

# Imagining Mutuality as Base for Rights of Nature A Theological Perspective on Humanity's Relation to the More-than-human World

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## Abstract

Focusing particularly on mutuality, this article broadens the interdisciplinary approach common in Rights of Nature scholarship to include religious perspectives as well. After offering reflections on the significance of theological imagination for Rights of Nature and the contribution of religious and theological perspectives to the concept's early interpretation, the article considers the perennial question of the relation between humanity and the more-than-human. Informed by insights from scholars from other disciplines, the article gives the dynamics of mutuality a theological grounding. It suggests that such mutuality necessitates a supplementation of the concept of Human Rights with an affirmation of the integrity and dignity of the more-than-human world as they are mirrored in the movement for the implementation of RoN.

## Introduction

In May of 2024, I joined a group of visitors to a forest in the Swedish landscape of Tiveden. That forest had over the course of several decades been cared for with special regard for the maintenance of biodiversity and sustainability of the forest as such. Such care implied that clear cutting of forest areas was avoided, and trees were cut down much later and in lesser quantities than in regular commercial forestry. We spent several hours in the woods, and hardly anywhere did I have the feeling of being in the context of commercial exploitation (and yet the forest was maintained in a commercial way). During a conversation with one of the initiators of this enterprise I learned about the ideas behind it, and they centered on an understanding of the forest not so much as a plantation designed to deliver products for the market but rather as

an ecosystem of which the humans caring for it were a part. Here forestry, it seemed to me, was understood as an exercise in *mutuality between the human and the more-than-human spheres*, i.e., humans were not understood as external to the ecosystem of the forest. This relational understanding of the forest led to several basic principles for the practice of forestry. Such forestry aims among other things at maintenance of the forest's natural composition, at protection of its natural processes, at a minimization of intrusion in these processes, and at contribution to its varied structure and biodiversity.<sup>1</sup>

But what struck me the most was the following insight that was communicated: We as humans will never come close to understanding the tremendous complexity of the myriads of interactions and relations a forest consists of, both above but not least below the ground. Such

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<sup>1</sup> Naturnära Skogsbruk i Tiveden (naturnaraskogsbruk.se) (accessed June 26, 2024).

respect if not reverence for the intricate life of the forest seemed to me to open for a mutuality between various forms of subjectivity rather than human subjects managing natural objects.<sup>2</sup> After all, the forest is a place of mutual communication long before humans even enter the scene. A conversation is going on “that is pervasive through the *entire* forest floor”, as Suzanne Simard writes in her book *Finding the Mother Tree*, and “it has similarities with our own human brains” in as much as neurotransmitters communicate signals across fungal membranes in a way analogous to brain activities.<sup>3</sup> I am beginning with this experience in one of the most densely forested regions in Sweden because it initiated within me a similar imagination which already inspired one of the early theoreticians of the Rights of Nature (RoN), Christopher D. Stone, who in his seminal article *Should Trees Have Standing?* delivered the first in depth argument for ascribing “natural objects” legal rights, i.e., subjectivity.<sup>4</sup>

My contribution to this special issue of the *Nordic Environmental Law Journal* on the topic of RoN is an attempt to broaden the interdisciplinary approach to the question to include religious perspectives as well – with a special focus on mutuality.<sup>5</sup> While it is frequently acknowledged that the growing movement in favor of granting rights to nature needs perspectives from various

disciplines to be properly understood, the focus is on disciplines such as ecology, environmental sciences, economy, and possibly biology. Religion as a contributing factor often is excluded from the relevant disciplines considered. However, as I will try to show in this chapter, religious intuitions have played both an epistemological and a motivational role from the very beginning of the RoN movement.

In this chapter I first reflect on the nature of theological imagination and its significance for a consideration of the RoN, also in their relation to Human Rights (HR). I then offer a selective presentation of religious and theological perspectives on RoN which have contributed to the interpretation of the concept early on. Finally, I focus on the perennial question of the relation between humanity and the more-than-human. How can the relation between these spheres be conceived? My conclusion is that the relation can be read as shaped by mutual flows. Informed by insights from scholars from other disciplines, I will give these dynamics of mutuality a theological grounding. I suggest therefore that such mutuality necessitates a supplementation of the concept of HR with an affirmation of the integrity and dignity of the more-than-human world as they are mirrored in the movement for the implementation of RoN.

### A Theological Imagination

I understand creative imagination as one of the main exercises of theology both for practicing believers and for the wider public.<sup>6</sup> In the context of our current climate predicament such creative imagination can contribute to the necessary paradigm shift toward a more livable future for the earth. It is a lack of such imagination

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<sup>2</sup> For an in-depth reflection on forests as living ecosystems with previously unknown levels of consciousness, see: Simard, Suzanne. *Finding the Mother Tree. Uncovering the Wisdom and Intelligence of the Forest*. Penguin Book 2021.

<sup>3</sup> Simard 2021, 5.

<sup>4</sup> Stone, Christopher D. “Should Trees Have Standing? – Towards Legal Rights for Natural Objects.” *Southern California Law Review* 45 (1972): 450–501.

<sup>5</sup> For a thorough treatment of religious dimensions of human encounters with the more-than-human and more specifically with forests, see the empirical study of Henrik Ohlsson who has conducted interviews with various practitioners of “nature connection”. – Henrik Ohlsson. *Facing Nature. Cultivating Experience in the Nature Connection Movement*. Stockholm 2022.

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<sup>6</sup> Cf. Jones, Serene. *Trauma and Grace. Theology in a Ruptured World*. Louisville, KY: Westminster John Knox Press 2009, 19–21.

writers concerned with the future of the earth frequently miss in public discourse. Bruno Latour, the tireless advocate for the earth as living organism, laments that “it appears that the public at large no longer has enough energy to *imagine* other ways of living, that there are no more utopias”<sup>7</sup> but that the obligation for humanity is “to redraw from top to bottom the totality of our existences” and “the list of beings with which we are going to have to cohabit.”<sup>8</sup> In a similar vein political scientist and specialist on the history of RoN, Mihnea Tănăsescu, ends his book *Ecocene Politics* with the somewhat gloomy exclamation that we “can barely *imagine* a future that will not be one of parasitism, both inter and intra-specific. Increasingly we cannot imagine a future without tragic loss. Though ostensibly very different, the consumer capitalism of today and the totalitarianism of the twentieth century are similarly stifling to the *imagination*; both ensure a decomposition of the surrounding world in tandem with a psychic and moral decomposition of the human.”<sup>9</sup>

My wager in this chapter is that constructive theology indeed can contribute to an imagination that resists such tragic decomposition of humanity together with its surroundings. Humanity, according to such an imagination, together with a myriad of other creatures is part of one mutually interdependent ecosystem called cre-

ation.<sup>10</sup> This kind of theological approach imagines (and confesses) the entire cosmos as created and therefore ultimately beyond the possessive grasp of human endeavors. An influential example of such an approach is Pope Francis’ encyclical *Laudato Si’* which spells out the implications of an imagination of the earth as created. It prohibits an objectification of what usually is called “nature” and instead perceives “Mother Earth” as humanity’s sister.<sup>11</sup> The bond between humanity and the more-than-human is perceived as intimate. Accordingly, humanity is understood as woven into the fabric of creation, as participating in larger ecosystems so that humans “can feel the desertification of the soil almost as a physical ailment, and the extinction of a species as a painful disfigurement.”<sup>12</sup> Such a theological approach to the more-than-human world is in tension with a “technocratic paradigm” according to which humanity can fix ecological challenges by technical means alone, so to speak from a distance. “To seek only a technical remedy to each environmental problem which comes up”, the encyclical states, “is to separate what is in reality interconnected.” Instead, it calls for an “ecological culture”<sup>13</sup> in which humanity finds itself in “secretly interwoven relationships” in accordance with divine trinitarian relations.<sup>14</sup> Now, this perhaps sounds like mythological and therefore non-consequential language to secu-

<sup>7</sup> Latour, Bruno. *If We Lose the Earth, We Lose Our Souls*. New York: polity 2024, 80. (My italics.)

<sup>8</sup> Latour 2024, 81.

<sup>9</sup> Tănăsescu, Mihnea. *Ecocene Politics*. Open Books Publishers 2022, 181. (My italics.)

<sup>10</sup> Since creation in its entirety is seen as created by God, from a theological perspective no other limited interests can be regarded as superior to the flourishing of all of creation. This is why from a theological perspective all (economically) narrowly conceived “national interests” need to be considered critically (see the introduction of Seth Epstein) and initiatives that seek to mitigate national competition such as an international law against ecocide and an Embassy of the Baltic for the protection of the Baltic Sea (cf. Pella Thiel’s contribution to this issue) can count on theological support.

<sup>11</sup> Cf. Encyclical Letter *Laudato Si’* § 1–2.

<sup>12</sup> *Laudato Si’* § 89.

<sup>13</sup> *Laudato Si’* § 111.

<sup>14</sup> *Laudato Si’* § 240.

lar or non-religious ears, but it has analogies to the findings of contemporary sciences regarding the entanglement of all life in ecosystems. Such entanglement is a serious blow to modern imaginations of the human as autonomous and independent. New biological science that identifies symbiosis a “ubiquitous feature of life” and therefore radically challenges the “talk about individuals” can become theology’s ally in criticizing the ubiquitous anthropocentrism in public discourse.<sup>15</sup>

Even though the papal encyclical stops short of dethroning the human as key actor in creation,<sup>16</sup> it depicts humanity as fundamentally interdependent. For example, it offers an intriguing understanding of mutuality between humans and the more-than-human in its interpretation of the second story of creation according to which humanity has the responsibility to “till and keep” the earth (Gen 2:15). This implies, as Pope Francis suggests, “a relationship of *mutual responsibility between human beings and nature*. Each community can take from the bounty of the earth whatever it needs for subsistence, but it also has the duty to protect the earth and to ensure its fruitfulness for coming generations.”<sup>17</sup> Such intimate mutuality on the one hand makes the notion of absolute property unconceivable, and on the other hand opens the door for an understanding of law that needs to be grounded in something broader than a Western understanding of the (property) law of the individual.

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<sup>15</sup> Sheldrake, Merlin. *Entangled Life. How Fungi Make Our Worlds, Change Our Minds & Shape Our Futures*. New York: Random House 2020, 17–18.

<sup>16</sup> Cf. Nausner, Michael. “Eco-Justice as Mutual Participation. Towards a Theological Vision of the Mutual In-Dwelling of All Creation”. In: Jan Niklas Collet, Judith Gruber, Wieske de Jong-Kumru, Christian Kern, Sebastian Pittl, Stefan Silber, Christian Tauchner (Eds.). *Doing Climate Justice. Theological Explorations*. Leiden: Brill 2022, 101–119 (109–110).

<sup>17</sup> *Laudato Si’* § 67. (My italics.)

### The Necessary Connection Between Rights of Nature and Human Rights

This does not mean that RoN need to be understood in contrast to or even in competition with HR. Instead, one could argue together with the philosopher of law, Tilo Wesche, that RoN are a logical consequence of HR. In his book *Die Rechte der Natur* he argues that “rights of nature and currently practiced right are siblings” and that “ecological internal rights (German *Eigenrechte*) are implicit to modern legal systems, but as an unutilized (German *unabgeholtenes*) potential.”<sup>18</sup> But to my mind Wesche ascribes the secular Western legal system too much of a hegemonic role when he insists that “ecological internal rights need to be deduced from established legal concepts.”<sup>19</sup> He therefore is critical of the “re-mythologization” of nature by which he means mythological (i.e. religious?) arguments for the “inviolable dignity” (German *Unverfügbarkeit*) of nature.<sup>20</sup> Instead he believes in a solid anchoring of RoN in property rights: “Property rights can only be healed from their blindness for nature by an enlightened concept of property.”<sup>21</sup> Such an enlightened concept seems to Wesche to be incompatible with myth of any kind. There is nothing to be gained from mythological perspectives. In a fashion that risks colonial undertones, he locates the source for ecological sustainability from a legal perspective exclusively in the “normative foundations of modern property companies.”<sup>22</sup> As a theologian I have no reason to doubt the validity of such skepticism in the context of a Western legal system, and I sincerely hope that Wesche’s project of “sustainable rights

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<sup>18</sup> Wesche, Tilo. *Rechte der Natur*. Berlin: Suhrkamp 2023, 14. (My translation from the German.)

<sup>19</sup> Wesche 2023, 17.

<sup>20</sup> Wesche 2023, 20.

<sup>21</sup> Wesche 2023, 21.

<sup>22</sup> Wesche 2023, 23.

of property”<sup>23</sup> within a basically unaltered Western legal system can bear fruit.

Love Rönnelid in his contribution to this issue argues in a similar direction in his rights critique.<sup>24</sup> To him rights in general mostly have a negative thrust, which consequently would be true for RoN as well. By pushing too hard for the implementation of RoN, Rönnelid argues, one might harvest the opposite of the intended outcome, putting too much power in the hands of lawyers (instead of the state).<sup>25</sup> To Rönnelid, they even risk stifling the imagination, and he therefore in a way reminiscent of Wesche ends up suggesting staying within the system so to speak by reimagining property rights as a way forward. There is little imagination, it seems, toward a widening of the circle of (non-individual) right holders. Rights in general to him are tools to (negatively) *stop* things and not to (positively) *construct*.<sup>26</sup>

The designation of rights as mainly *negative* may be adequate within the realm of a certain judicial tradition, but certainly not from a broader theological perspective. The entire movement for the implementation of RoN is full of imaginative and constructive ideas.<sup>27</sup> As a theologian committed to theology as an exercise of imagination, I think that even legal systems need to be understood as (imaginatively) anchoring in certain philosophical and religious groundings. They mirror *constructively* what is behind, so to speak. I agree with Sigurd Bergmann, therefore, who points out that a recognition of RoN ultimately is embedded in religious and philosophical traditions. “Substantially, rights of nature

concern even religious beliefs and practices.”<sup>28</sup> And I believe in the potential of transdisciplinary enrichment on the journey toward a more sustainable future for the earth. This might be akin to what John Rawls called “overlapping consensus,”<sup>29</sup> i.e., we can arrive at similar conclusions from very different perspectives. In the context of RoN, this would mean that their critical evaluation, but also their justification can be strengthened by instances of overlapping consensus. Bergmann imagines such overlapping as an “alliance of religious and secular forces in the struggle for the rights of nature.”<sup>30</sup>

I overlap with Tilo Wesche in terms of my conviction that RoN need to be reconciled with HR. The ecological and the social need to be understood as woven together in a fundamental way, so that a new and more comprehensive understanding of the political can emerge, with consequences for our understanding of the scope of democratic systems. But I differ from Wesche in that I believe in the vital role of myth for making such a reconciliation work, a role that oftentimes is suppressed in Western rational

<sup>23</sup> Wesche 2023, 29.

<sup>24</sup> Cf. Rönnelid’s contribution to this issue.

<sup>25</sup> Rönnelid.

<sup>26</sup> Rönnelid.

<sup>27</sup> One such constructive proposal is the idea of an *Embassy of the Baltic Sea* which Pella Thiel proposes in her contribution to this issue. Such an embassy, Thiel suggests, would be “an example of moral imagination”.

<sup>28</sup> Cf. Bergmann, Sigurd. “Rights of Nature. The Intrinsic Value of all Living in God’s Creation as One Legal Community”. In: Marion Grau, Lovisa Mienna Sjöberg, Michael Nausner (eds.), *Nordic Handbook on Climate, Religion, and Theology*, forthcoming, 1. An important spiritual contribution to the movement toward the implementation of RoN are indigenous traditions which per definition are grounded spiritually. A milestone of this contribution was the adoption of the Universal Declaration of the Rights of Mother Earth in Bolivia in 2010. See: Universal Declaration for the Rights of Mother Earth – Global Alliance for the Rights of Nature (GARN) (accessed July 15, 2024) – The *Wild Law Institute* founded by the lawyer Cormac Cullinan is explicit in its weaving together of legal, philosophical, and spiritual sources, not least the indigenous voices behind the Universal Declaration of the Rights of Mother Earth. See: *Wild Law* (accessed July 15, 2024).

<sup>29</sup> Quoted in: Féron, Henri. “Human rights and faith: a ‘world-wide secular religion’?” *Ethics & Global Politics*, 7:4, 2014, 181–200 (185 & 193).

<sup>30</sup> Bergmann, Rights of Nature, 11.

argumentation. Therefore, I prefer Tănăsescu's approach that is more open for the constructive potential of mythological/religious perspectives. In his above quoted *Ecocene Politics* he solidly embeds human agency (*responsibility*) in wider ecological relationality (*reciprocity*), and he does so by bringing Western moral and political thought in conversation with Māori philosophy (which does not allow any neat separation from mythology). Responsibility, Tănăsescu declares, "has received much attention in political ecological thought", but it is reciprocity that "holds an untapped potential to ground political ethics."<sup>31</sup> In Māori mythology humanity is inherently ecological. Therefore, human behavior is "always already participating in wider processes that define the very nature of the human."<sup>32</sup>

Even though Tănăsescu does not explicitly acknowledge myth as a source for his argument that reciprocity/mutuality in a crucial and necessary way qualifies our political coexistence as creatures, his plea for mutuality resonates with the theological argument in the papal encyclical and the lament that humanity lacks an awareness "of our mutual belonging."<sup>33</sup> This is the theological base for holding together RoN and HR or as it is formulated more broadly (and somewhat poetically) in the encyclical: "We have to realize that a true ecological approach *always* becomes a social approach; it must integrate questions of justice in the debates about the environment, so as to hear *both the cry of the earth and the cry of the poor*."<sup>34</sup> To Bruno Latour the connection between the cry of the earth and the cry of the poor signals an important aspect of a necessary paradigm shift in anthropology, because it broadens the anthropocentric gaze and opens for an "involvement of the earth system

in human history – geohistory – [that] defines in more scientific terms what the encyclical calls a 'cry'."<sup>35</sup> It also opens for a reimagining of democratic systems from being a purely human affair to include more-than-human actors. Decades ago, Latour was the one who in his *Politics of Nature* opposed the nature-culture dichotomy and envisioned a community that incorporates humans and nonhumans as actors.<sup>36</sup> Many years later he claimed that "geo" already participates fully in public life,<sup>37</sup> but our modern mindsets resist hearing it. Claes Tāngh Wrangel might have a point when he critiques Latour for too neat an opposition between the modern *Globe* that sees humans as exceptional actors from the outside and the *Earth* as the organism of which humans are a part.<sup>38</sup> Wrangel here detects a certain dichotomizing tendency in Latour's language, the very tendency Latour so sharply criticizes in modernism.<sup>39</sup> If Earth has a voice, Wrangel comments, it is still a voice that is "formed *through* human language – thus destabilizing the ontological distinction between the *Globe* and the *Earth*."<sup>40</sup> Notwithstanding the legitimacy of such criticism against a polarizing tendency that might be due to Latour's broad (ecological) political engagement, Latour's still is a key voice providing a scientific motivation (never in strict opposition of myth!) for a complementation of the concept of HR with RoN. At the same time, Latour remains in conversation with theology,

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<sup>35</sup> Latour 2024, 43.

<sup>36</sup> Cf. Bruno Latour. *Politics of Nature. How to Bring the Sciences into Democracy*. Boston: Harvard University Press 2004.

<sup>37</sup> Cf. Bruno Latour. *Down to Earth. Politics in the New Climatic Regime*. New York: polity 2018, 41.

<sup>38</sup> See Wrangel, Claes Tāngh. "Dreaming of a Decolonial Language? The Limits of Posthuman Critique in the Anthropocene." *Nordic Environmental Law Journal*, 2024 Special Issue, 47–59 (50–51). Wrangel capitalized "Earth."

<sup>39</sup> Wrangel.

<sup>40</sup> Wrangel.

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<sup>31</sup> Tănăsescu 2022, 16.

<sup>32</sup> Tănăsescu 2022, 115.

<sup>33</sup> *Laudato Si'*, § 202.

<sup>34</sup> *Laudato Si'*, § 49. (Emphases are in the original.)

continuing the work of theologians “to ‘stitch back together’ what modernity had taken apart through a series of abstractions.”<sup>41</sup> To him theological imagination plays a role in a reconceptualization of the relations between the human and the more-than-human. He sees a fine task for theology in imagining the church as instituting “itself in entirely new civil relationships with the other modes of existence.”<sup>42</sup> But he also sympathizes with a process-philosophical tradition, rethinking the incarnation as not only applying to God becoming human in Christ, but as a concept that reflects a fundamental divine interaction with earthly matters. Inspired by the initiator of process philosophy, Alfred North Whitehead, Latour reflects on God as intimately faithful to the earth. This means that “what counts [...] is that the creator is implicated in what is created, that the creator is not master of what is created, that the creator risks losing the creation and risks being lost along with it.”<sup>43</sup> Here Latour ventures into a theological formulation of divine-earthly mutuality that may be seen as an epistemological and motivational argument for an implementation of RoN.

With these examples of theological imagination, I wanted to indicate how such imagination can aid in shaping an awareness of interdependence between everything on earth, an awareness that sees human dignity as inseparable from more-than-human dignity. To imagine the earth as created is an implicit commitment to a transcendent dimension of material reality and can serve as a theological acknowledgement of the dignity of the more-than-human world and thus as a motivation to ascribe rights to nature. One does not need to be religious to see the value in such a theological acknowledgement,

and, as Henri Féron has aptly shown, religion played and plays a role in the establishment and development of HR even though they themselves should not be called religious in a narrow sense.<sup>44</sup>

On October 14<sup>th</sup>, 2001, when the world community still was in shock after what was perceived as the tremendous destructive potential of religion in the September 11<sup>th</sup>, 2001 attacks on the World Trade Center in New York City, the secular philosopher Jürgen Habermas chose to focus on religious myth as seedbed for an understanding of human dignity and in extension of human rights. Habermas, in his speech at the occasion of receiving the peace prize of the German booksellers, emphasized the relevance of understanding humans as created in the image of God (Gen 1:27) for an affirmation of human dignity. While confessing that he himself is “religiously non-musical”, he affirmed the implications of such mythical language as it is found in Jewish-Christian tradition: Created by a free and loving God, humans are free beings and called to mutual acknowledgement of such freedom. God simultaneously empowers and obliges humans to be free.<sup>45</sup> Habermas toward the end of his career became even more appreciative of religious sources for the creation of social cohesion, while acknowledging their cultural and mythological plurality.<sup>46</sup> As Féron points out, such endorsement of religious arguments for HR does not mean that a “consensus on the metaphysi-

<sup>44</sup> Féron 2014, 183.

<sup>45</sup> Habermas, Jürgen. “Glauben und Wissen.” Dankesrede anlässlich der Verleihung des Friedenspreises des deutschen Buchhandels am 14 Oktober 2001. <https://www.friedenspreis-des-deutschen-buchhandels.de/alle-preistraeger-seit-1950/2000-2009/juergen-habermas,9-15> (15). (Accessed June 29, 2024).

<sup>46</sup> For a fine overview on Habermas’ reflections on religion written for the occasion of his 95<sup>th</sup> birthday, see: Amos Nascimento, “The Conceptual Plurality of Jürgen Habermas’ *Auch eine Geschichte der Philosophie*. *Res Philosophica*, Vol. 101, No. 2, April 2024, 1–30.

<sup>41</sup> Frédéric Louzeau in: Latour 2024, ix.

<sup>42</sup> Latour 2024, 16.

<sup>43</sup> Latour 2024, 70.

cal foundations of human rights” is found,<sup>47</sup> but rather that they are needed for a trustworthy tapestry for the creation of an “overlapping consensus” that can claim universal validity. And the same is true for RoN. Like HR, they continuously need to be renegotiated, *not least* due to the necessity to widen the understanding both of who “the human” is and what “nature” is, since there is great cultural diversity regarding those definitions.

My point here is to highlight that theological imagination can play an important motivational role for the development of social, political, and not least legal models for the organization of the common good. At the same time as every religious community needs to pay attention to the temptation to misuse religious intuitions for manipulative power games, it also has the obligation to share its constructive contributions for the common good. The example of Jürgen Habermas shows how theological imagination can be a contributing factor to formulate a constructive anthropology, and the example of the encyclical *Laudato Si'* shows how theology can contribute to a reimagining of anthropology in times of overbearing anthropocentrism. Human dignity and the dignity of the more-than-human world need not be in competition to each other but rather presuppose each other.

### The Need of a “Background Myth”

Regarding RoN, an acknowledgement of the need of something like a (religious) “background myth” for their effective and convincing implementation can be traced from the very beginning and up to today. I want to offer some examples to make that case. Already Christopher D. Stone, the environmental lawyer who can be seen as one of the original thinkers of RoN, in his seminal article *Can Trees Have Standing?* from 1972

embedded his juridical argument for inclusion of natural objects as rightsholders<sup>48</sup> in a reflection with religious undertones. There he argued for a supplement of HR with RoN and suggested in a visionary fashion the following: “I am quite seriously proposing that we give legal rights to forests, oceans, rivers and other so-called ‘natural objects’ in the environment – indeed, to the natural environment as a whole.”<sup>49</sup> He saw the need of a sound worldview out of which a constructive judicial theory could emerge: “One’s ontological choices will have a strong influence on the shape of the legal system, and the choices involved are not easy.”<sup>50</sup> Given the degree of environmental devastation because of corporate exploitation in the USA in the 1960s and 1970s, he saw the necessity of “a radical new theory or *myth* – felt as well as intellectualized – of man’s relationships to the rest of nature.”<sup>51</sup> One such myth that has received attention in scientific and not least theological discourse is the myth of planet earth as organism. “I do not think it too remote”, Stone writes, “that we may come to regard the Earth, as some have suggested, as an organism, of which Mankind is a functional part – the mind, perhaps: different from the rest of nature, but different as a man’s brain from his lungs.”<sup>52</sup> Stone here opens the door toward a rethinking of anthropology that fundamentally seems to challenge the Western judicial system with its roots in the rights of persons, i.e., individuals. And most significantly for my purpose here, it challenges us to understand humanity and earth in a relationship of mutuality.

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<sup>48</sup> Stone, 475.

<sup>49</sup> Stone, 456.

<sup>50</sup> Stone, 456, footnote 26.

<sup>51</sup> Stone, 498. (My italics.)

<sup>52</sup> Stone, 499.

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<sup>47</sup> Féron 2014, 185.



### The Challenge of “Natural Objects”

Of course, there are the problems of how to define “natural objects” and who can represent them, problems which were discussed controversially during the Uppsala symposium in June of 2023. I think Maria Refors Legge is right when she points out that recognizing nature as right holder requires a redefinition of rights.<sup>53</sup> A successful implementation of RoN in a Western context indeed will put the traditional understanding of rights as rooted in individual (human) rights under significant pressure. At the end, it is a matter of reimagining anthropology. The need for such a reimagination can be traced back to Stone, as we have seen. But is it the case, as Refors Legge seems to think, that only RoN has the disadvantage of being what she calls “symbolic legislation?”<sup>54</sup> Do we not need to put a Western emphasis on *individual* HR under similar scrutiny regarding its “symbolism”? Might we not think, as I suggest in this chapter, of humans in terms of (parts of) ecosystems in an analogical sense as more-than-human ecosystems with their reciprocal dynamics? Refors Legge opens a door in that direction when she suggests shifting the focus from individual rights to state obligations. In that way, the state’s role as “steward of public interest” could create a balance between responsibilities toward individuals and the environment and the “reciprocal nature of rights and obligations” would come to the fore. However, Refors Legge still thinks of such reciprocity as a matter between “individuals (human and non-human).”<sup>55</sup>

Jonas Hultin Rosenberg takes us a step further when he probes into the possibilities of a “democratic inclusion of nature.” For such

an inclusion to take effect, the acknowledgement of political agency needs to be enlarged beyond the human sphere. According to the “all affected principle” (AAP),<sup>56</sup> all affected entities in time and space need to be considered in a truly inclusive democratic system, which puts the “speciesist assumption (only humans)” of traditional democratic systems under pressure.<sup>57</sup> While Hultin Rosenberg stops short of ascribing non-sentient organisms more than “patience,”<sup>58</sup> he acknowledges that based on the AAP they are worthy of political concern.<sup>59</sup> While Hultin Rosenberg, thus, is quite cautious in his designation of “political concern” to the more-than-human, with this acknowledgement he opens the door for a more radical inclusion of ecosystems in democratic processes not just as patients but as agents. Such inclusion is hinted at in Tănăsescu’s *Ecocene Politics*, where he follows Andrew Light in widening the understanding of an “involvement of those affected.” And he therefore concludes that “there is no reason to suppose that only human communities have the right to be active participants.”<sup>60</sup>

Already Stone struggled with the notion of agency in the more-than-human, even if he used a different vocabulary, and I think he would have agreed with Tănăsescu’s intention to include more-than-human agents in a democratic system. But he was keenly aware of the conceptual challenges when he wrote that “there are large problems involved in defining the boundaries of the ‘natural object.’” However, not only the definition of ‘natural objects’ poses a challenge but also the definition of a ‘person’,

<sup>53</sup> Cf. Refors Legge, Maria. “The Symbolic Nature of Legal Rights.” *Nordic Environmental Law Journal*, 2024 Special Issue, 77–87 (81–82).

<sup>54</sup> Cf. Refors Legge, 78.

<sup>55</sup> Cf. Refors Legge.

<sup>56</sup> Cf. Rosenberg, Jonas Hultin. “The Democratic Inclusion of Nature – Exploring the Categorical Extension of the All-Affected Principle.” *Nordic Environmental Law Journal*, 2024 Special Issue, 89–98.

<sup>57</sup> Cf. Hultin Rosenberg.

<sup>58</sup> Cf. Hultin Rosenberg.

<sup>59</sup> Cf. Hultin Rosenberg.

<sup>60</sup> Tănăsescu 2022, 176.

a challenge which from a modern Western perspective often goes without notice. With other words: There are similar and probably less often acknowledged problems with “the concept of a ‘person’ in legal *or* everyday speech”, as Stone reminds us. “Is each *person* a fixed bundle of relationships, persisting unaltered through time? Do our molecules and cells not change at every moment? Our hypostatizations always have a pragmatic quality to them.”<sup>61</sup> Stone here in a modest footnote formulates an understanding of the “pragmatic”, i.e., constructed, nature of the individual as constituted by a (not so fixed) bundle of relationships decades before such an understanding became common sense among natural scientists from various disciplines. And he obviously understood the paradigm shift that legal systems would go through if they acknowledged a certain fuzziness in its ontological foundations, a certain necessary pragmatism. The question of how to understand ‘natural objects’ on the one hand and ‘persons’ on the other hand needs to be under scrutiny time and again. How the difference and distinction between the two is perceived and understood is of vital importance not only for a legal system but also for the organization of a society, the commons.

### **Theology as Resource for Rights of Nature**

Stone indeed opened the door for religious and theological approaches with his quest for a radical new myth of man’s [sic.] relationship to the rest of nature. Curiously, this happened shortly after the publication of Lynn White’s article *The Historical Roots of Our Ecologic Crisis* in 1967, a scathing and justified critique of Christianity’s bad track record when it comes to its elevation of humanity as rulers of the earth. The understanding of humans as God’s image according to White – and in stark contrast to Habermas’

positive evaluation of the same concept – had in modernity led to a highly problematic theological legitimization of anthropocentrism. “Man” is above the earth. Christianity, according to White, especially in its Western form “is the most anthropocentric religion the world has seen.”<sup>62</sup> The historian White sees a clear connection between modern science with its objectifying and distancing gaze and the Christian tradition in modernity: “Modern technology is at least partly to be explained as an Occidental, voluntarist realization of the Christian dogma of man’s transcendence of, and rightful mastery over, nature. [...] If so, Christianity bears a huge burden of guilt.”<sup>63</sup>

This indictment needs to be kept in mind, and I think it has its lasting justification for large parts of Christianity to this day. There have, however, continuously existed countercurrents to such anthropocentrism and human exceptionalism. White himself mentions Francis of Assisi as an example of such countercurrents and elevates him to “a patron saint for ecologists.”<sup>64</sup> But even since White and Stone wrote their seminal articles in 1967 and 1972 respectively a steady stream of voices in theology has undertaken a reimagination of humanity’s relation to the more-than-human in a way that remedies the age-old anthropocentrism of the Christian tradition. Let me mention a few: There is John B. Cobb, Jr. who, in the same year as Stone wrote about the standing of trees, published *Is It Too Late? A Theology of Ecology*, the first book length treatment of the ecological crisis from a Christian perspective.<sup>65</sup> There is Rosemary Radford

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<sup>61</sup> Stone, 456, footnote 26.

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<sup>62</sup> White, Jr., Lynn. “The Historical Roots of Our Ecologic Crisis”. *Science*, 10 March 1967, Volume 155, Number 3767, 1203–1207 (1205).

<sup>63</sup> White 1967, 1206.

<sup>64</sup> White 1967, 1207.

<sup>65</sup> Cobb, Jr., John B. *Is It Too Late?: A Theology of Ecology*. Benzinger, Bruce & Glencoe, Inc. 1972.

Ruether who in her *Gaia & God. An Ecofeminist Theology of Earth Healing* radically challenges Western culture of male domination by imagining a world of healed relationships to each other and to the earth.<sup>66</sup> There is Sallie McFague who in her *The Body of God. An Ecological Theology* counteracts modernity's exploitation of the earth by imagining the whole universe as the body of God.<sup>67</sup> There is Leonardo Boff who in the aftermath of the UN Conference on the Environment and Development in Rio de Janeiro wrote his *Cry of the Earth, Cry of the Poor* in which he shows how the ecological and the social crises are connected and the result of the same destructive paradigm: We humans, Boff exclaims, are "hostages to a paradigm that places us [...] *over* things instead of being *with* them in the great cosmic community."<sup>68</sup> And last but not least there is the recently deceased Jürgen Moltmann who already in the 1980s widened the concept of the social from a theological perspective by talking about a "creation community"<sup>69</sup> and who shortly before his death wrote *The Great Ecological Transformation*, a passionate plea arguing for the need of a new understanding of humanity that, fueled by a cosmic spirituality, embeds human beings in the community of creation.

### Towards a Theology of Mutuality

It is the concept of a "community of creation" – and not only of humans – that leads Moltmann from a theological perspective to the necessity of acknowledging RoN explicitly: "Ecological justice," he maintains, "is meaningless without

the rights of nature."<sup>70</sup> He arrives at that conclusion after acknowledging Christianity's active contribution to the "conquest of nature" due to a misunderstood interpretation of humankind as created in the image of God and embraces therefore James Lovelock's Gaia hypothesis, i.e., his imagination of the earth as an organism. Indeed, Moltmann affirms, even "from a theological perspective the earth can be seen as a living creature since it brings forth life (Gen 1:11)."<sup>71</sup> Such an understanding of creation as a mutual affair, and therefore as a conversation between subjects rather than a one-way command, has been extensively elaborated upon by constructive theologian Catherine Keller. God communicates with creation even before humanity comes into the picture. The created realm remains full of creative subjectivity. Creation, Keller explains, "takes place as invitation and cooperation" and "the creator lures self-organizing systems out of the fluctuating possibilities."<sup>72</sup> For all their likeness with God, humans enter the creative process later than other organisms.<sup>73</sup> The "earth and the waters," Keller points out, "participate as invited in the creative process ("Let the earth bring forth," etc.) [...]. Earth and ocean seem to mirror more directly than the human the character of the creator – to create. (Humans are not here invited to 'bring forth'.)"<sup>74</sup> An understanding of creation as a mutually communicative process between God and *all* other creatures can

<sup>66</sup> Radford Ruether, Rosemary. *Gaia & God. An Ecofeminist Theology of Earth Healing*. San Francisco: Harper Collins 1992.

<sup>67</sup> McFague, Sallie. *The Body of God. An Ecological Theology*. Minneapolis, MN: Fortress Press 1993.

<sup>68</sup> Boff, Leonardo. *Cry of the Earth, Cry of the Poor*. Maryknoll, NY: Orbis Books 1997, xii.

<sup>69</sup> Moltmann, Jürgen. *Gott in der Schöpfung. Ökologische Schöpfungslehre*. München: Chr. Kaiser Verlagshaus 1985.

<sup>70</sup> Moltmann, Jürgen. "The Great Ecological Transformation". *Theology Today*, 2023, Vol. 80 (1), 9–17 (10).

<sup>71</sup> Moltmann 2023, 13.

<sup>72</sup> Keller, Catherine. *Face of the Deep: A Theology of Becoming*. London & New York, NY: Routledge 2003, 195.

<sup>73</sup> This point is made convincingly by philosopher of religion Jan-Olav Henriksen. Cf. Jan-Olav Henriksen. *Theological Anthropology in the Anthropocene. Reconsidering Human Agency and its Limits*. Cham: Palgrave Macmillan 2023, 9–23.

<sup>74</sup> Keller, Catherine. *Political Theology of the Earth: Our Planetary Emergency and the Struggle for a New Public*. New York, NY: Columbia University Press 2018, 76.

be found in older Jewish exegesis as well. Rabbi Samson Raphael Hirsch, for example, interprets the plural in Genesis 1:26 (“Let Us make the human in Our image after Our own likeness”) as an affirmation of agency in non-human creation: Before the creation of humanity, God sought approval of nature itself and wants “nature’s consenting to humanity’s existence.”<sup>75</sup>

Among such theological voices which implicitly or explicitly endorse the potential of RoN by acknowledging agency in the more-than-human realm, maybe Rosemary Radford Ruether is the earliest and most imaginative one. Hers is a voice that with its interdisciplinary reach has contributed to the above-mentioned overlapping consensus. Before Bruno Latour, whose critique of “nature” as something beyond the human is well known,<sup>76</sup> she laments in her *Gaia & God* that “we in the West have constructed our concept of ‘nature’ as both the nonhuman and the non-divine.”<sup>77</sup> Instead, she sees God’s covenant with the earth as a theological foundation for ascribing rights to nature: “Each species of plant or animal is a distinct evolutionary form of life, and thus, as a species, has unique value in its own right.”<sup>78</sup> Toward the end of her book she (as one of the earliest theologians) is in direct conversation with Christopher D. Stone whose interest in the Gaia hypothesis she shares. Inspired by his writings she agrees that it is “inadequate to define ‘nature’ solely through the rubric of ‘individual rights’. We need to learn to envision humans and nonhumans in biotic communities, in which a plurality of values needs to be balanced in relation to each other.”<sup>79</sup> She there-

fore affirms a fundamental mutuality between all living beings on earth that has both spiritual connotations but is also in resonance with approaches such as Donna Haraway’s who argues for a kinship between humanity and all critters of the earth.<sup>80</sup> Akin to Haraway’s earthly kinship of all living critters, Radford Ruether recognizes that “humans and other life forms are part of one family, sisters and brothers in one community of interdependence. There is an ultimate thouness at the heart of every other living being.”<sup>81</sup> Such “thouness” of other beings is intrinsically transformative, since it is rooted in continuous mutual exchanges given that “our own bodies are composed from minute to minute of substances that once were parts of animals and plants” etc.<sup>82</sup> Radford Ruether concludes that such systems of domination and exploitation as the ones plaguing our creaturely coexistence today are in need of replacement by systems characterized by what she calls “biophilic mutuality.”<sup>83</sup> And this, in the spirit of overlapping consensus across disciplinary boundaries, is in tune with Tănăsescu’s political plea for mutualism. To him, everything that appears as an individual is suspect<sup>84</sup> because (individual) independence is a political and not a scientific term.<sup>85</sup> Therefore, “we need infrastructures of reciprocity built through political processes committed to the living world.”<sup>86</sup>

From a theological perspective, there is reason to endorse initiatives that correspond to the real mutuality that is a fundamental feature of humankind’s relatedness to the more-than-human. Therefore, the idea of RoN has at least one

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<sup>75</sup> Neril, Rabbi Yonatan & Rabbi Leo Dee. *Eco Bible. Volume 1: An Ecological Commentary on Genesis and Exodus*. The Interfaith Center for Sustainable Development 2020, 11.

<sup>76</sup> Cf. Latour 2024, 70–74.

<sup>77</sup> Radford Ruether 1992, 5.

<sup>78</sup> Radford Ruether 1992, 221.

<sup>79</sup> Radford Ruether 1992, 226.

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<sup>80</sup> Cf. Donna Haraway, *Staying with the Trouble. Making Kin in the Chthulucene*, Durham, NC: Duke University Press 2016.

<sup>81</sup> Radford Ruether 1992, 227.

<sup>82</sup> Radford Ruether 1992, 252.

<sup>83</sup> Radford Ruether 1992, 258.

<sup>84</sup> Tănăsescu 2022, v.

<sup>85</sup> Cf. Tănăsescu 2022, 157.

<sup>86</sup> Tănăsescu 2022, 158.

important role to play in the anthropocentric and individualistic paradigm of modernity: it problematizes a Western understanding of law based on the rights of individuals and property rights etc. Whether or not climate change can or should be understood as “nature responding to human agency,”<sup>87</sup> RoN poses at least one possible challenge to a legal system that obviously does not come to terms with large scale ecological devastation, and it does so by proposing a widening of possible legal right holders. After my experience in the majestic forest in Tiveden, I came a step closer – at least in my imagination

– to understand its ecological web as a subject of unalienable dignity and thus as worthy of legal personhood. And I was able to take this step because I witnessed a mutual relationship between humans and forest that built on an understanding of the forest as ecosystem of which the humans caring for it were a part. I think we need more examples of such mutual sensitivity, because Mother Earth/Gaia is groaning and longing for inclusion by its human guests in new models of biophilic mutuality (Rom 8:22). The concept of RoN offers possibilities for accomplishing just that.

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<sup>87</sup> Cf. Latour 2018, 40–44.

