

‘violence’.<sup>7</sup> One hopes that Cusato’s ideas find resonance in these discussions and manage to shift attention to the ever-closer entanglements of military and environmental categories.

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*Understanding the Rights of Nature: A Critical Introduction*, by Mihnea Tănăsescu  
Transcript Verlag, 2022, 168 pp, €40 pb, open access ebk  
ISBN 9783837654318 pb, 9783839454312 ebk (open access)

*The Politics of Rights of Nature: Strategies for Building a More Sustainable Future*,  
by Craig M. Kauffman and Pamela L. Martin  
The MIT Press, 2021, 290 pp, \$35 pb, open access ebk  
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In 1972, Christopher Stone argued that natural ecosystems should have legal standing before courts.<sup>1</sup> It took more than 40 years for the first rights of nature (RoN) law to be adopted.<sup>2</sup> However, since 2006, legal provisions establishing RoN have rapidly spread from state constitutions and local laws, to court rulings and international instruments, making RoN a global legal trend. The global development of RoN has not been linear or uniform, however. Both in theory and in practice RoN cases vary substantially. They are developed in different contexts, respond to different objectives and tensions, and have been recognized and implemented from dissimilar political dynamics involving a variety of actors. Any study of RoN must recognize these complexities and contexts in order to start to grapple with complex questions such as: What are rights of nature? How should they develop further?

For a holistic analysis that takes into account the details, context and political dynamics surrounding RoN, *Understanding the Rights of Nature* by Mihnea Tănăsescu and *The Politics of Rights of Nature* by Craig Kauffman and Pamela Martin provide two important new resources. Each book takes a different approach to analyzing the main issues surrounding RoN and the most representative cases around the world, but complement each other well. Kauffman and Martin, from a political perspective, focus on the politics behind RoN, as well as their impacts on

<sup>7</sup> D.M. Herszenhorn, ‘The Failed World Order’, *Politico*, 24 Mar. 2022, available at: <https://www.politico.eu/article/ukraine-russia-war-failed-world-order-united-nations-nato-council-of-europe-vladimir-putin>.

<sup>1</sup> C. Stone, ‘Should Trees Have Standing: Toward Legal Rights for Natural Objects’ (1972) 45 *Southern California Law Review*, pp. 450–501.

<sup>2</sup> Borough Council of Tamaqua Borough, PA, United States (US), Tamaqua Borough Sewage Sludge Ordinance, Ordinance No. 612, 19 Sept. 2006 (‘Borough residents, natural communities, and ecosystems shall be considered to be “persons” for purposes of the enforcement of the civil rights of those residents, natural communities, and ecosystems’).

the politics of sustainable development and human rights. Tănăsescu, through critical analysis, provides a better understanding of the RoN through a review of their key concepts and the logic behind the granting of rights to nature.

In this context of complementarity and a holistic approach to RoN, this review presents and analyzes the main contents and issues addressed in the two books. Starting with the latter, in *Understanding the Rights of Nature*, Mihnea Tănăsescu examines the concept of RoN by elucidating what such rights entail, where they originate, why and how they can be applied, and where RoN developments may lead. He begins by establishing the context in which the RoN arise (Chapter I) before delving into the question of their historical and theoretical origins (Chapter II). Once the theoretical framework of RoN has been established, Tănăsescu makes the transition ‘From Theory to Practice’ (Chapter III). Firstly, he addresses the cases of RoN that understand nature as a totality (the United States (US), Ecuador and Bolivia), after which he shows the ‘Diversity of Practices’ (Chapter IV) that exist in the establishment of nature as a subject of rights, for which he focuses on the study of legal provisions that understand nature as a place (naming examples of Te Urewera and the Whanganui river in New Zealand). However, warning about ‘The Perils of Totality’ (Chapter V), the author stresses that the above two categories of RoN are not the only ones that can exist and proposes a third ‘modernist’ category (Atrato river (Colombia), and Ganga and Yamuna rivers (India)). Finally, Tănăsescu makes a reverse transition ‘From Practice to Theory’ (Chapter VI), in which he discusses how a theory of RoN can be constructed by taking into account the diversity demonstrated by its practice.

In *The Politics of Rights of Nature*, Craig Kauffman and Pamela Martin analyze the transformative potential of the political dynamics involved in the creation and implementation of RoN to build new governance models that recognize the need to live in harmony with nature. This is with the aim not only of securing nature-dependent human rights, but also achieving the United Nations (UN) 2030 Agenda for Sustainable Development ‘in harmony with nature’<sup>3</sup> (Chapter 1: Rights of Nature for 2030 and Beyond). The authors detail how RoN went from an isolated idea to a worldwide legal strategy involving activists, lawyers, communities, judges, scientists, government leaders, and ordinary citizens in the policy arena (Chapter 2: Network and Norm Construction at the Global Level). They also show how RoN have developed in different contexts as a function of ‘political opportunities’ (Chapter 3: Windows of Opportunity, Multiple Paths, and Rival Models).

The methodology used by the authors, and one of the book’s main contributions to the RoN movement, is based on very detailed case studies of two models of RoN. On the one hand is the nature’s rights model, which includes the cases of Ecuador (Chapter 4), Bolivia (Chapter 5), and the US (Chapter 7). On the other hand is the legal personhood model, which includes the cases of New Zealand (Chapter 6), Colombia, and India (Chapter 8). In these cases the book highlights the interactions

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<sup>3</sup> UN General Assembly, ‘Transforming Our World: The 2030 Agenda for Sustainable Development’, 25 Sept. 2015, UN Doc. A/RES/70/1.

of the political stakeholders involved in both successful and failed processes of adoption and implementation of RoN provisions.

Questions regarding the *meaning* of RoN feature prominently in both works. While they agree that RoN cannot be pigeon-holed or linked to a single meaning, the authors differ in their beliefs as to what meanings can be established. Tănăsescu, on the one hand, stresses that there is no single answer to the question of what RoN mean, but shows that the key to understanding RoN lies in their multiplicity. The author emphasizes that RoN are not a monolithic concept – their contexts vary and legal instruments adopted in their pursuit cannot be subsumed under a unified notion (p. 16). In some cases RoN can be understood as a tool to save the environment from humans ('rights of nature orthodoxy': p. 15), yet in others as a critical tool to build alternative and multiple ways of living. Kauffman and Martin, on the other hand, find that RoN can refer to two related but distinct concepts, understood either as part of the legal philosophy known as 'earth jurisprudence',<sup>4</sup> or as legal provisions.

While both books further unravel the emergence and rationale of RoN, their different approaches highlight the role of the current context of human-caused environmental problems. Tănăsescu takes the reader on a historical journey which shows why granting rights to nature was inevitable. In this way, he argues that RoN can be understood only at the intersection of two historical moments: namely, the intensification of human pressure on the environment, and the expansion of liberalism represented in the increase and expansion of rights more generally. Interestingly, the author criticizes the paradox, or perhaps hypocrisy, of the current globalized system, which, on the one hand, intensively exploits natural resources and, on the other hand, proclaims a discourse of expansion of rights to those same exploited natural entities. What the author wants to emphasize is that it is not by chance, but deliberate, that RoN have emerged in the era of the 'Great Acceleration' of the exploitation of natural resources (p. 13), in a world characterized by climate change and the destruction of ecosystems. This is made possible by the selective application of rights according to the interests of economic neoliberalism. In this way, Tănăsescu invites the reader to analyze from a critical perspective how, while in certain contexts some ecosystems are overexploited, others are protected by legal provisions that grant rights to nature.

Conversely, Kauffman and Martin relate the origin of RoN to the systematic destruction of ecosystems, caused by the disconnect between human governance systems (western law) and the systems of the natural world. This disconnect is represented in three ideas: (i) anthropocentrism; (ii) the idea that nature is the property of human beings; and (iii) the idea of pursuing limitless economic growth, linked to the accelerated exploitation of natural resources. In this setting the objective of RoN is a paradigm shift that prioritizes 'living in harmony with Nature' (p. 6). With this diagnosis of the need for RoN, Kaufmann and Martin criticize the incapacity of environmental and human rights laws to contribute to ecologically sustainable development and to protect both ecosystems and the health of communities. This incapacity is partly

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<sup>4</sup> 'Earth jurisprudence' argues that there is a 'web of life' that connects '[a]ll the elements of Nature, including humans': Kauffman & Martin (p. 4).

because environmental law perceives ecosystems as legal objects over which humans can exercise property rights. However, the authors leave unresolved the question of the effectivity of RoN to protect ecosystems – in other words, the question of the ability of legal provisions establishing nature as a subject of rights to reduce environmental damage. While this lacuna may be as a result of the recent development of the legal provisions in question – or, as Tănăsescu critically claims, because RoN are not primarily about nature or seeking a solution for environmental damage, but rather about establishing new relationships with the environment (p. 17) – Kaufmann and Martin could have added a deeper level of analysis by engaging more with this theme.

Reading the two books, one of the most interesting contributions to the current literature on RoN is found in Tănăsescu's work, in which he develops the idea of the gender of nature. Criticizing the idea of *Pachamama* linked to a stereotypical portrayal of femininity resulting from a kind of touristification of Andean philosophy, Tănăsescu argues that for many Indigenous cultures nature cannot be categorized into one gender, as in some places it can be perceived as female, in others as male, and in others as both (Chapter III). This is an interesting contribution, as the author highlights how the attribution of gender to nature has been used for political purposes to justify extractivism. Tănăsescu illustrates these political purposes in the case of Bolivia, where the government, through the gendering of nature, acted in favour of extractivism, noting that 'Bolivia has the largest lithium reserves of the entire world, that's our Mother Earth ... you could not imagine how Mother Nature provides us natural resources' (p. 127). This shows 'how important the political dimension of the rights of nature is' (p. 124). Indeed, 'the most useful frame for understanding the rights of nature is political, not legal', as their understanding is shaped by power relations (p. 16).

The main value of the work of Kauffman and Martin is in their detailed study of major RoN cases in Ecuador, Bolivia, the US, New Zealand, Colombia, and India, which unravels both the historical and present dynamics of RoN in these different countries. The analysis of the Ecuadorian case is perhaps where the two books under review complement one another most. Where Kauffman and Martin highlight the importance and power of judges in strengthening constitutional provisions, Tănăsescu shows the other side of the coin, pointing out how in Ecuador RoN have also been used in some cases to empower extractive industries. In the case of the Santiago, Bogotá, Ónzole, and Cayapas rivers, for example, at the same time that the eviction of artisanal miners was achieved in the courts, 'the national government expanded its mining concessions to both state and multinational actors' (p. 127).

To conclude, both books have their own identity and approach, providing complementary resources on the study of RoN, and also proving that 'the rights of nature are both theoretically and practically possible'.<sup>5</sup> Kauffman and Martin choose the practical path, studying selected case studies in detail without entering into theoretical and critical discussions of RoN. Tănăsescu, by contrast, chooses the critical path, questioning and challenging the *what*, *how*, *when*, and *why* of RoN. Perhaps most importantly,

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<sup>5</sup> Tănăsescu (p. 16).

Tănăsescu also highlights throughout his book the importance of power struggles and the political, not only the legal, in the adoption of RoN, showing how RoN can also open up spaces for traditionally neglected voices, such as those of Indigenous communities. However, Tănăsescu does not develop in detail, as Kauffman and Martin do, either the political networks or the facts, issues and norms of each case of RoN, which can be considered a shortcoming.

All in all, both books constitute essential reading and tools for practitioners, activists, and academics interested in the study, advocacy, and development of RoN, and its impacts on and relationship with human rights and sustainability.

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