Private Rights for Nature
Conference
4-5 June 2020, Amsterdam

Conference description

The traditional civil codes distinguish between the law of persons and the law of things. This demarcation is however under pressure owing to the emerging transnational movement called rights of nature or earth jurisprudence. Around the world, natural entities that long would have been regarded as things – animals, but also rivers, for example, and mountains, forests, even Mother Earth herself – are recognised as persons before the law. This means they are endowed with rights and that they get standing to defend their intrinsic interest before courts.

Legal and theoretical scholarship on this issue is growing, however not yet in the field of (European) private law. At the same time, it is often civil codes that determine which entities have legal personality. Furthermore, rights of nature are likely to affect private property rights and businesses. When nature attains rights, she is likely to invoke them against both public and private legal persons, using strategies similar to those adopted by these more traditional legal persons. Thus, earth jurisprudence not only impacts private legal relationships, it also benefits from insights gained in the field of private law.

This conference aims to conceptualise private law dimensions of rights of nature. Thus, it does not so much ponder the question, whether animals or natural entities should be recognised as legal persons, but rather takes their legal personality as a starting point for reflection. At the same time, accounts of what such personality would mean in practice might provide relevant insights for those considering to establish more legal personalities for natural entities. As an organizing principle, the conference uses various themes that emerge in civil codes, thus delivering an impression of a hypothetical civil code for nature.

Panels
Possible topics for panels (subject to speaker’s availability) include:

Personhood, anthropocentrism and company law
An introductory panel could reflect on the essence of legal personhood and the extent to which this concept is anthropocentric. Reflecting on the Colombian Amazon region, which recently was granted legal personality, it could be asked what it means to be a natural legal person. What rights do rivers need, and what rights should be thought of for an chimpanzee, for example? Inspiration might be drawn from company law. On the one hand, companies form a key example of non-human entities possessing legal personality. On the other hand, much corporate activity seems to threat the very natural entities (to be) endowed with legal personality; industry negatively impacts nature in many respects.

Family law and uncorrupted representation
Family law and the representation of minors or the disabled might provide relevant insights regarding how to establish guardianship that does truly reflect the interest of the represented, rather than that of the guardian.

Land and property
In New Zealand, the Whanganui River is no longer owned by humans, but by itself. Is this property right a fundamental right comparable to the right to property enshrined in article 1 of the first Protocol the European Convention on Human Rights? Also, would endowing nature with legal personality contradict the property rights of many human land owners? How should such conflicts be resolved, and what factors should be considered?

Obligations
The issue of duties may be raised from the perspective of the law of obligations. Should natural entities with legal personality be allowed to enter into contracts, or to speculate on financial markets? If they have funds, should they be able to invest in extractive industries? Is it a duty of a river not to overflow and should it be obliged not to flood? In what circumstances should a human be able to sue a natural entity?
Finance and insolvency
Application of the law of obligations to natural entities raises questions concerning the ability of natural entities to pay compensation for harm incurred, or for a counterparty’s procedural costs in the event of a lost civil suit. Therefore, the issue of finance is of key importance in this discussion. How to ensure financial solvency for actors who at first sight seem to be excluded from the human economy?

Rights balancing, remedies and enforcement
Private rights are not absolute rights but may be balanced against the rights of other private or public actors. When taking for granted a natural entity with private rights, how should such balancing work be undertaken? If a legal conflict emerges, what remedies would be the most beneficial for the natural entity? Must we go so far as envisaging what should happen when animals litigate against an ecosystem? What institution should enforce the remedies granted?

Public
The conference can be attended by interested scholars, students and stakeholders, such as (local) politicians and legal counsel of (environmental) NGO’s.

End Goal
Ideally, this event results a special issue of a peer reviewed journal.
Contributions confirmed

1. **David Boyd**, UN Special Rapporteur on Human Rights and the Environment (t.b.c.)
2. **Anna Grear**, Professor of Law, Cardiff University

**Combined presentation by**

3. **Tineke Lambooy**, Professor of Corporate Law at Nyenrode Business University;
4. **Jan van de Venis**, Dutch Ombudsperson for Future Generations; and
5. **Christiaan Stokkermans**, notary

6. **Visa Kurki**, Academy of Finland Postdoctoral Fellow at the Law Faculty of the University of Helsinki
7. **Emily Barritt**, Lecturer in Tort Law, King’s College London
8. **Anne de Vries**, Tilburg University
9. **Björn Hoops**, Associate Professor Sustainability and Private Law, Groningen University
10. **Anne van Leeuwen**, Embassy of the North Sea
11. **Marius Gulbranson Nordby**, Fagbokforlaget
12. **Daphina Misiedjan**, assistant professor Erasmus University (chair)
13. **Femke Wijdekop**, Earth Restorative Justice (chair)