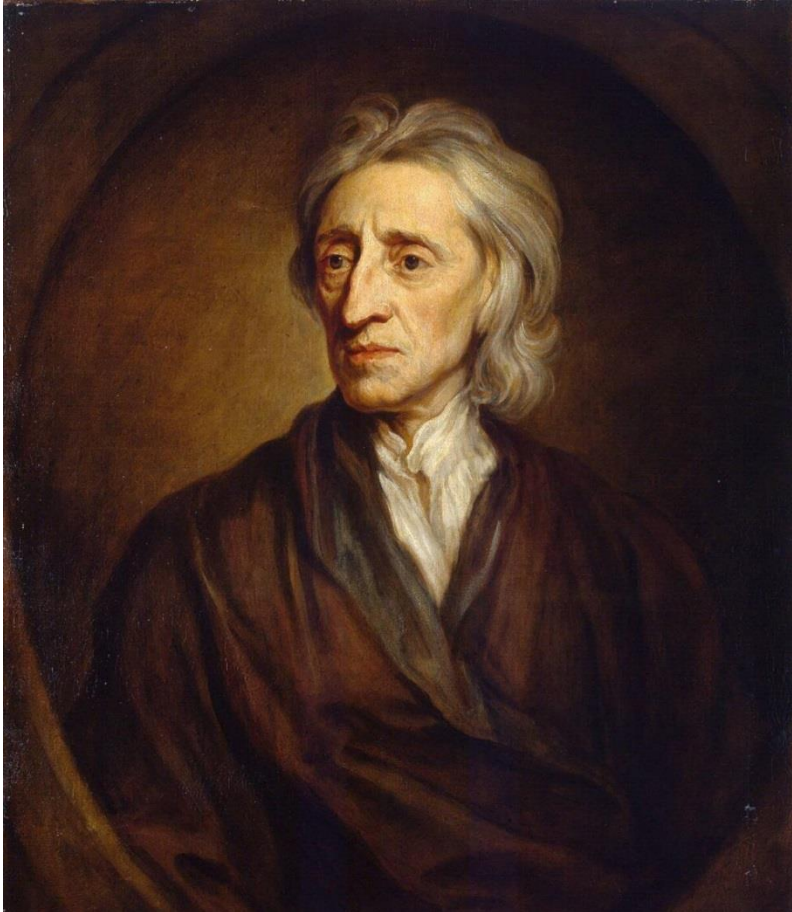
Nature as an owner: the next step in environmental protection?

Anne de Vries, Tilburg University

Ilon Van Ham, Radboud University of Nijmegen

Kees Bastmeijer, Tilburg University

Western (liberal) view on nature



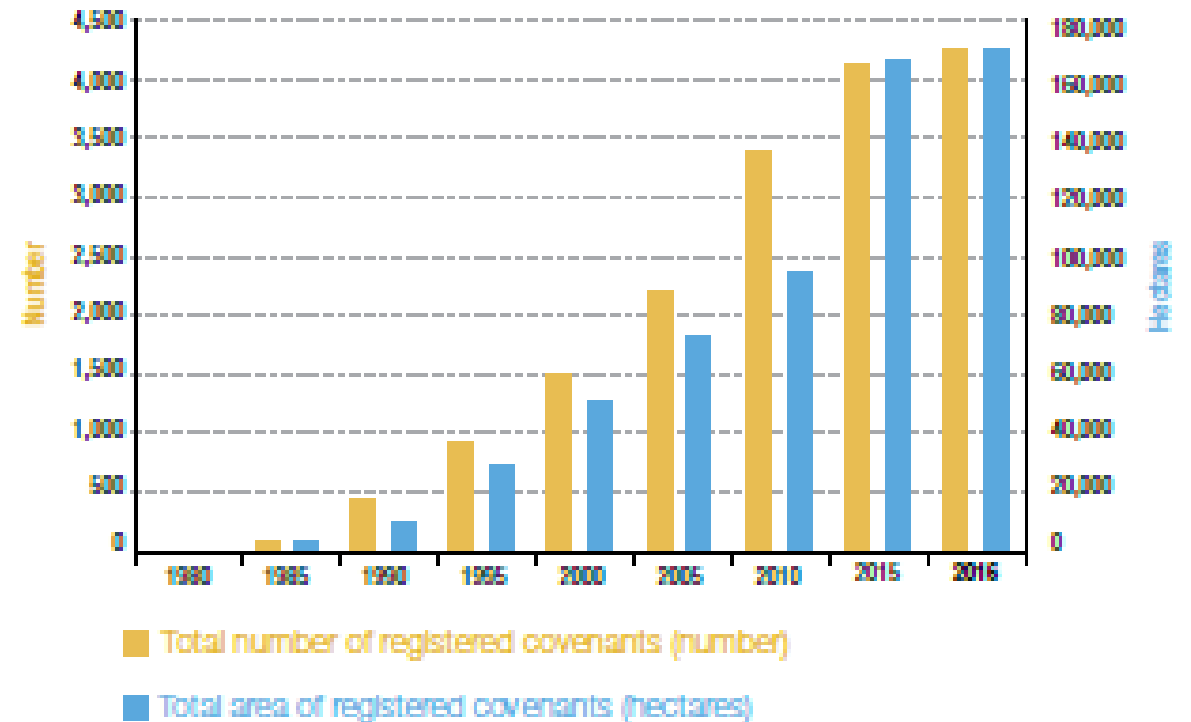
“The earth and all that is therein is given to men for the support and comfort of their being” (John Locke, 1690)

Nature protection through property rights?

- De Vries-Stotijn, Van Ham, Bastmeijer, Protection through property From private to river-held rights, Water International 2019(44), P. 736-751
- **The Netherlands: Natuurmonumenten**
 - Society with over 719.000 members
 - Owning 101,066 hectares (363 areas)
- **New Zealand: Queens Elisabeth II Trust**
 - Network of private owned properties
 - More than 182.000 ha (4503 covenants)
 - Semi-public supervision by trust

Statistics continued

Registered covenants



PROS

- Independent from states
- Long term protection possible
- Increasing popularity
- Additional to public environmental law
- Limits public expenses

CONS

- Voluntary
- Monitoring and supervision
- Lack of specialized knowledge
- Less suitable for areas owned by many different owners
- Legal limitations (e.g. no main positive duties via Dutch easement; res nullius)
- States become lazy?



Whanganui River:

A legal person owning the river

Te Awa Tupua Act 2017

- S 12: *“Te Awa Tupua is “an indivisible and living whole, comprising the Whanganui River from the mountains to the sea, incorporating all its physical and metaphysical elements.”*
- S 14: *“Te Awa Tupua is a legal person and has all the rights, powers, duties, and liabilities of a legal person.”*
- The river acts and speaks through a representative body, Te Pou Tupua (S 19(d))

Effects

- Transfer of crown-owned parts to Te Awa Tupua (S. 40-41)
- Cannot be alienated (S. 43)
- River liable as owner (S. 56 & Schedule 5)
- Tax (S. 25)



Limitations

- The Act does not limit existing private property rights or public use (S. 16 & 46)
- Private owned parts can be transferred and vested in Te Awa Tupua only with full consent of the private owner (S. 48-49)
- Water cannot be owned



PROS

- Strong signal, nature gets “own” voice
- Shift in thinking about human-nature relationship
- Legal standing
- Independent from the whims of politics
- River-owned parts cannot be alienated

CONS

- Still human-made, can be taken away again
- Private ownership is unaffected
- Water cannot be owned
- Practical?
- Equally expensive for states

The future

- Better alternative to no ownership
- Legal personality for animals?

