Granting Legal Personhood to the Dutch Wadden Sea?

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NYENRODE
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Leadership • Entrepreneurship • Stewardship
Valuing nature for its utility to human beings as resources, property or natural capital – rather than seeing it as the source of life.

Natural hierarchy of systems because without nature there's no people and without people there's no economy.
Movement: Rights of Nature

• Global Alliance for the Rights of Nature (Ecuador 2010) - Aim: recognition and honoring that Nature has rights

• Rather than treating nature as property under the law, rights of nature acknowledges that nature in all its life forms has the right to exist, persist, maintain and regenerate its vital cycles

• And we – the people – have the legal authority and responsibility to enforce these rights on behalf of ecosystems

• For indigenous cultures around the world recognizing rights of nature is simply what is so and consistent with their traditions of living in harmony with nature

https://therightsofnature.org/what-is-rights-of-nature/

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International Precedents

- **Legislation New Zealand**: 3 natural areas have been granted legal personality: Mount Taranaki (= ‘Mount Egmont’; 2017); Whanganui River (Whanganui River Claim Settlement Act 2017) and National Park Te Urewera (2014).

- **High Court North Indian State of Uttarakhand** (2017): the rivers Yamuna and Ganges, the glaciers that provide the water and the adjoining ecosystems have the same rights as humans: legal person.

- **Supreme Court Colombia** (6 April 2018; STC4360-2018, p. 21). 25 young plaintiffs successfully invoked their right to a healthy environment: the government’s failure to stop the destruction of the Amazon jeopardised their futures and violated their constitutional rights to a healthy environment, life, food and water. The court confirmed the importance of protecting the rights of future generations and recognised Colombia’s Amazon area as an ‘entity subject of rights’, having the same legal rights as a human being.

- **Ecuador 2008; Constitution** (art. 71); Nature is given its rights by analogy to people: nature ‘to exist, persist, maintain and regenerate its vital cycles.’

- **Bolivia (2010) Legislation**: Ley de Derechos de la Madre Tierra, Law 071, ch. II (art. 5); Mother Earth holds certain rights ensuring protection for her and her life-systems; nature is defined as a legal entity that ‘takes on the character of collective public interest’.
EU Policy and Legal Measures


• Hans Bruyninckx, Executive Director of the European Environment Agency - keynote speech:

“We believe that the rights of nature framework will be a powerful ally in achieving this goal by providing a legal imperative for systemic transformation - so that humanity flourishes in harmony with nature for generations to come.”

Research Project: Wadden Sea ➞ Nature Legal Person?
Wadden Sea - Dangers

• Intensive human activity: shipping (including ports), recreation, agriculture, military activity, mining (gas and salt), and fishing

• Dangers: Birds (bird migration report East Atlantic Flyway); Seals (chemicals, noise, boating); Over-fishing; Sea level rising
Protection Nature? Legal Status

• Biosphere reserve by UNESCO (entire Wadden Sea 1986); UNESCO World Heritage List (NL and Germany: 2009; Denmark: 2014)
• Convention for the Protection of the Marine Environment of the North-East Atlantic of 1992 (OSPAR) (protecting the marine environment)
• Trilateral Wadden Sea Cooperation (NL; Germany; Denmark 1982)
• Agreement on the Conservation of Seals in the Wadden Sea (NL; Germany; Denmark 1990)
• Convention on Wetlands of International Importance especially as Waterfowl Habitat of 1971 (RAMSAR) (protecting certain wetlands)
• EU Water Framework Directive, the Habitats Directive, and the Birds Directive: form the basis for the EU’s ‘Natura 2000’ ecological network
• NL: Wadden Sea Zoning Framework (Third Wadden Sea Memorandum, 2007): protection natural area and co-usage – 2 Ministeries responsible!
• Unlike the Danish and German parts of the Wadden Sea area: Dutch part as a whole - no national park status under local law – some parts have
Natureship as Novel Form of Governance?

- Dutch Civil Code, Book 2 Legal Persons, Article 2:1(1) Public Legal Person:
  
  “The State, the Provinces, the Municipalities, the Water Boards [Watership] and all other bodies to which legislative power has been granted under the Dutch Constitution have legal personality.”

- In Dutch: ‘Watershap’ – legal person; connected to an area; has a function; and it represents the oldest form of democracy in the Netherlands

- Akin: Natureship → Advantages: rights-based position in discussions about its use and destiny; statutory purpose clause of the legal person is leading (more prominence to nature, balancing interests)

- Governance (should be reflective of the purpose): Which governance bodies? How to appoint or elect? Which stakeholders?
To Be Continued: Thank You