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How Businesses Can Prepare For The Upcoming Legal Rights Of Nature

Forbes Business Council Article by Jack Uldrich



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“First they ignore you, then they laugh at you, then they fight you, then you win.” This quote commonly attributed to Mahatma Gandhi has always resonated with me because it captures the trajectory of most social revolutions.

In the early 17th century, the notion of people governing themselves was an utterly foreign concept and dismissed by monarchs and aristocrats. By 1776, a small band of revolutionaries formed a breakaway nation based on the notion of self-governance. Today, many countries across the globe are considered functioning democracies.

A similar trajectory was followed by abolitionists in the 19th century in ending slavery, suffragettes in the 20th century in gaining women the right to vote and supporters of LGBT rights in the early part of the 21st century. In each case, after years of being ignored, mocked, ridiculed and then attacked, a once seemingly radical idea was accepted by mainstream society. (Admittedly, in each of the aforementioned cases, safeguarding these hard-won rights is an ongoing battle.)

I offer this bit of history to help business leaders understand that there is another social issue now gathering steam that may be easy to ignore or even laugh at: the legal rights of nature. In the near future, it's my professional opinion that rivers, lakes, streams, forests, prairies, ecosystems and oceans will soon be accorded the same legal rights that corporations and property owners are provided today.



The Journey Of Nature's Rights

The idea may sound ludicrous, but in the early part of the 19th century, U.S. Supreme Court Chief Justice John Marshall wondered how non-living entities such as corporations, universities and municipalities could, in spite of lacking consciousness, intelligence or cognition, exist only in the eyes of the law. Today, it is an unquestioned principle that these structures are entitled to legal rights. In the future, I believe nature will stand on equal — if not greater — judicial grounds than corporations and property owners for the simple reason that society cannot exist without healthy water, land and soil.

To cite another historical example, today's society shudders at the Dred Scott decision in which the U.S. legal system classified one group of humans “as a subordinate and inferior class of beings.” Might future generations find it repugnant that our current legal system today subordinates the rights of nature to those of property owners? The answer is, yes.

In 1972, Christopher Stone wrote a landmark article in the Southern California Law Review entitled, “Should Trees Have Standing?” The article quickly found its way into the hands — and mind — of [U.S. Supreme Court Justice William Douglas](#) who, in a dissenting opinion in a case seeking to halt the Disney Company from building a resort near Sequoia National Park, cited the idea that the land itself had a right not to be despoiled.

The issue of rights for nature was then broadly ignored for the next few decades until the parliament of New Zealand recognized the Whanganui River as a [legal person in 2017](#). In essence, the government declared that the river owned itself. The same year, India accorded the Ganges River [similar rights](#) and, more recently, Ecuador has put the rights of nature [into its constitution](#).

The issue is now gaining momentum in the U.S. By my calculations, around 36 communities in 10 states have already granted nature legal rights to a limited extent, and this past November, voters in Orlando [passed an amendment](#) granting legal rights to the Wekiva and Econlockhatchee rivers. The initiative was actively opposed by homebuilders and developers who argued it would be bad for business and the local tax base, but the citizens of Orange County felt otherwise and approved the charter amendment on an overwhelmingly bipartisan vote of 89%.

Many people and companies are now no longer ignoring or laughing at these types of issues but are instead taking a more activist approach in opposing such measures. They are, however, fighting an uphill battle. These early decisions on behalf of nature are the death knell for the unfettered rights of corporations and property owners.



The Best Practices For Businesses

The once-fringe issue of “rights for nature” is poised to move rapidly into the mainstream in the coming years as the public grows increasingly concerned over issues of environmental degradation, climate change and intergenerational justice.

The prudent business leader is advised to get out in front of this issue by conducting a thorough environmental audit of how its products, supply chain and industry might be affected by the coming legal paradigm shift.

- Agribusinesses will need to reassess their ability to siphon off large amounts of water from streams.
- Plastics, chemical and fertilizer companies must become more aware of the impact of pollution and run-off on the health of rivers.
- Hydroelectric utilities will need to be aware of a river’s right not to be dammed.
- Shippers and manufacturers will need to consider the full cost of discharging waste into waterways and oceans.
- Mining companies must brace for the reality that lakes and watersheds will have a legal right to not be polluted.
- Oil and gas corporations need to seriously evaluate the probability that their right to drill in arctic refuges may soon be overturned.

The extension of legal rights is always a bit unthinkable at first. In part, this is because prior to a “thing” having rights it is easy to think of that “thing” as a resource to be exploited. The world is changing and a growing number of people are awakening to the reality that the modern economy is wholly dependent upon a healthy planet and that humanity’s long-term survival is dependent upon the natural world’s ability to regenerate. For these reasons, nature will soon have its day in court.

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