

EXAMINING PERSONHOOD AND ENVIRONMENTAL
POLICY: ANALYZING THE PHILISOPHICAL
FRAMEWORKS OF GRANTING LEGAL RIGHTS TO NON-
HUMAN ENTITIES

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Frameworks of Granting Legal Rights to Nonhuman Entities

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Abstract

This thesis aims to consider and analyze the philosophical frames that inform the Te Awa Tupua Act, specifically the ethical veracity of its central tenant that grants legal personhood to the Whanganui River and whether the protections afforded to the Whanganui River should be utilized as a model for other nations in the effort to protect and preserve our natural landscapes, resources, and cultural heritage.

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Introduction

The Te Awa Tupua Act, passed in the Parliament of New Zealand in March of 2017, one of the first pieces of legislation of its kind, designated the Whanganui River as a legal person, as an entity of its own that should be viewed and treated as such (Te Awa Tupua, 2016). While these ideas of legal personhood are not central to the act itself and are also embedded within more sophisticated aspects of the policy, it is important to understand the impacts of this distinction and how it works with other aspects of the policy to shift and alter the way we as a society view the natural world. This distinction, to grant legal personhood to the Whanganui River, was the most publicized effort of its kind in history but was actually the second time New Zealand's Parliament has granted a non human entity. In 2014, Parliament relinquished ownership of the Te Urewera National Park, an 821 square mile area containing a delicate forest ecosystem and declared it to be a legal person (Right of Nature, 2018). Even more recently, on December 22nd, 2017, New Zealand's Parliament granted special religious consideration to Mt. Taranaki, a large stratovolcano on the west coast of the North Island, a mountain revered within Maori culture and a physical icon and representation of their religion and belief systems (Rights of Nature, 2018). Across the globe, the designation of legal personhood to non-human entities has been made only a handful of times: India granting the Ganga and Yamuna River systems, complex river catchments spanning into the Himalaya and central to the Hindu religion personhood; Ecuador granting all of nature rights of their own; and several municipalities (92 to be exact) within the United States working to enshrine the

rights of nature within their own ordinances (Rights of Nature, 2018). Similar policies have been implemented in Bolivia, Columbia, Brazil, and Australia.

My research focused specifically on the Te Awa Tupua Act because it is one of the most celebrated instances of this designation of personhood, but more importantly because of the many other complexities and strengths of the policy that can lead to an interesting discussion about how this policy fits into different Western environmental philosophical frameworks such as Deep and Social Ecology. While the Te Awa Tupua Act makes no mention of either one of these schools of thought and draws primarily on Maori perspectives of the natural world and the universe as a larger whole, I think it makes sense to see how this modern, radical law fits into the broader field of environmental philosophy. These schools of thought, while imperfect and Westernized, inform so much of how environmentalists see and work to protect the natural world. New Zealand's Te Awa Tupua Act and other Rights of Nature policies (despite New Zealand not seeing this policy as an expression of the Rights of Nature) are absolutely rooted in their own philosophical arguments, but clarifying where these policies fit within a broader philosophical framework brings these policies into a much larger ethical conversation about how we as a society perceive and interact with the natural world.

Environmental Philosophy is incredibly sophisticated and complex, but at its most basic level seeks to understand humanities relationship with the natural world and highlights a number of social and political problems as factors in our collective destruction and alteration of natural processes. Often, specific schools of

thought call for fundamental paradigm shifts in the ways we view natural processes. Analyzing this relationship with the natural world and seeking to understand the ways in which humans interact with natural process is foundational to environmental policies that seek to protect and alter the way our society engages with the natural world. It is interesting and important to see how the Te Awa Tupua Act and other policies work, even if unintentionally, to rethink the way we perceive the natural world and how these laws are framed by and fit into the broader discourse of paradigm shift and social change these schools of thought call for. Determining how the complex tenants of the Te Awa Tupua act influence the way we perceive the natural world helps to parse out and understand what these policies really mean and where they stand within the broader field of environmental policy. Specifically the tenant of granting personhood to non-human entities, which the Maori people did not argue for and the New Zealand government works to downplay, is especially intriguing because our western ideas of personhood are predicated on the distinction between human and nature and the idea that we, as humans, have transcended nature through self-ascribed qualities such as reason or justice. Clarifying the Te Awa Tupa Acts impacts in challenging the divide between humans and nature, as well as broader sociopolitical systems that allow for the domination of the natural world, even if these impacts were not especially illustrated or sought out within the framework of the policy itself, is important in understanding specifically the environmental ramifications of this complex policy and in an effort to understand where this policy fits into the broader environmental movement as a whole.

After clarifying the philosophical challenges of attributing personhood to non-human entities and the more sophisticated processes this policy is embedded within and exploring whether or not the policy is an effective means of challenging the dualistic rift between humans and nature, it will be important to consider which aspects, if any, of policy should be celebrated and utilized in the future. Furthermore, it will be necessary to determine how these policies could work to effect normative change in countries such as the United States that hold firm to a separation of humanity and the environment. It is imperative to understand how these policies challenge this distinction between humans and nature and how they could contribute to changing the way our society perceives the natural world as a separate entity. In this way these policies could help to work towards catalyzing a deeper, holistic, relationship with the natural world that is based upon the recognition of the inherent value of the own right, not simply because of its benefits to humanity.

Mechanisms of Te Awa Tupua

The Te Awa Tupua Act, passed by the New Zealand Parliament in 2016, grants legal personhood including the full rights and ability to own property and engage in resource management bodies (Te Awa Tupua, 2016). While this designation of personhood is celebrated and famous, it is important to remember that this distinction of personhood was not lobbied for by the Maori community and is embedded within other aspects of the policy that are founded more centrally on Maori perspectives on the environment. It is one of the first measures of its kind to do so (Te Awa Tupua, 2016). The Act was the result of one of the longest standing

legal battles in New Zealand history, a bitter dispute between the Maori, specifically the Whanganui Iwi, a more localized community of Maori people, and the Crown Government, and is immersed within a vast philosophical and cultural context. But despite the controversies of this law, the long standing legal challenges that it was born from, and the continued call for other rights of nature policies across the globe that work in similar manners to Te Awa Tupua even though the Te Awa Tupua Act did not specifically arise from a call for Rights of Nature policies, there has been little conversation as to how this policy is informed by the mess of philosophical distinctions and frameworks that surround it and ways that we, as a society, recognize and value the natural world. How does the designation of legal personhood to non-human entities shape or alter the ways we perceive the natural world? Does institutionalizing the rights of nature within legal policy create an effective platform to dismantle the hierarchical systems of oppression and domination that are inextricably linked to the destruction of natural processes (Bookchin, 2005)? This policy is at the cutting edge of environmental thought and the ways it addresses these philosophical and social concerns will determine if it can be effective as an environmental protection mechanism or if it will be little more than a symbolic gesture to the Maori people.

The Te Awa Tupua Act most celebrated aspect is its designation of legal rights of citizenship and the right to pursue legal action and to sue to protect the Whanganui's interests to the Whanganui River (Te Awa Tupua, 2017). However, the policy itself is much more complex than this singular distinction. Interestingly, the distinction granted within the Te Awa Tupua Act applies to not just the

Whanganui River but its catchment area in its entirety, “stretching from the mountains to the sea,” recognizing and highlighting this river system as an “indivisible and living whole, incorporating all its tributaries and all its physical and met-physical elements” (Te Awa Tupua, 2016). Extending this distinction to the catchment as a whole works specifically to include Maori perspectives and long held cultural beliefs about ownership and interconnectedness within the framework of western legal thought (Williams, 2012). It protects the catchment in its entirety, preserving and aiming to institutionalize the sophisticated way in which the Maori people perceive the land, a peace offering after decades of colonization and subjugation. This aspect of the Te Awa Tupua Act is incredibly important because society is forced to perceive this integrated river system (river as well as catchment area) through a complex lens that complicates our simple, mechanistic way of perceiving the natural world.

The Te Awa Tupua Act also works to incorporate Maori identities and perspectives by incorporating Maori perceptions of guardianship and protection within the policy in addition to merely granting the river system legal rights and recognizing the Maori ancestral lineage that connects back to the land. In their culture “Maori generally do not emphasize the concept of rights. Rather, they emphasize the concept of guardianship resulting from their duty to care for their ancestor” (Kauffman, 2017). Ancestry has such important implications within the case of the Te Awa Tupua Act because traditionally, “Whanganui Iwi have common links in two principal ancestors, Paerangi and Ruatipua. Ruatipua draws life force from the headwaters of the Whanganui River on Mount Tongariro and its

tributaries which stretch down to the sea. The connection of the tributaries to form the Whanganui River is mirrored by the interconnection through whakapapa [genealogy] of the descendants of Ruatipua and Paerangi” (Kauffman, 2017). This river system is incredibly inherent to the cultural belief systems and identities of these people, it is a part of their being for which they are responsible to look after, guard, and care for not only the river but its broader catchment area as well. As a means of attempting to incorporate these beliefs into the policy itself, the New Zealand Parliament mandated that two guardians would be charged with representing the river’s interests. (Tutuho Whakatupua, 2012). These guardians consisted of one representative from the Whanganui Iwi community and one representative from the Crown government, both would be charged with looking out for the river and for making decisions on its behalf (Tutuho Whakatupua, 2012). This is important because it gives a voice to the Whanganui River, allowing for the river to argue in court and to speak for its self, granting a sense of animacy to the designation of personhood. These guardians are essentially the voices of the river, indelibly connecting the community to the river system as a broader whole.

In addition to setting aside guardian positions to oversee and speak on behalf of the river, “this guardian body was then embedded within a collaborative, integrated watershed management body (called Te Kōpuka nā Te Awa Tupua). This group is comprised of various stakeholders with interests in the river, including local Iwi (local Maori communities), central and local governments, commercial interests, recreations users, and environmental groups” (Kauffman, 2017). This broad coalition of stakeholders “is charged with developing an

integrated watershed management strategy to ensure the environmental, social, cultural and economic health and wellbeing of the Whanganui River (Te Awa Tupua). The group is also responsible for monitoring the management plan's implementation and for providing a forum for discussing issues related to the health and wellbeing of Te Awa Tupua" (Kauffman, 2017). Representatives are still detailing a management plan for the river, deliberating as to how to proceed, recognizing the river's rights as its own being, and balancing its needs with the needs of the greater New Zealand community and "will contain the specific regulations for managing the respective ecosystems according to the principles laid out in the acts" (Barraclough, 2013). The mechanisms and procedures of this policy are pioneering, utilizing both the concept of personhood and collaborative management in an effort that both recognizes the inherent value of the river system and challenges our perceptions of it while working to promote a further, more complex protection of this river system.

Background of the Problem

The island nation of New Zealand, anchored in the southern Pacific Ocean, was originally inhabited by the Maori People, a cultural group with ties to other Polynesian and Pacific Island inhabitants. For centuries, the Maori lived and established a strong cultural presence and identity within the islands of New Zealand. Maori people and their larger culture was predicated upon a distinct connection to and respect for the beauty of their surrounding lands (Cherrier, 2012). Maori culture is firmly entrenched in the land, in the spirit of their ancestors, and in the spirit of the natural world. The Maori use the phrase Tangata

Whenua, which literally means “people of the land”, to define themselves (Williams, 2013). Their ancestry, “Whakapapa” or genealogy, is traced by the Maori people back to the land, which is viewed as merely an extension of themselves and their identities (Hutchison, 2014). Specific places are homes of gods and are incredibly important to the foundation of their culture. The land provided for and sustained their individual communities, but, as a people, the Maori were not distinct from the land nor separate from it but merely an extension of it (Williams, 2013). The idea of personhood was foreign in their culture (Williams, 2013). Because of their intrinsic connection with the natural world and their view of the land as an ancestor or as a part of their genealogy, they emphasize the responsibility they have as caretakers and guardians of the land within their culture (Tutuho, Whakatupua, 2012). While they altered the land and utilized its resources within their communities to benefit their own livelihood, they respected and highlighted the reciprocal nature of their interactions with the natural world.

In 1769, the infamous British Captain James Cook “discovered” New Zealand, circumnavigating the Islands, making contact with the Maori, and claiming the Islands for the British Commonwealth (Williams, 2013). The years that followed mirrored the process of colonization and the dispossession of indigenous lands across the globe (Taylor, 2002). From the very outset of New Zealand’s colonization, these Maori people were killed, enslaved, and robbed (Stevens, 2014). They were viewed as lesser beings, as savages, as ruthless individuals whose complex societal structures, languages, religious beliefs were marginal and inferior in comparison to establishment of a new, modernized,

western cultural identity in New Zealand. Through violent conflict, legal measures, and religious missionaries, European (primarily British) colonizers effectively pushed the Maori community out of their traditionally established lands, thereby disrupting their communities and cultural practices (Stevens, 2014). Colonizers introduced the Maori to firearms and alcohol, encouraged violent conflicts between individual tribes, criminalized Maori cultural practices, and used prisoners as slaves to build infrastructure throughout the country (Simpson, 2004). Furthermore, British colonizers introduced a plethora of non-native plant and animal life to the islands, corrupting the verdant landscape of New Zealand and its abundant wealth of natural resources to raise livestock, grow food, and garner resources for the British Crown (Hutchison, 2014). To the colonial Europeans, New Zealand's stunning mountains, cascading rivers, and lush forests were an untold bounty, a wealth of resources that were untouched, a new world of opportunity both socially and economically. In a stark contrast to the Maori people, they viewed this land as a place to conquer, a place to develop, a place to become rich (Taylor, 2002). The land was not considered to be an extension of themselves nor was it considered one of their ancestors, instead it was seen as an unthinking, unfeeling entity, valued only for its monetary gain or its benefit to human society.

Throughout the process of colonization, there were numerous and lengthy disputes between the colonizers specific groups of Maori (Maori terminology for these groups is Iwi) who resisted efforts to colonize New Zealand through a

multitude of means (Williams, 2013). These conflicts, which drew on for decades, resulted in the Treaty of Waitangi signed in 1840, but only by some Iwi, others continued to refuse. The Treaty of Waitangi aimed to settle the lands dispute between the Maori people and the British Crown, granting the Maori people ownership over their specific lands and territories (Barraclough, 2013). However, the treaty was written in both the Maori and the English languages and different interpretations of the language within the treaty led to conflict over issues of ownership and sovereignty (Hutchison, 2014). While the armed hostilities between European and Maori combatants ended in the late 1800's the disagreements over what the Treaty of Waitangi promised and the mistreatment of the Maori community lasted for over a century until a tribunal was established in 1974 that aimed to hear and resolve the claims made by the Maori people (Hutchison, 2014). This tribunal was part of a broader effort by the New Zealand Government to recognize the Maori, to redress the crimes that were committed throughout the colonization of New Zealand, and to better incorporate Maori perspectives within the structure of parliament (Williams, 2013). Throughout the tribunal process, the Maori argued tirelessly for the freedoms and recognitions of their cultural heritage, fought for the stringent protections of their sacred places, and challenged the structures and perspectives of the ruling British authorities (Barraclough, 2013). To this day, this clash of cultural background and expectation frames a large part of New Zealand's political processes.

The European settlement of the Whanganui River and its catchment area largely mirrored the patterns of settlement and colonization that took place in

New Zealand as a whole. The Whanganui River was central to many of the claims that were made to the Waitangi Tribunal, asserting that the original Treaty of Waitangi gave the Maori the authority to manage and oversee the river (Hutchison, 2014). The Whanganui River is a premiere example of how integral and inherent a connection to a place and a natural entity can be for the Maori community. The Whanganui River is the third longest river in New Zealand, running from the slopes of the Tongariro Volcano in the center of the North Island to its mouth on the south western coast where it empties into the waters of the Tasman Sea (Kauffman, 2017). It provides valuable habitat to over 18 endemic species that are found only within New Zealand (Department of Conservation, 2018). To both the Maori people, the first inhabitants of the island, and the British colonizers that followed centuries later, the Whanganui River offered passage into the interior of the island. It became a critical trade avenue and consequently was the center for Maori villages and culture. Throughout pre-colonial settlement, the Whanganui grew into a spiritual entity to the Maori, who designated it as Taonga, or sacred (Williams, 2013). In the years that followed Captain James Cook's "discovery" of New Zealand in 1769, European settlements and missions were established on the river's banks.

The colonial dispossession of the Whanganui River from the Maori people fueled the initial desire of the Maori to reclaim their river, but it was the further degradation of the river and perceived mismanagement of the river's systems in the hands of Parliament that further infuriated the Maori communities. Examples of this degradation and mismanagement included a Parliament approved water

management plan that shifted a large percentage of the water from the headwaters of the river and redirected it into Lake Taupo to be used for drinking water and irrigation purposes (Department of Conservation, 2018). This angered the Maori Community specifically because it infringed upon many of their religious beliefs. “Mixing of water is from two different river bodies” from a Maori perspective, results in the “mixing of two different spirits” an concept that many Maori people, but specifically the Whanganui Iwi were enraged by, especially given the deeply engrained ancestral connection and shared identity that this community feels with the River itself (Department of Conservation, 2018) . On top of infringing on Maori beliefs and customs, this transfer of water from one system to another dramatically altered the water levels of the Whanganui River, making it incredibly challenging to utilize the river as a transportation route and jeopardizing the ecological health of the river system as a whole (Department of Conservation, 2018). Additionally, the explosion of agriculture on the North Island, specifically the rapid development of cattle farming, has led to the continued decrease of water quality due to the increase in sediment within the river and the growth of toxic algal blooms that are the consequence of nitrate runoff from cattle manure (Department of Conservation, 2018). The overall decrease in river quality, coupled with the increased use of the river for recreational purposes, further angered the Maori community on top of their growing frustration over the lack of representation that their view of the river had within New Zealand’s political system, helping to incite their demand for protections and for the recognition of this river as a special and sacred place before its resources and the river system as

a whole were irrevocably damaged (Hutchison, 2014). The Te Awa Tupua Act was crafted to bring an end to centuries of these disputes and to settle one of the longest legal battle in New Zealand history. It intends to both redress the historical oppression of the Maori and their cultural beliefs while also attempting to offer stringent protection to the river from anthropogenic threats. It also recognizes and respects indigenous perspectives that can and should offer a new framework for how we interact with and are a part of the natural world.

Broader Cultural Frameworks

This clash in cultural understanding, of the exploitative nature of colonization and the beliefs and understanding of the Maori People, is a conflict that has not been limited to just the islands of New Zealand. Instead, it is indicative of a much broader cultural struggle between different philosophical ways of thinking concerning the ability to conceptualize where humanity fits within the processes of the natural world, how humanity connects to and understands the natural world, and the persistent challenge of how humanity identifies what exactly makes us human. One field of environmental thought, self-labeled as Deep Ecology, posits that this perception of the natural world is inherently important in the way that we take care of it (Sessions, 1995). Deep ecology highlights the destructive nature of western culture and its institutionalized assertion that humanity is distinct and separate from the natural world (Capra, 1995). Rather, they assert “every form of life is unique, warranting respect regardless of its worth to man, and, to accord other organisms such recognition, man must be guided by a

moral code of action... Nature shall be respected” and that there is an “intrinsic value of all living beings and views humans as just one particular strand in the web of life” (Sessions, 1995). Deep Ecology, while problematic at times given its failure to address deeper social injustices and its emphasis on maintain the purity of nature, does offer an important and useful lens to clarify the had different ideas about the value of the land and its natural resources that both the Maori and European Colonizers had developed (Guha, 1994). Utilizing a Deep Ecological framework, despite its short comings, offers a very valuable way to frame the Te Awa Act, analyzing the destructive nature colonization and western societal thought and how the Te Awa Tupua Act can challenge, if at all, the way we perceive the natural world.

For the Maori people, as previously highlighted, they view themselves fundamentally as a part of the land and they see the land itself as an interconnected whole (Williams, 2013). Specifically, in the case of the Whanganui River, they assert that the river itself is “an indivisible and living whole, from the mountains to the sea, incorporating its tributaries and all its physical and metaphysical elements” (Te Awa Tupua, 2017). The river, its flowing waters, the rushes and fish that live within it, the mountains and their great glaciers which feed them, and the creeks and streams that flow into the Whanganui River are all inherently connected in an intricate and sophisticated manner. There is no distinction between what is river and what land is; merely one complex system that the Maori people view as a part of themselves. The idea of ownership of land or property is not at all prevalent within Maori culture, instead they foster a

strong sense of responsibility and guardianship, a mandate to take care of the land, their ancestor (Hutchison, 2014).

These ideas are shared by a large percentage of indigenous peoples across the globe and by cultures and religious traditions that span all continents. While varying in structure and form, these peoples' beliefs and practices highlight the interconnectedness of the natural world as well as the complexity of these integrated systems while also acknowledging humanity's fundamental connection to and integration within these natural processes as well as our dependence on them (Guha, 1994). Prolific writer and scholar Ramachandra Guha, who wrote extensively about the ways that "third world countries" and marginalized communities perceive the natural world and many of the flaws of western environmental philosophy, argues that for most indigenous peoples, the idea of wilderness, or wild, is a foreign concept. How can something be especially wild or intrinsically more valuable when "wilderness" is everywhere and everything is rooted within the elaborate processes of the natural world (Guha, 1994)? These same ideas that are often considered as "non-traditional" within the sphere of Western culture are fundamental in framing the understanding and perspective of how the Maori view the world in which they live and how they view themselves, as individuals, fitting into it.

On the other hand, the colonists had altogether different ideas of the natural world. They viewed New Zealand's pristine lands and waters with a purely economic interest, are also informed by a much larger cultural frame that they worked tirelessly to impose on the Maori and "non-western perspectives." Since

the Western colonizers' culture is largely predicated on a distinction between rather than an interdependence of humans and nature, the actions and perspectives helped to foster an incompatible juxtaposition between the Maori's or "non-western perspective" and their own. These western conceptions of humanity that frame the colonization of New Zealand were the same conceptions espoused by Descartes, Kant. However, it has become clear to many environmentalists, specifically in the field of Deep Ecology that the perspectives and ideas that were espoused by these philosophers and then adopted and institutionalized broadly within western civilization has proved to be limiting to our understanding of the natural world and its complex processes. This limited perspective and the subsequent adoption of these views within our society has led to an understanding of nature that is mechanistic, as machine-like that has both enabled and excused rampant environmental degradation and resource extraction (Naess, 1995). Centuries of philosophical thought and legal writing have attempted to articulate, clarify, and define this distinction between humans and the natural world, elaborating and institutionalizing that human beings are distinct from the natural world. This separation of humanity and nature has not only become essential to our westernized definition of humanity but it also helps to frame how our westernized society interprets and understands the natural world and our exploitation of it (Session, 1995). Early biblical teachings and the arguments of philosophers were integral in the formation of a society that viewed its own humanity as one that is separate from the natural world, fostering a profound distinction between the two (Capra, 1995). The implications of this philosophical

thought are still felt within our modern society and serve as a clear lens to understanding the perspective of how European colonizers understood and interacted within the natural world and how the current New Zealand Parliament and society will interpret the division between humans and the natural world (Capra, 1995).

Biblical teachings and early Christianity were essential in the formation of this cultural understanding of what it means to be human and how we, as humans, interact with and are a part of the natural world. The opening passages of older translations of the Bible, in the book of Genesis, proclaim that humanity has dominion over the natural world, the beasts in the sea and sky. This one word, “dominion”, gave shape to the hierarchical beliefs that humans were the supposed arbiters of the natural world (Capra, 1995). Religious scholars and philosophers such as St. Thomas Aquinas believe that “God is the last end of the universe, and that it is only by using the human intellect that one can gain knowledge and understanding of God. Since only human beings are capable of achieving this final end, all other beings exist for the sake of human beings and their achievement of this final end of the universe” (Aquinas, 411). The idea that humans were created in the image of God and that they are the stewards of God’s creation added a certain strength and platform for the arguments of early philosophers. While to a certain degree it is easy to overlook a single chapter in the bible and the non-scholarly nature of its writings and teachings, it cannot be understated how significant this work and specifically that single word, dominion, has had in its influence of society, especially modern European thought and the ways in which

our culture created a divide between humans and the natural world. These biblical teachings were incredibly accessible to the cultural masses and, given the ease of access and the strong language that was used within these passages, were fundamental in shaping the perception of the world that surrounds us and our society's relationship with it.

These biblical teachings did more than inform and influence cultural expectations and norms, they also provided a background and structure for the arguments of early philosophers whose arguments worked to establish this within modern society. Descartes is the most famous promoter of the distinction between humans and the natural world. His timeless quote, "I think therefore I am," is indicative of his understanding of what it means to be human (Descartes, 1901). Descartes argues that a human's ability to reason separates them from our animal companions who merely react to external stimuli like clockwork automatons or machines. Descartes "believed that all of animal behavior could be explained in purely mechanistic terms, and that no reference to conscious episodes was required for such an explanation" (Descartes, 1901). Descartes' arguments assert that not only are humans separate from animals and nature but they are, in fact, superior to them. This mechanistic view of the world and our place in it led to the belief that the natural world and its resources were subservient to humanity and could and should be controlled to maintain order (Sessions, 1995). Descartes distinguished between the mind and body, the mind being material and outside of the realm of causation, while the body was physical, material and tangible. Our immaterial minds were, in Descartes eyes, our most true identity (Descartes,

1901). Because our identity rests within our immaterial minds rather than our physical bodies, we are therefore distinct from the rest of the physical, material world (Descartes, 1901).

Kant, writing more than a century after Descartes further emphasizes humanity's ability to reason as means of making a distinction between the human and the nonhuman world. He argues that "while both animals and human beings have desires that can compel them to action, only human beings are capable of standing back from their desires and choosing which course of action to take. This ability is manifested by our wills. Since animals lack this ability, they lack a will, and therefore are not autonomous" (Kant, 1998). Our ability to reason gives us, as a species, the superior ability to choose what our desires might be and to determine whether or not that individual desire was just or moral. This ability gives humans the ability to determine and create and be the source of their own ends (Kant, 1998). This blatant assertion of that lack of autonomy, this lack of ethical determination that Kant asserted about the natural world bolstered the idea that humans were separate and distinct from the natural world and were, in fact, superior to it (Naess, 1995).

Because these philosophers based their "view of nature on the fundamental division into two separate, independent realms: mind and matter, the material universe, including the human organism, was a machine that could in principle be understood completely by analyzing it in terms of its smallest parts" (Capra, 1995). While effective in asserting human identity and position within our society, this mechanistic world view is incredibly narrow minded in its evaluation of the

natural world and its processes and complexities (Naess, 1995). As a society, “We face problems that even the most sophisticated machines will never be able to handle, and our ways of thinking and communicating are totally different from those of a computer” (Capra, 1995). Our current methodologies of thought are too focused on mechanistic precision to fully grapple with the scope of the environmental and societal ills that plague our society today (Capra, 1995). In our division of the material and the immaterial, Western society, in essence, removed humanity from the natural world thereby creating an anthropocentric lens through which we view the world which justifies the exploitation and domination of the natural world (Sessions, 1995). Deep Ecologists highlight that this paradigm “has dominated our culture for several hundred years, during which it has shaped our modern western society and significantly influenced the rest of the world. This paradigm consists of a number of ideas and values, among them the view of the universe as mechanical system composed of elementary building blocks, the view of the human body as a machine, the view of life in society as a competitive struggle for existence” (Capra, 1995). This “mechanistic and fragmented approach” to viewing the natural world helped to establish an “obsession with domination and control. In our society, political and economic power is exerted by a hierarchically structured corporate elite. Our science and technology are based on the belief that an understanding of nature implies domination of nature by man” (Capra, 1995). This institutionalized methodology of thinking, predicated on the division and hierarchy that Cartesian philosophy and biblical teaching underscores the idea that nature is mechanistic and subservient to the needs of humanity, and

has contributed significantly to the environmental destruction and the ecological imbalance that is present in our society today.

The residual effects of the actions justified by this philosophical understanding of the world are blatant. For centuries, the belief that humans could conquer the natural world and tame its wilds led to the rampant destruction of ecosystems and their processes (Evernden, 1995). Forests across Europe and North America were leveled, rivers and lakes were fouled, and the air was tainted by the heavy chemicals of modernizing industry. These beliefs of inherent superiority gave way to cries of manifest destiny and, here in the US, settlers swept across the country radically altering landscapes and dispossessing indigenous peoples of their lands (Taylor, 2002). “To realize how ecologically out of balance we are in the United States, we have to consider Thomas Fleischner’s point that over 95 percent of the contiguous forest has been altered from its original state. Only 2 percent is legally protected from exploitative uses. And even that 2 percent lacks adequate ecological protection” (Naess, 1995). Our societal perspectives of the natural world from the mechanistic and divisive perceptions of Cartesian philosophy has clearly led to the destruction of many of our natural landscapes and resources and fueled the idea that the exploitation of resources is integral and beneficial to our society.

The impacts of this paradigm are not limited to our past, modern environmental policy largely focuses on and reacts to environmental issues when they effect or impact human society. Policies such as the clean air and clean water act address environmental concerns because they are paramount in protecting

human health or needed to maintain activities such as recreation, but are clearly emblematic of a shallow ecological perspective that is the direct result of societies paradigm view on environmental problems and the natural world as a whole (Sessions, 1995). Policies aimed at managing ecosystem reserves such as fisheries rely on mechanistic conceptions of maximum sustainable yield, the idea that humans can determine the perfect number of fish to extract without jeopardizing their populations, reacts each year to changes within fish populations (which are inherently difficult to measure) and fails to consider the larger social, cultural, and political factors that influence and impact fish populations (Jordan, 1999). Even “radical” climate change policy such as the Paris Climate Accords or President Barack Obamas now gutted Clean Power Plan place great confidence in the fact “that resources will not be depleted because as they get rarer, a high market price will conserve them, and substitutes will be found through technological progress” and do not deviate from the anthropocentric emphasis that resources are “for humans, especially for the present generation in affluent societies. In this view, the resources of the earth belong to those who have the technology to exploit them. Further, plants, animals, and natural objects are valuable only as resources for humans” (Sessions, 1995). This clear and blatant historical exploitation of the environment and modern environmentalisms shallow and half- hearted approach is rooted in the cultural conceptions that underwrite the operation of a plethora of social and economic institutions, conceptions that were helped established in part by the writings of Aristotle, Descartes, Kant and the others. Effectively, this is a “crisis that derives from the fact that most of us and especially our large social

institutions subscribe to the concepts and values of an outdated world view, which is inadequate for dealing with the problems of our overpopulated and globally interconnected world” (Naess, 1995). It is clear that our current social frameworks and understandings of the natural environment are unfit to deal with the challenges of environmental degradation and the destruction of natural processes.

There is strong evidence that this conflict between the Maori communities and the Crown, not just over the fate of the Whanganui River, but the future of land and water conservation for all of New Zealand are rooted in much broader frameworks of how we perceive and interact with the natural world. The Western based culture in New Zealand interacts with and perceives the natural world in a way that is degrading to the natural environment, embedded deeper within western norms and philosophy that Deep Ecologists argue is detrimental to the natural environment. For decades, some environmentalists, specifically Deep Ecologists, have called for a change in the way we frame environmental problems, to recognize our inherent connection to the natural world, and called for a shift in societal conscience towards a more ecological perspective (Naess, 1995). Given Western society’s historical destruction and exploitation of natural processes, there is real merit in working and reframing the way we perceive the natural world. While noble in intent, these ideas largely failed to be implemented into specific policy, until recently, when perhaps not even intentionally, the New Zealand Parliament passed the Te Awa Tupua Act. This designation of personhood, while aimed primarily as a means of offering redress to the Maori community and attempting to institutionalize their ideas about the land in policy, is consistent with

a framework of Deep Ecology that calls for a legitimate challenge to western conceptions of personhood and how our species views environmental issues. “Normative change is a primary purpose of rights of nature laws,” working to recognize that “human societies are embedded in and dependent on natural ecosystems. They reject the idea that humans are separate from nature” (Kauffman, 2018). The passage of this law “reflects a recognition that this separation doesn’t exist” helping to promote an ethic that addresses environmental problems in their entirety, not just the surface level (Kauffman, 2018).

Challenging Human Nature distinctions

The steps that the Te Awa Tupua act takes to challenge the distinctions between humans and nature and the dangerous environmental consequences that are a result of these largely mechanistic world views are incredibly important. The Te Awa Tupua act is an interesting use of government policy, from a Western perspective, to fit Maori belief systems and the recognition and reevaluation of the worth of natural entities, within a broader cultural framework of property systems and ownership, an idea that the Maori people did not explicitly argue for. Using the language of “persons” to describe nonhuman entities such as rivers has the potential to radically alter how we think and perceive the natural world and its processes (Kimmerer, 2017). Asserting legal personhood uses tools present within our society to begin a deeper recognition of the natural world and its processes (Cullinan, 2001).

Ascribing legal personhood to non-human entities such as the Whanganui River and allowing this natural entity to sue and recognize its own value within resource management discussions challenges the anthropocentric nature of law and society, forcing us to recognize the river as something that is no different, or less important than one of us (Cullinan, 2002). While the Te Awa Tupua act does not explicitly grant the river the right to flourish or be valued explicitly as a natural entity that other Rights of Nature laws utilize such as provisions established within Ecuador's constitution, the Te Awa Tupua act can draw upon provisions within the Resource Management Act (Kauffman, 2017). The Resource Management Act is New Zealand's preeminent environmental policy that, while recognizing the need to cater to anthropocentric values within New Zealand's society, also recognizes the inherent value of the natural world and defers to decisions made within the Waitangi Tribunal and matters of national significance, both of which apply to the Te Awa Tupua act and will make great strides in ensuring that decisions made about the rivers future will be made based on ecocentric principles (Kauffman, 2017). In granting rights to the Whanganui River, especially not just as a river but as a complex catchment system that is expansive and holistic in nature begins to force our policy makers to perceive the natural world "not as a collection of isolated objects but rather as a network of phenomena that are fundamentally, interconnected and interdependent" (Sessions, 1995). The simple process of recognition of the value of natural processes, enshrined within legal policy, begins to do work in dismantling broader social paradigms that deep ecologists highlight as a driver of environmental degradation, forcing our legal and social entities to

reconcile with these differences and talk about the Whanganui River as something more than an inanimate and lifeless entity.

Indigenous scholar and plant biologist Robin Wall Kimmerer writes extensively about the ways in which language in and of itself is a means of colonization and imperialism that is definitive of our relationship with the natural world and “gives us permission to turn sacred living landscapes into a natural resource that can be exploited and viewed as an object” (Kimmerer, 2017). While the Te Awa Tupua act uses language that is borrowed from western culture, using the word person and personhood utilizes these ideas to transform our current understanding of the natural world and the hierarchical view of nature our society has been largely founded on (Kimmerer, 2017). Kimmerer continues, asserting that “Speaking of the world as persons, as relatives, challenges the distinction fostered by our current paradigm while noting the inclusion of ourselves within it” (Kimmerer, 2017). It forces us to recognize the reciprocity of our relationship with the natural world and acknowledge its fundamental values that deep ecologists argue we must do, shifts our understanding of natural process from the mechanistic view we currently utilize, and offers a platform from which we can begin to challenge broader legal and economic paradigms that influence environmental policies. When we speak about non-human entities as persons, we begin to “reclaim grammar with the animacy of new pronouns,” fundamentally challenging deeply engrained societal understandings of what it means to be human and how we as persons, are integrated into a more complex relationship within the natural world (Kimmerer, 2017).

This is incredibly important in a broader effort to rewrite the ways we address issues of environmental degradation and to shift our current understandings of the natural world towards one that truly recognizes its inherent value and shifts our society towards recognizing humanities inherent connection within the natural world and interconnected nature of its processes. This “fundamental change of worldview in science and society, a change of paradigms” will amount “to a profound cultural transformation,” a society that recognizes the complexity of the natural world and that is ready to address issues of environmental destruction with a more “holistic worldview, emphasizing the whole rather than the parts” (Naess, 1995). In creating a new societal paradigm that is founded on the notion of reciprocity and mutual respect, humanity will begin to revalue the natural world, discover meaning in areas where it was previously unable to do so, and work to establish a society and culture that truly works in an effort to protect the natural world not simply because it has value to fulfill basic human needs, but because it has worth as its own complex entity that demands respect and admiration (Kimmerer, 2017). This forces our society to fundamentally rethink the value of the natural world, leading to a cultural ethic and conscience that is sensitive and proactive in the face of environmental degradation and that acknowledges that humanity is subservient to a much larger natural framework that surrounds us all (Kimmerer, 2017).

Furthermore, because these ideas are institutionalized in law, they go beyond simply discussing the ecological value and the necessity of a paradigm shift within the natural world. The Te Awa Tupua Act is one of the first instances that

uses legal policy as a means to make these values real in the world. It institutionalizes much of the language that deep ecologists utilize in their efforts to protect and preserve the natural world, using legal means to force the recognition of natural processes in a way that the deep ecological movement, largely constrained to an academic and philosophical standing, was never capable of. This means that rather than simply discussing these ideas, activists have a platform through which they can directly challenge sociopolitical institutions that help to maintain and to reinforce dualistic social paradigms such as economic and legal systems that regard nature as a separate entity (Cullinan, 2001). Rights of Nature scholar and activist Cormac Cullinan emphasizes this point saying that “Communities have always used laws to express the ideals to which they aspire and to regulate how power is exercised. Law is also a social tool that is usually shaped and wielded most effectively by the powerful. Consequently, law tends to entrench a society’s fundamental idea of itself and of how the world works” (Cullinan, 2001). Through this law, New Zealand is giving precedent to the idea that nature can have the same rights as a human being, recognizing the fact that humans and nature are not separate entities, but rather should be privileged to the same standing. Embedding these ideas into legal policy is foundational in challenging the century’s long precedent that humans and nature are distinct (Cullinan, 2001). The language of the act itself highlights and celebrates the interconnectedness of this river system and the people, celebrating its vast complexity, and working to protect it in its entirety, rather than reacting to specific threats with localized policies. At its core, it is predicated on the notions of

ecocentrism that deep ecologists assert is needed in an effort to address issues of environmental destruction.

Rights of Nature activists assert that “In the face of climate change and other enormous environmental challenges, our future as a species depends on those people who are creating the legal and political spaces within which our connection to the rest of our community here on Earth is recognized. The day will come when the failure of our laws to recognize the right of a river to flow, to prohibit acts that destabilize Earth’s climate, or to impose a duty to respect the intrinsic value and right to exist of all life will be as reprehensible as allowing people to be bought and sold” (Cullinan, 2001). The Te Awa Tupua acts designation of personhood, coupled with its provisions that recognize the interconnected nature of the river system as whole, is an example of one of these laws, a radical step in policy that challenges the social paradigms and that fights to respect the right of the river to flow (Cullinan, 2001). Even Kimmerer, whose scholarship focuses specifically on the grammar of animacy and using language as means of repairing a relationship with the natural world acknowledges that simply talking about the natural world as persons is not enough and that “Challenging legal and economic paradigms requires more than individual conservation action, it will require fundamental changes in law” (Kimmerer, 2017). Enshrining the fundamental rights of nature by granting legal personhood to natural entities is an essential first step in challenging the dualistic rift between humans and nature within our society and in catalyzing the paradigm shift that many deep ecologists call for.

Problems within Deep Ecology

Unfortunately, no theory or prescription seems to be a magic fix for our environmental ills. The deep ecological framework does a good job of challenging our society's perspectives on the environment, but it largely fails to address a myriad of other social issues and often becomes so completely absorbed in this idea of the inherent value of the natural world and that it creates a similar distinction between humans and the natural world. Consequently, despite the success of the Te Awa Tupua act in challenging our perceptions of the natural world, it is very important to determine whether or not this policy fails in the same capacities.

As Robin Wall Kimmerer and the others highlighted, using the word "person" has the potential to subvert the distinction our society works to exist between humans and nature (Kimmerer, 2017). But often, when working to apply these ideas directly to policy measures, deep ecologists place so much emphasis on the complexity and inherent value of the natural world that they seek to limit our societies own role within it. These proponents of deep ecology do a compelling job of highlighting the environmentally ruinous implications of dualistic Cartesian arguments, but at times largely reinforce the idea that humans and nature are separate entities (Murray Bookchin, 2005). Famous deep ecologist George Sessions writes, "The centerpiece of every bioregional groups platform should be a great core wilderness preserve where all the indigenous creatures are present and the natural flow is intact. Other wilderness preserves, both large and small, should be established and protected throughout the bioregion, and natural corridors

established to allow for the free flow of genetic material between them and to such preserves in other bioregions. These core wilderness preserves should be sacred shrines to us as reinhabitory people, but they transcend their sacredness to us in simply being what they are—reserves of native diversity” (Sessions, 1995). While interesting in theory, this language of “wilderness,” “the free flow of genetic material” and “sacred shrines” is limiting to the discourse of challenging dualistic structures and an inherently western perspective that further fails to incorporate the values of reciprocity that deep ecologists themselves call for (Guha, 1994). But even more damaging is the idea of wilderness reserves that is so central to the ideas that deep ecologists espouse. Arne Naess writes “I am not saying that we should have preserved the primordial forest as a whole, but looking back we can imagine a development such that, let us say, one third was preserved as wilderness, one third as free nature with mixed with communities, which leaves one third for cities, paved roads, etc.” (Naess, 1995). Naess calls for at least one third of our nation to be preserved as wilderness (Naess, 1995). Setting aside these huge swaths of land as wilderness reserves removes us and our societies from the natural world, limits our own interactions within the natural world that are essential in any effort to truly understand their processes, and ignores the legitimate and beautiful natural processes that surround our communities and that our broader society is immersed in (Guha, 1994). Furthermore, simply deconstructing the language that Naess uses makes it clear that he does not think that humans can or should interact with this pure wilderness area. Essentially, he’s calling for the removal of our society from nature, a claim that romanticizes

natural wilderness “as presumably more natural than the works of humans,” and that freezes the natural world “into a circumscribed domain in which human innovation, foresight, and creativity have no place and offer no possibilities” (Bookchin, 2004). Removing human thought and creativity from the natural world limits our ability to interact with the natural world, withdrawing us from these more “natural spaces” and, in essence, reaffirming the distinct separation between what is natural and what is human.

A further worry, expressed by Ramachandra Guha (who also wrote extensively about non-Western perceptions of the environment, critiques Deep Ecology’s idealization of wilderness, asserting that “Deep ecology provides, perhaps unwittingly, a justification for the continuation of such narrow and inequitable conservation practices under a newly acquired radical guise” (Guha, 1994). Furthermore, “by making the (largely spurious) anthropocentric – biocentric distinction central to the debate, deep ecologists may have appropriated the moral high ground, but they are at the same time doing a serious disservice to American and global environmentalism” (Guha, 1994). Their insisted emphasis on the value of nature, the idea that nature has its own ends and that human activity significantly detracts from the beauty and purity of the natural world, and the idea that humans must not interact with the natural environment for something to be considered completely natural effectively removes humans from the natural world and into some separate category that borders on villainous. This reinforces a dualistic distinction between humans and nature that leads to the continued separation between the two and allows for the exploitation of lands that are not

perceived as pure or entirely wild (Guha, 1994). By removing human beings from the natural world, even for the noble cause of nature pursuing its own ends, deep ecologists such as Arne Naess and George Sessions establish a division between society and the natural world that is as equally malignant and damaging as the arguments of Descartes and that perpetuates fundamentally narrow minded and shortsighted conservation practices. When we challenge Descartes and Kant and Aristotle, it is paramount to work diligently to avoid creating the same dualistic rift between humans and nature, only under a different guise.

Additionally, Guha also heavily criticizes deep ecologists for largely appropriating the viewpoints and perspectives of non-western traditions and customs. Guha asserts that these Western philosophers point toward communities like the Maori and laud their intense connection to the land, arguing that, while well intended, this reduced these non-western communities to mere stereotypes and commodified their culture as a means of branding their policy ideas (Guha, 2004). Because the Te Awa Tupua attempts to utilize a western idea of personhood, one which was not argued for by the Whanganui Iwi. rooted in colonial and western understandings of identity that were espoused by Descartes, Aristotle, Kant, and others, in an effort to recognize and protect non-western beliefs about the natural world, it does have the legitimate capability to coopt beliefs about reciprocity, connection, and understanding that are present within Maori culture (Williams, 2012). This difference in ideas and perceptions makes this policy incredibly complex and is a delicate attempt of working within the constructs of modern societal structures to redress issues of colonial dispossession

and subjugation. This policy attempts to challenge the distinction between humans and the natural world as well as the idea of ownership, a maneuver that protects both Western property systems while advancing the Maori perceptions of the Cosmos within the framework of the RMA, New Zealand's preeminent environmental policy, thereby blurring the line between western understandings and conceptions of humanity as opposed to "nontraditional" understandings and environmentalist critiques of those western conceptions regarding what personhood means. However, it must tread carefully to avoid limiting, commodifying, and appropriating Maori Culture.

What is needed is a philosophical understanding of the natural world that recognizes the inherent value of the natural world while maintaining the status of humans as a vital component within the broader systems of the natural world, establishing a new paradigm and policy ideals that: gives credit and recognition to nonhuman entities; asserts and affirms humanity's existence within the complexity of ecosystems; and untangles what our role in natural processes truly looks like. Could the very language of personhood have the potential to challenge the dualistic rift that deep ecologists and other scholars highlight as fundamentally problematic while working to foster a more inclusive view of who and what should be included within discussions of social and environmental policy? Can it avoid the same pitfalls that deep ecologists make in essentially setting aside the nature world as too valuable to touch? In order to be an effective policy, the Te Awa Tupua Act must actively work to maintain the reciprocal nature of the New

Zealand communities' relationship with the river and to foster a participatory and inclusive means of framing policies that impact the river's future.

Reciprocity in Society

Determining this balance between including and incorporating human society within the natural world while working to make sure that humans are not overexploiting ecosystem processes is challenging. However, social ecologist and philosopher Murray Bookchin and Ecofeminist philosopher Marry Mallor emphasize the need for a perspective that recognizes humanity's immersion within the natural world while maintaining human involvement in it, thereby challenging the perceptions of both deep ecology and Cartesian thought while, at the same time, maintaining some middle ground where humans exist in the midst of nature and recognize its values but are not distinctly separate from it. Bookchin labels this new ethic of thinking as social ecology, a philosophy that seeks to emphasize humanity's presence within nature while challenging the structural and hierarchical systems that contribute to the destruction of natural ecosystems. Bookchin writes, "Social ecology thus stresses the need for embodying its ethics of complementarity in palpable social institutions that will give active meaning to its goal of wholeness, and of human involvement as conscious and moral agents in the interplay of species" (Bookchin, 2004). Instead of seeking to set aside the natural world as a separate and more righteous entity, "it advances an ethic of complementarity in which human beings must play a supportive role in perpetuating the integrity of the biosphere, as potentially, at least, the most

conscious products of natural evolution. Indeed humans are seen to have a moral responsibility to function creatively in the unfolding of that evolution” (Bookchin, 2004). Bookchin recognizes the inherent flaws of the deep ecologists’ arguments in challenging the hierarchical economic and structural systems that not only drive the degradation of the environment but also propagate the inherent damage of removing ourselves from the natural world (Bookchin, 2004). He uses the distinction between First and Second nature as a means of accounting for the realization that humans are distinct within nature without reinforcing the dualistic ontologies that deep ecologists mistakenly promote (Bookchin, 2004). In this way, aspects of humanity, such as cultural and social nuances, that make us distinct within the natural world are highlighted, while recognizing that these characteristics are embedded within much larger natural systems. No matter the environmental destruction we cause or the alterations we make to the natural world, humans are and will always be a part of these natural systems (Bookchin, 2004). Rather than setting aside the natural world as an untouchable entity, as the deep ecologists would do, we must incorporate our knowledge, our ideas, and our creativity into policies that positively affect the natural world (Bookchin, 2004). These ideas, ingenuity and creativity, Bookchin argues, is nature grown intelligent, and it is our responsibility as a species to use these aspects of ourselves to benefit and protect the natural world (Bookchin, 2004). Expecting humanity to simply remove themselves from the natural world, even by setting aside huge swaths of wilderness where the natural world is able to pursue its own ends, is shortsighted and foolhardy. Any action humanity takes, even inaction, impacts the natural

world and those impacts are widespread, effecting the very core of natural processes. Rather than isolating ourselves from the natural world, it makes far more sense to utilize our profound abilities to create, to think, and to perceive in order to shape policies that: are respectful of the impacts that we, as a society, have on the natural world; seek to deepen our understanding of its processes; and strive to protect it to the best of our abilities and comprehension. In this way, we could achieve full immersion of human thought and process into the context of the natural world rather than perpetuate a continued separation and idolization of what is wild (Bookchin, 2004). Our ability to think is a part of nature, a part of nature grown intelligent (Bookchin, 2004). Because our intelligence is embedded within the natural processes, our ends are natures' ends, and to remove this process from the natural world is damaging to our society's relationship with it (Bookchin, 2004). Bookchin highlights this saying, "we must go beyond both the natural and the social toward a new synthesis that contains the best of both. Such a synthesis will transcend them in the form of a creative, self-conscious and therefore 'free nature' in which human beings intervene in natural evolution with their best capacities- their moral sense, their unprecedented degree of conceptual thought, and their remarkable powers of communication" (Bookchin, 2004). As opposed to the human-nature divide created by deep ecologist who are staunch proponents of the moral and intrinsic value of the natural world in isolation, social ecologists more accurately root human identity and thought process within the natural process by not criticizing or limiting human potential or influence within the natural world. In addition, they emphasize the need and the moral obligation

for humans to use these evolutionarily processed traits as a means of challenging and correcting environmental degradation.

Social ecologists also explicitly highlight the ways in which classist, racist, and heteronormative economic and sociopolitical structures are a leading cause of environmental destruction. These philosophers argue that “unless we realize that the present market society, structured around the brutally competitive imperative of “grow or die” is a thoroughly impersonal, self-operating mechanism, we will falsely tend to blame technology as such or population growth as such for environmental problems. We will ignore their root causes such as trade for profit, industrial expansion, and the identification of progress with corporate self-interest. In short, we will tend to focus on the symptoms of a grim social pathology rather than on the pathology itself, and our efforts will be directed toward limited goals whose attainment is more cosmetic than curative” (Bookchin, 2005). They argue that it is not enough to challenge the distinction of human and nature in an effort to mitigate environmental destruction but that we must dismantle these intersecting systems of oppression that lead to the dominion of individuals (Combahee, 1977). As long as individual groups are still oppressed and exploited by sociopolitical and economic structures, the natural world will continue to be exploited as well (Mallor, 1998). Without disrupting these biased systems in their entirety, the natural world will continue to be exploited by self-interested hierarchical entities. Murray Bookchin especially emphasizes this idea that “dominating nature can be overcome only through the creation of a society without those class and hierarchical structures that make for rule and obedience

within private as well as public life” (Bookchin, 2004). The change in paradigms that deep ecologists and other environmentalists call for is important, “but these attitudes and values remain vaporous if they are not given substance through objective institutions, the ways in which humans concretely interact with each other, and in the realities of everyday life from childrearing to work and play. Until human beings cease to live in societies that are structured around hierarchies as well as economic classes, we shall never be free of domination, however much we try to dispel it with rituals, incantations, ecotheologies and the adoption of seemingly “natural” ways of life” (Bookchin, 2004). Simply attacking people’s perceptions of the natural world is not enough, it is essential to work to replace these hierarchical and damaging systems of oppression in an effort not just to liberate marginalized and exploited communities but natural ecosystems and their processes as well. Through multiple provisions, the Te Awa Tupua act in fact does establish a more social-ecological framework in addition to changing working to change the way we perceive the natural environment, avoiding many of the pitfalls that trap the deep ecologists.

Fitting Within a Social Ecological Framework

To me, it is clear that the Te Awa Tupua Act works to effectively challenge the preeminent social paradigms that result from the schism between human and non-human communities that Deep Ecologists call for. While this is an effective first step, and important to the policy, it is also imperative to remember that often the Deep Ecological perspective goes too far in its attribution of value to the natural world, excluding human voices and perspectives from natural processes in

order to preserve their integrity. Maintaining human involvement within the natural world is essential in any effort to create a relationship that is truly reciprocal and immersive (Bookchin, 2004). The Te Awa Tupua, even more so than other Rights of Nature laws that have been passed in India and Ecuador, is effective in maintaining this balance by not only recognizing the inherent value of the natural world and its benefits and vivacity as an individual entity but also maintaining human involvement within the policy. The application of the Maori idea of guardianship with the two “guardians” or overseers of the Whanganui River catchment system, combined with the large collaborative group of stakeholders who are working to create a multifaceted management plan that balances the needs of the river with the future demands of the surrounding community, is an incredibly progressive idea and one that stands alone in recent Rights of Nature laws (Kauffman, 2017). The appointment of these guardians “recognizes the inseparability of the people and River as well as the responsibilities inherent in that relationship for taking care of the river as kin. Importantly, guardians must secure the spiritual and cultural rights of Te Awa Tupua, not simply its physical and ecological rights” (Kauffman, 2017). As quoted earlier, Bookchin emphasized the need for “an ethic of complementarity in which human beings must play a supportive role in perpetuating the integrity of the biosphere, as potentially, at least, the most conscious products of natural evolution. Indeed humans are seen to have a moral responsibility to function creatively in the unfolding of that evolution” (Bookchin, 2004). The use of guardians to oversee the river’s processes, combined with the interdisciplinary

approach to developing a holistic and, more importantly, collaborative resource management plan for the Whanganui River catchment system echoes Bookchin's ideas explicitly. By blending together the use of human creativity and ingenuity with the inherent value of the natural world to help foster a relationship between both communities not only recognizes the needs of the natural world and its value but also recognizes that human identity, at its root, is also wild, creative, and valuable.

Without this explicit and fundamental inclusion of human perspectives within the Te Awa Tupua Act, this act would not be as effective in working to establish the social ecological framework needed to maintain a holistic relationship between humans and the natural world. If humans were not integrated within the process, there would be less institutionalization of these ideals and the rights of nature would be seen as more of a distant dream (Kauffman, 2017). Other Rights of Nature policies across the globe, such as policies that recognize the inherent value of river systems in India, are effective in their ability to recognize the value of the natural world, thereby challenging these ecological paradigms. However, they “do not incorporate civil society representatives into the guardian body and do not restructure government agencies to manage the river basins in a more integrated way” (Kauffman, 2017). Not only does this limit these countries' ability to implement and institutionalize the rights of nature that are so important in bringing about a new paradigm that values the natural environment, but it also minimizes the role in which humans

play within the process and establishes a dangerous precedent of human exclusion that Murray Bookchin insists we must avoid.

The Te Awa Tupua is strong not because it challenges human perceptions of the natural world and ecosystem processes by granting a river catchment system the legal rights of personhood, but it is also powerful because it encourages and fosters a diverse participatory atmosphere that forces government agencies and scholars to work closely alongside the natural world in an effort to develop strategies and policies that will be effective in a broader effort to manage the river system. The designation of legal personhood is important because “the rivers can respond to violations by going to court” (Kimmerer, 2017). But the human incorporation within these systems “is more efficient to create governance arrangements that allow the rivers to proactively address and regulate activities that affect their wellbeing. For this reason, a crucial aspect of the New Zealand and Colombian systems is the involvement of multiple sets of people from different backgrounds on formal bodies created to address issues relating to the rivers’ wellbeing” (Kauffman, 2017). Not only do the establishment of guardians to oversee the river and the creation of a multifaceted and integrated watershed management council make it more likely that legal challenges filed on behalf of the river will gain traction, but it also “greatly strengthens the ability of the guardians to understand complex issues, to withstand pressure to compromise the river’s interests, or reach resolution in the case of disputes” (Kauffman, 2017). The importance of this guardianship, in establishing a social ecological paradigm in which human creativity and integrated, collaborative management is our society’s

responsibility and is necessary in maintaining human involvement within natural processes, cannot be understated. This ensures that this policy will avoid the trap that ensnares many deep ecologists and will adhere to the suggestions and ideologies of a social ecological framework.

However, maintaining the involvement of human creativity and human processes within the natural world was not Bookchin's and other social ecologists only concern. In order to fully address issues of environmental degradation, environmentalists must move beyond establishing a shift in societal values and institutional paradigms, but also must challenge broader and unethical structural institutions that are predicated on the hierarchy of individuals and that are fundamentally racist, classist, misogynistic, and heteronormative (Mallor, 1998). Without a concentrated effort of environmentalists to dismantle these systems, the movement will objectively fail and the domination of the natural world would continue (Bookchin, 2004). When a movement exists that is truly intersectional and focuses on challenging and disrupting many different systems of oppression, it is much more holistic in nature and more effective in achieving its goals (Combahee, 1977).

One of the most famous pieces of writing in feminist Black activist history, written by a group of lesbian feminists self-titled the Combahee River Collective wrote, "we realize that the liberation of all oppressed peoples necessitates the destruction of the political-economic systems of capitalism and imperialism as well as patriarchy. We are socialists because we believe that work must be organized for the collective benefit of those who do the work and create the products, and

not for the profit of the bosses” (Combahee, 1977). They continue, “we are not convinced that a socialist revolution that is not also a feminist and anti-racist revolution will guarantee our freedom. We need to articulate the real class situation of persons who are not merely raceless, sexless workers, but for whom racial and sexual oppression are significant determinants in their working / economic lives” (Combahee, 1977). The systems of oppression that are at play within our society are rooted in multiple intersections and are incredibly complex. If the Te Awa Tupua Act is to be truly effective at working to minimize environmental degradation, it must first work to dismantle these intersecting systems of oppression that actively suppress and dominate marginalized peoples, such as the Maori (Combahee, 1977). Without success in this regard, the act will begin to shift societal and legal systems to recognize the value of natural processes but will be limited in its ability to challenge deeply rooted systems that also contribute to the destruction of the natural world.

Because the act was implemented so recently, there is very little tangible legal evidence yet that can be garnered to analyze the effectiveness of this policy as a means of working to dismantle these systems of oppression. However, there are some specific instances within the law and scholarship that surrounds Rights of Nature laws in general that suggests the Te Awa Tupua Act may indeed work to challenge these institutions of power. The act is a radical assertion of indigenous spirituality and has offered a means of redress for the Maori community after generations of settler colonialism, the dispossession of lands, and the suppression of indigenous knowledge and traditional practices (Hutchison, 2014). It works to

assert their notions of guardianship and recognizes their deep connection to natural entities, their view of the Whanganui River catchment system as an integrated whole, and their cultural traditions which assert that the river is a part of their whakapapa, or genealogy. Because of this, the river is a respected ancestor who should be looked after and taken care of by the Maori people and their individual communities (Williams, 2013). Applying and recognizing these assertions of spirituality are immensely important strides in “recovering and maintaining indigenous worldviews, philosophies and ways of knowing” (Simpson, 2004). Implementing and honoring these perceptions of indigenous cultures and their practices within our modern society “represents a web of liberation strategies indigenous peoples can employ to disentangle themselves from the impressive control of colonizing state governments.” It will also “mark resistance to cultural genocide, vitalize an agenda to rebuild strong and sustainable indigenous national territories, and promote a just relationship with neighboring states based on the notions of peace and just coexistence embodied in Indigenous knowledge and encoded in the original treaties” (Simpson, 2004). The Te Awa Tupua Act represents one of these liberation strategies, passed explicitly as a means of redress and as a recognition and assertion of indigenous traditions, cultural practices and heritage. Indigenous activists assert that “to recover indigenous knowledge, indigenous people must regain control over their national territories and they must be self-determining particularly when it comes to the land” (Simpson, 2004). Through the use of guardians and the incorporation of Maori spirituality and reciprocal connection with the land, the policy allows for the

Maori people to have some determination over the future of their valued ancestor. Yes, the one to one ratio of the guardians is not ideal and the Maori would argue that they should have more influence over the decision making process. Yes, this policy is only applicable to the small island nation of New Zealand, but this is an important first step in recognizing the importance of indigenous participation, rights, and cultural heritage within the legal system, and a similar first step could and should be used as a means of redress in nations like the United States and Canada, who have equally brutal legacies of indigenous genocide and who have failed to protect and incorporate indigenous practices within law. Other countries could follow New Zealand's example of challenging societal and political structures that were built upon colonialism and the dispossession of indigenous lands.

Some argue that utilizing western conceptions of personhood, a term that has no foundation or meaning in indigenous culture, limits the Te Awa Tupua Act's ability to reconcile with indigenous practices and could prove troubling (Guha,1994). Ramachandra Guha emphasized in his critique of western environmentalists that often these ideas and perceptions of the natural world, espoused by non-western traditions, become coopted and commodified by western societal structures, essentially perpetuating a legacy of colonialism that only compounds the detrimental effects on these cultures (Guha, 1994). For example, even though the Maori people never asked for personhood designation, the Crown governments use of this distinction could water down the inclusion of Maori perspectives within the policy, perpetuating colonialist legal structures. However, Maori legal scholar Brian Willams argues that, while tenuous, Te Awa

Tupua largely avoids this problem, saying “it is difficult to speculate on the full implications of the agreement because its details have yet to be fully fleshed out. But Tu-tohu Whakatupua is arguably cause for cautious optimism as Indigenous Peoples continue to fight for the recognition of their views of the natural environment” (Williams, 2013). Tu-tohu Whakatupua is the Maori term for the guardians that are appointed to be the spokespeople for the river. Because the Maori people and, more specifically, the Whanganui Iwi have a spokesperson to be the advocate for the river, these people will at least have a voice in the future of this important waterway and against the commodification and exploitation of their belief systems to fit within western society. The Maori agree that there is no perfect solution but are encouraged that the recognition of their belief systems, even through the lens of a westernized construct, is a solid place to start.

Additionally, while there is little evidence to support this idea that the Te Awa Tupua Act works to challenge structural hierarchy because there have been no legal challenges filed against the act yet and because the guardians and watershed council are yet to be elected, there is a wealth of scholarship that argues that Rights of Nature Acts like the Te Awa Tupua act challenge market place structures and economic policies that are fundamentally hierarchical. Prolific scholar and Rights of Nature activist Vandana Shiva writes, “a key to the domination of the market economy is its ability to claim resources from outside its scope. The transformation of land from public to private ownership was essential for the market economy to become the dominant economy. The transformation, known as the enclosure of the commons, was usually triggered by the greed and

power of privateers” (Shiva, 2005). This market economy inevitably “produces a major shift in the way rights to resources are perceived. It deprives the politically weaker groups of their right to survival, which they had through access to commons, and it robs nature from its right to self-renewal and sustainability, by eliminating social constraints on resource use” (Shiva, 2005). Shiva argues that this leads to the monopolization of all resources: agricultural land, water, intellectual property, etc., into one vast enclosure that is owned and managed by the corporate elite of western society. Because these elitist structures of the market place have monopolized resources at the expense of marginalized communities, Earth democracy movements are at their foundation “struggles of the disadvantaged and excluded, aiming at conserving nature’s balance to preserve their survival. They are movements of marginal communities who have been deprived of the benefits of market and trade-led economic globalization, but who bear all the costs” (Shiva, 2005). Through policies such as the Te Awa Tupua Act, which asserts the individual rights of the Whanganui River catchment system, those long held ideas of ownership and domination of natural resources are challenged, offering a legal platform through which individuals, or the Whanganui River itself, can work to dismantle this exclusionary and destructive market system. In this way it can return rights of access and determination to not only the Maori community but also to the river system and other natural processes (Cullinan, 2001). In challenging these hegemonic forces of economic oppression and globalization, we reclaim “our seeds, our rivers, and our daily food; sites for reclaiming our economic, political, and cultural freedoms because these are the

very sites of the expanding corporate empire over life” (Shiva, 2005). Granting the Whanganui River legal personhood recognition and embedding that recognition within the broader watershed council gives New Zealand an opportunity to create a “living economy, with human creativity at the core”: a system and structure that “mimics nature’s diversity, self-organization, and complexity” (Shiva, 2005); a system and structure in which “every person, every group, every community is connected to others in mutuality and support” (Shiva, 2005). Challenging these expanding and hierarchical economic policies is essential in any effort to truly oppose, remediate, and challenge instances of environmental degradation which are inextricably linked to other intersecting systems of oppression and which work against marginalized peoples (Combahee, 1977).

Obviously, the Te Awa Tupua Act is limited in its scope of challenging both these economic hierarchies and engrained systems of colonialism and dispossession given that it only applies to one specific river catchment system on the incredibly isolated island nation of New Zealand, which has a comparably small population of 4 million people. Furthermore, its applications, specifically to people of color beyond the indigenous Maori community, is limited given New Zealand’s miniscule black population, and the fact that the Te Awa Tupua Act does not include any specific provisions that respect and seek to protect women’s, especially indigenous women’s perspectives. However, provisions that ensure both indigenous and communities of color have positions within the group working to establish the collaborative management plan can help to ensure that perspectives and ideas from these communities are also included within this policy.

Nevertheless, in addition to including human perspectives and creativity within the policy, there is a strong case that the Te Awa Tupua Act does begin to challenge much deeper societal issues that are also root causes of environmental degradation. In this way the Act adheres to both of the prescriptions of social ecology which demonstrably increases the likelihood that this policy will radically improve the ways in which we work to protect our environment.

Conclusion

Environmental degradation stems from a plethora of root causes and is an incredibly complex issue. No single environmental policy will be able to remedy all environmental destruction nor protect the natural environment and its processes in its entirety. To expect that from any specific policy is foolhardy. Regardless of its potential flaws, the novel Te Awa Tupua Act should be commended for its role in challenging our society's perceptions of the natural world by working to foster a deeper recognition of its processes beyond inanimate resources that should be exploited or objects that could be viewed as lesser. It incorporates indigenous religious customs and practices and, by seeking to elevate Maori positions and practices within society, it also serves as a means of redress to an indigenous community that was treated with particular brutality. Additionally, it does not exclude human ideas or creativity from the natural environment but rather encourages them by incorporating legal guardians and a carefully crafted assortment of specialists and scholars within a broad council that works cooperatively to build a holistic and forward thinking watershed management plan that strives to develop a strategy for the future development of the river and its

processes. It blends together the principles of ecocentrism called for by adherents to deep ecology philosophy and challenges the long held societal dualism that was established by Renes Descartes and many others. At the same time, it maintains the concept of human inclusion that was emphasized by social ecologists such as Murray Bookchin while challenging prior systems of domination. Much remains to be seen as the act takes effect, the guardians are appointed, and the watershed council is formulated, but the Te Awa Tupua Act has all of the tools necessary to be successful as a policy specifically designed to protect an integrated river catchment system.

The world is watching this new law and, already, similar legal actions are taking place in countries around the globe, including the United States of America, who are working to recognize river systems and landscapes of particular significance as legal persons. This act can and should be utilized as a model for these cases because of its sophisticated nature. Future policies that attempt to designate legal personhood to natural entities, such as rivers and mountains, need to go beyond just designating these places as persons and granting them with specific rights. They need to establish working plans to enforce these provisions and to ensure human interaction with the policy in order to develop collaborative management plans that will protect the river or the mountain for the future and that will seek to drive further human creativity and understanding of the natural world in its entirety. It is absolutely imperative to include indigenous perceptions and other ideas from marginalized communities in order to ensure that these kinds of policies are effective and are inclusionary and that they work to benefit

people of color and marginalized communities. Finally, it is essential that these policies do not view natural processes, such as complex river systems, as specific entities and do not mistakenly attempt to protect these natural spaces individually. Rather, they must conceptualize them as an interconnected whole in the same way that the Te Awa Tupua Act protects not just the Whanganui River but its catchment area in its entirety. It is also important to recognize that while these types of policies do have the radical potential to protect our natural spaces, they are slightly limited in their ability to fight climate change given the fact that it would be difficult to prescribe notions of personhood to the atmosphere. Despite this, the Te Awa Tupua Act should be celebrated for its pioneering effort to protect the natural environment and should absolutely be utilized as a model and an inspiration for countries who are to preserve their natural landscapes; are failing to challenge long held social perceptions of the natural world; and are floundering to create new environmental policies that are collaborative, holistic, and inventive. The Te Awa Tupua act is a milestone in environmental policy and should be heralded for its integrated and thorough provisions to protect our environment and to shatter long held social perceptions of our relationship with the natural world.

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