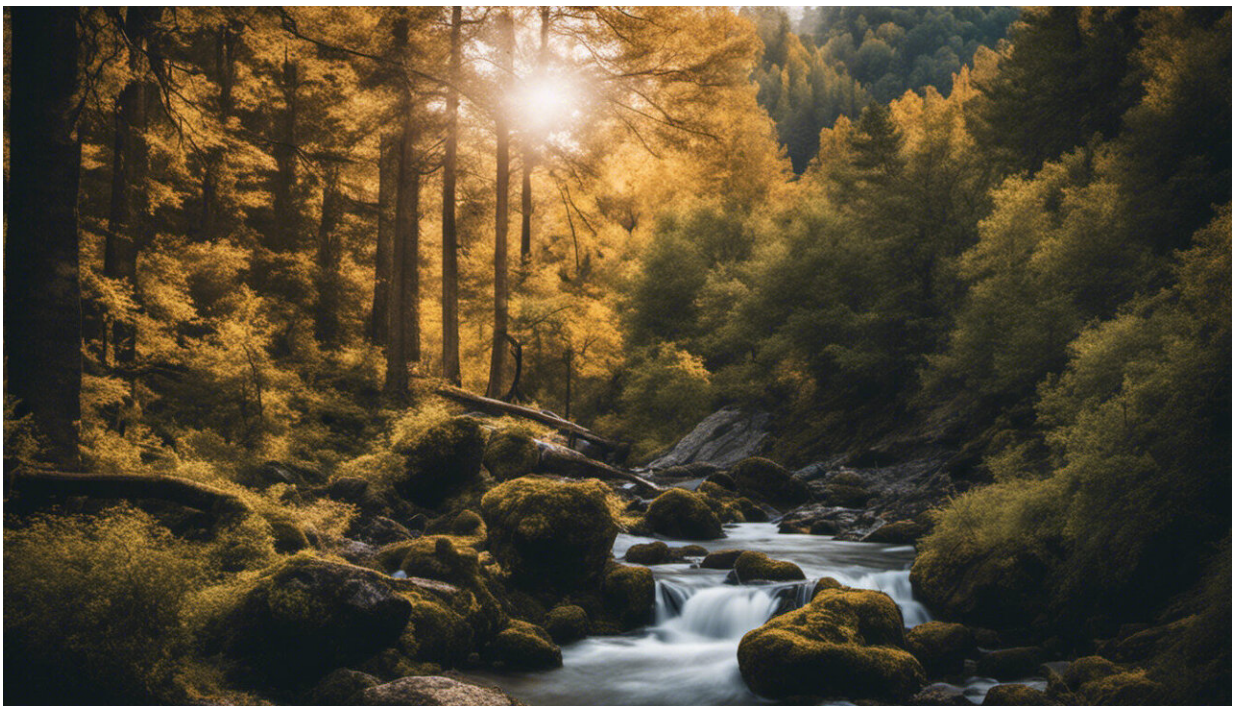


Trees, rivers and mountains are gaining legal status—but it's not been a quick fix for environmental problems

August 18 2023, by Rónán Kennedy



Credit: AI-generated image ([disclaimer](#))

As the scale and severity of environmental issues become more obvious, lawmakers are experimenting with new ways to protect nature. One approach that has gone from blue-sky debate to meaningful reality over the past 50 years is to give elements of the natural world—trees, rivers

and mountains—legal rights and allow people to go to court on their behalf.

In 2022, Spain's Mar Menor saltwater lagoon became the [first ecosystem in Europe](#) to be granted a limited legal status similar to a company. Meanwhile, Ireland's recent [Citizens' Assembly on Biodiversity Loss](#) concluded with a [recommendation to amend the constitution](#) to include a provision on the rights of nature.

This idea can be traced back to the early 1970s, when American legal scholar Christopher Stone spontaneously threw it into a classroom discussion about the gradual expansion of rights, and was pleasantly surprised by the positive response it got.

He knew that the US Supreme Court was about to hear an important case on what lawyers call "standing" (whether or not one has the right to be heard by a court in a particular dispute), in which an environmental organization called the Sierra Club was seeking to prevent the development of a ski resort in the Sequoia National Forest. Stone also knew that one of the justices, [William O. Douglas](#), who was well known for his environmental sympathies, would be writing a foreword to an issue of a legal journal.

Stone quickly wrote an article called [Should Trees Have Standing?](#), elaborating on his initial thought just in time to get it into that issue. Douglas picked up the idea and endorsed it in [his judgment](#), saying: "The river as plaintiff speaks for the ecological unit of life that is part of it. Those people who have a meaningful relation to that body of water—whether it be a fisherman, a canoeist, a zoologist or a logger—must be able to speak for the values which the river represents and which are threatened with destruction."

Though this did not sway the other members of the Supreme Court, it

did spark a brief flurry of academic writing on the subject (the ski resort was never built anyway). Stone [became a media celebrity](#) for a short while before the idea of giving parts of nature legal rights faded from the public eye.

Fast forward to the 21st century and academics alongside [environmental activists](#) have given the idea a new lease of life. It has grown to include different schools of thought and these theories are now being [put into practice worldwide](#).

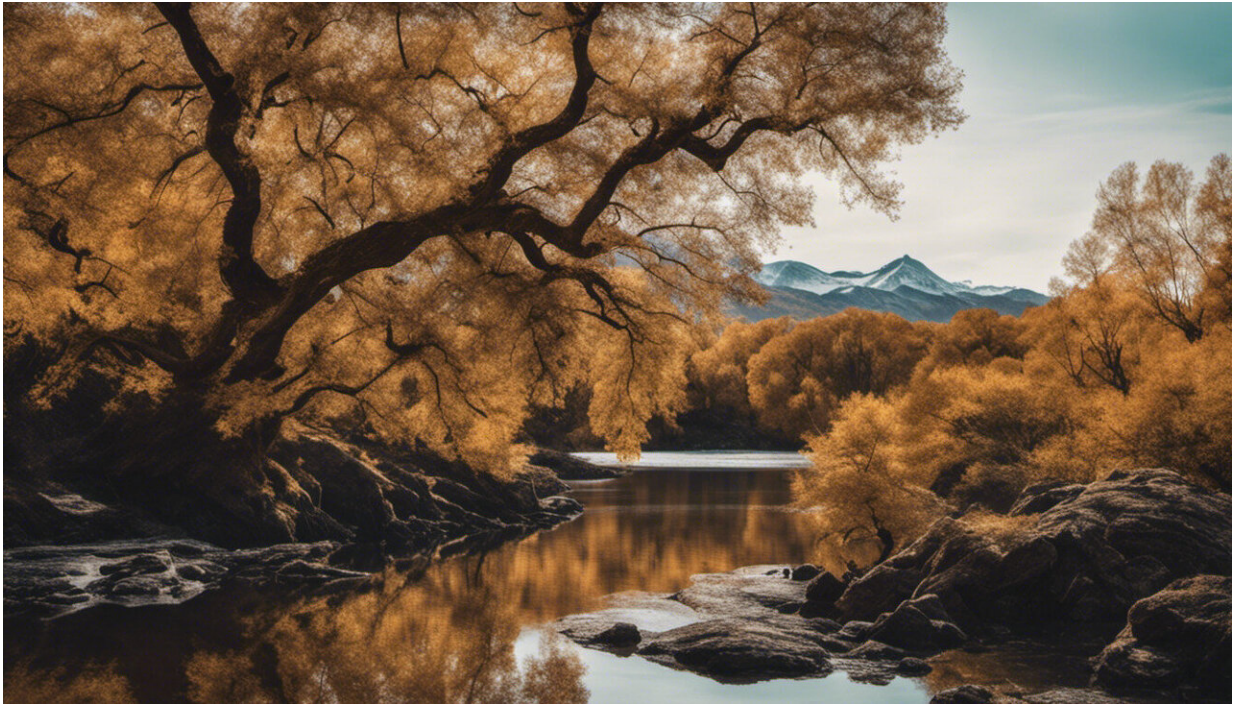
So far, they have not been a quick fix for environmental problems. But they are leading to some successes.

More experiments may help identify how to make them work well effectively. But simply granting rights to nature is probably not a substitute for strong institutions and meaningful enforcement. This becomes clear when we explore the experiences of three different countries.

New Zealand

In 1840, the Treaty of Waitangi was signed between the British crown and New Zealand's indigenous Māori people. The treaty aimed to protect the Māori people's right to their land and resources.

As part of a settlement to remedy past breaches of the treaty, both a [former national park](#) called Te Urewera and the [Whanganui River](#) have been recognized in New Zealand law as entities with their own rights (although not all the rights of a human person) since 2014 and 2017 respectively. This has involved the creation of two boards to manage the natural resources, featuring joint representation from the government and the local tribe.



Credit: AI-generated image ([disclaimer](#))

Plans for rethinking Te Urewera are still being formulated, and representation for the Whanganui River has only recently been appointed (like many things, it was delayed by the COVID pandemic). However, a [strategic plan](#) will be developed in tandem with a NZ\$30 million (£14 million) fund to support the river's health and well-being.

Time will tell if reframing this process so that nature itself has a voice will yield better outcomes.

Bangladesh

In 2019, the High Court of Bangladesh [recognized the Turag River](#) (and

all other rivers in Bangladesh) as a living entity with [legal rights](#) and required that the government take significant action to protect it.

The state agency with overall responsibility, the National River Conservation Commission, has [promised rapid action](#). But, still today, many [water bodies](#) in the country are "dead" thanks to [pollution](#) caused by the widespread [dumping of industrial and human waste](#).

The Buriganga River, which flows south-west of Bangladesh's capital city of Dhaka, is now so polluted that its [water appears black](#) outside of the monsoon season.

Ecuador

In 2008, Ecuador adopted a [new constitution](#) that includes an article explicitly recognizing nature's right to "exist, persist, maintain and regenerate its vital cycles, structure, functions and its processes in evolution". This development has enabled landowners and environmentalists to bring cases to court to protect the country's [rivers](#) and [forests](#), [slowly making this right a reality](#).

A striking example of this unfolded in 2021 when the Ecuadorian Constitutional Court [revoked mining permits in Los Cedros](#)—a cloud forest area of great biodiversity in the Andean mountains. It asserted that these permits not only violated the rights of local residents (such as the right to clean water and a healthy environment), but also the rights of the forest itself.

This is a significant step with ramifications for the future. However, it also highlights a common objection: that environmental matters frequently also include some form of human interest that can serve as a basis for legal standing. Consequently, granting nature rights may be unnecessary.

[Whether they work or not](#), some form of rights for aspects of nature are likely to become part of most legal systems this century. Anyone with an interest in environmental protection should be aware of the idea and its development.

This article is republished from [The Conversation](#) under a Creative Commons license. Read the [original article](#).

Provided by The Conversation

Citation: Trees, rivers and mountains are gaining legal status—but it's not been a quick fix for environmental problems (2023, August 18) retrieved 28 April 2024 from <https://phys.org/news/2023-08-trees-rivers-mountains-gaining-legal.html>

This document is subject to copyright. Apart from any fair dealing for the purpose of private study or research, no part may be reproduced without the written permission. The content is provided for information purposes only.