

# The linguistic underpinnings of environmental personhood

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# Introduction

Since 2008, various countries have enacted legislation granting juristic personhood to nature or natural entities, by analogy with corporate personhood.

This project examines the linguistic underpinnings of personhood in communities seeking rights for sentient landscapes, with a view to identifying untapped potential for legal evidence relying on grammatical reflections of animacy.



Te Urewera, “a legal entity” with “all the rights, powers, duties, and liabilities of a legal person” (Te Urewera Act, 2014, section 11[1])



## Background: Environmental Personhood

What is environmental personhood?

A legal concept that provides certain environmental entities with the status of a legal person

Used as a legal strategy for conservation in contexts where the interests of indigenous communities and the practical ideas of environmental conservationists align

Developed by analogy with corporate personhood



## What is corporate personhood?

A status that allows corporations to have the same legal status as individuals, enabling them to sue, to face liability, and to own property.

A long-established legal concept, dating back at least to Ancient Roman Law (Pollman, 2011) and developed during the Middle Ages (Avi-Yonah, 2005; Hansmann et al., 2006)



In most types of early U.S. incorporated entities in the 19th century:

*“[T]he primary purpose for incorporating [was] to provide a mechanism for holding property for some public, charitable, educational, or religious use, so that such property would not be owned by the individuals managing the institution or making decisions about the use of the property. Because the property held by an incorporated entity was not owned by natural persons, it could not be passed to the heirs of such persons but would continue to be the property of the institution, even as its “managers” (mayors, bishops, or presidents, for example) came and went.”*

Blair (2003)






Over the years, corporate personhood has been operationalized in terms of Concession Theory, Contract Theory, and (currently) Real Entity Theory (Gordon, 2019).

Concession theory: the granting of status by the State

Contract theory: groups make themselves, becoming legal entities by means of the private contractual behavior of an aggregate of individuals (problems with the idea of limited liability)

Real entity theory: the corporation is an actual legal person, with constitutional protections based on the Bill of Rights and the Fourteenth Amendment (all individual citizens have equal protection under the law).



However, the metaphor of corporate personhood has become highly controversial over the last decade, as it has been weaponized by right wing political movements

Citizens United v. Federal Election Commission, 558 U.S. 310 (2010): a Supreme Court decision that overturned restrictions on corporate interference in elections, allowing unlimited speech and spending by corporations (and fueling the rise of Super PACs). This decision was and remains very unpopular (ABC–Washington Post poll, 2010: 80% opposed, 65% strongly opposed)

See also the controversial case of Burwell v. Hobby Lobby, 573 U.S. 682 (2014), regarding the right of a corporation to deny health coverage for contraception





Part of the reason for the negative public reaction to these opinions:

the disjuncture between the Court's unquestioning assertion of the corporation's status as a 'legal' person and the public's perception that the idea of corporations as 'social' persons is ridiculous (Gordon, 2015)

For discussion of the pernicious ramifications of the metaphor THE CORPORATION IS A PERSON, see Stibbe (2015)



## *The rise of environmental personhood as a legal strategy*

Academic discussion over several decades (see Stone, 1972, Should Trees Have Standing?—Toward Legal Rights For Natural Objects, 45 S. CAL. L. REV. 450, 452)

In 2006, a small community called Tamaqua (Pennsylvania, USA) worked with a group called Community Environmental Legal Defense Fund (“CELDF”) to draft legislation that would protect the community, and the environment, from the dumping of toxic sewage.

The result was the first-ever legal recognition of the rights of nature and served as the inspiration for revolutionary constitutional changes in Ecuador.



## Ecuador

2008: After a national referendum, Ecuador changed its constitution to reflect rights for nature. This was related to a rise in political power for indigenous communities.

Rights of Nature: “to exist, persist, maintain and regenerate its vital cycles” (Ley de Derechos de la Madre Tierra [Act of the Rights of Mother Earth], Law 071, ch. II, art. 5, Dec. 2010)

Every person and every community has the right to advocate on its behalf of Pachamama, which/who escapes direct personification. Instead, it is the bearer of rights as “nature” in general







## Bolivia

2010: Passed the 'Law of the Rights of Mother Earth', and drafted the Universal Declaration of the Rights of Nature

Nature defined as a juridical entity that “takes on the character of collective public interest.”

Bolivia has been instrumental in putting together the draft Universal Declaration of the Rights of Nature, and Ecuador has been instrumental in forming the International Rights of Nature tribunal.

However, in both cases, environmental litigation has run into challenges as specific areas of protection not enumerated, and human beings involved in destruction also have rights as part of nature









## New Zealand

For a Maori tribe (*iwi*), sub-tribe (*hapu*), or extended family group (*whanau*), a particular river or mountain might be an ancestor (*tupuna*). This genealogy—or *whakapapa*—is crucial to Maori worldviews.

2014: Te Urewera National Park declared a legal entity

The act making this designation transformed the land from government-owned national park to freehold land owned by itself.

2017: Whanganui River granted environmental personhood













## India

2012: Indian Supreme Court allowed that the Indian constitution's Article 21 (right to life) could be extended to non-human animals.

2013: India's Ministry of Environment and Forests declared cetaceans "non-human persons" in a bid to protect them.

2017: High Court of Uttarakhand granted personhood rights to the Ganga River Basin - Ganges and tributaries granted sacred personhood



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## Canada

2021: The Magpie River (Muteshekau-shipu) in Quebec becomes the first in the country to be granted juristic personhood, by the local municipality of Minganie and the Innu Council of Ekuanitshit.

Nine rights: 1) the right to flow; 2) the right to respect for its cycles; 3) the right for its natural evolution to be protected and preserved; 4) the right to maintain its natural biodiversity; 5) the right to fulfil its essential functions within its ecosystem; 6) the right to maintain its integrity; 7) the right to be safe from pollution; 8) the right to regenerate and be restored; and perhaps most importantly, 9) the right to sue.







The strength of these kinds of legal strategies stands to gain by recognizing that environmental personhood is NOT A METAPHOR for many of the communities involved in litigation.

For many indigenous people:

sentient landscapes are more than legalistic concepts

and

nonhuman personhood is not metaphorical






## Decolonizing assumed dichotomies

The dichotomy between animate and inanimate is also related to a distinction between entities with and without souls, and concepts of personhood.

Different cultures and the languages they speak draw lines of distinction in different places.


People have considerable choice in how they conceptualize the outside world, and whether they perceive a separation between humans and other animals, between animals and plants, or between culture and nature.



Reichel-Dolmatoff (1997): the Tukano people of the Colombian Amazon and their “control and management of natural resources”; religious practices understood in terms of “the maintenance of a balanced ecosystem”; the shaman as an “ecological broker” whose “book-keeping shows the general system inputs and outputs”

Descola (2013, 12-13): this is misguided; the Tukano do not manage nature; they ascribe to both animals and plants the psychological and social attributes of humans.

In their dealings with the natural world, people negotiate with animals and plants as social partners, and do not see them as units of accounting.



In Ecuador, Achuar hunters understand certain prey, such as toucans and howler monkeys, to be brothers-in-law, subject to similar rules concerning killing in-laws in the course of a vendetta

Achuar women, whose domain is the village garden, talk to their plants using a language of address otherwise reserved for children

(Descola, 2013)

In New Guinea, for Karam people, the killing of cassowaries involves highly prescribed behavior and a language of avoidance, as these birds are traditionally considered to be female cross-cousins of human origin.

(Bulmer, 1967)





Dogon healers in Mali consult trees to ask them about their knowledge of the forest, and some trees, such as the kapok, are believed to have conversations with other trees in the forest.





Are animist beliefs in animal and plant souls so alien to dominant world cultures?

Ancient Greeks:

Plants = vegetative soul

Animals = sentient soul

Humans = thinking, or rational soul.

Ancient Chinese:

plant souls = spirit + life

animal souls = spirit + life + perception

human souls = spirit + life + perception + morality.

Trumper (2003, 69)



# Typological survey project

Research question:

How is animacy grammatically realized in the world's languages?

Hypothesis:

Animacy is universally grammaticalized in the world's languages, though with different forms of exponence

Method:

Conduct linguistic typology survey to establish parameters of expression; apply findings to languages in litigation



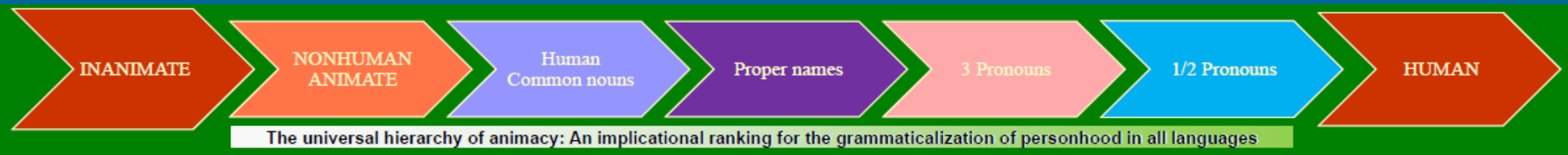
# Animacy Encoding in Language

## Animacy in the world's languages

The universal animacy hierarchy is an implicational ranking that indicates possible cut-off points for the grammatical encoding of personhood in any given language; it involves three related functional dimensions (Croft, 2003):

- i) Person: third > second, first
- ii) Referentiality: common noun > proper name > pronoun
- iii) Animacy: inanimate > animate > human (1st and 2nd person indicate participants in dialogue)

Linguistic realization involves interaction with other concepts, such as definiteness and specificity



## *Examples of grammatical exponence*

### 1. Pronominal systems

English pronouns (he/she vs. it)

See {that girl / that forest}? {She's / It's} wonderful

Relative pronouns (who vs. that)

\*the book who I read last week

(and many other phenomena - prepositional passives only licensed by verbs that select for animacy, e.g., *This bed was slept in by Elvis*; \**The horizon was appeared on by the ship*)

## 2. Case marking of animate direct objects (e.g., Spanish, Hindi)

Use of –ko to mark animate direct objects in Hindi

-ko serves as a direct object marker for animate nouns

required with specific animate NPs; optional with specific inanimate NPs; ungrammatical with any non-specific NP

Mira-ne ramesh-*ko* dekhaa. (\*Mira-ne ramesh dekhaa.)

Mira-ERG Ramesh-DOM saw

‘Mira saw Ramesh.’

(Montrul, Bhatt, & Girju, 2015)

3. Number distinction (i.e., plurality: duals, paucals, plurals) is often only realized on noun phrases higher in animacy

Plural marking only on 1st & 2nd person in Takelma

Number distinction for 1st/2nd person indexation; 3rd person lacks number distinction due to being lower on the animacy hierarchy

*yowo't'e<sup>ε</sup>* 'I run

*yowoy`k'* 'we run'

*yowo'<sup>ε</sup>* 'he, she, it, they run'

(Croft, 2003, from Sapir, 1922)

4. Word order: in some languages, the noun highest in animacy ranking comes first in the sentence, irrespective of subject/object status

Animacy and word order in Navajo

Fronting obligatory when object is animate and subject inanimate

'ashkii k'asdáá tó biisxí

the boy - almost water it-killed-him

'the boy was almost killed by water' = 'the boy nearly drowned'

Fronting preferred when object is human and subject nonhuman animate

'ashkii dzaanééz yishhash

the-boy the-mule he-was-bitten-by-it

'the boy was bitten by the mule'

Southern Tiwa shows sensitivity in terms of both number and word order: 1st & 2nd person are ranked higher than 3rd, and therefore when these are combined, the hierarchy is reflected in word order. Therefore, you cannot say “The man saw me”. Instead:

*Seuanide-ba*                      *ɪe*                      *-mu -che*                      *-ban.*  
man                      INSTRUMENTAL ISINGULAR                      see                      PASSIVE PAST  
‘The man saw me’, literally: ‘I was seen by the man.’





## Discussion: Linguistic Reflections of Sentient Landscapes

*Synthesis of linguistic evidence:*

suggests that all languages have linguistic reflections of animacy / personhood; in many indigenous communities seeking environmental protection, such linguistic encoding is a source of potential legal evidence of deep-seated beliefs in sentient landscapes



*Cosmopolitics (the ability of landscapes to act upon people):*

challenges Western perceptions of personhood and the sovereignty of culture over nature (Cruikshank 2005; Stengers 2010; Blaser 2013; de la Cadena 2015)

*Parallel perspectives on environmental personhood:*

the interests of indigenous rights activists and conservationists are not identical but are aligned in terms of land tenure and environmentalism



## *Applications to current litigation*

Spanish (Moche, Northern Peru; Laguna Colorada, Bolivia)

In La Libertad (Peru), *wak'as* (sentient landscapes made by indigenous ancestors) and *apus* (honorable indigenous ancestor mountains)

Sentient landscapes as agents of social justice: Mountain spirits named as plaintiffs in environmental cases against extractive industries (2018, 2019)

(See Bacigalupo, in press)

Animate direct object marking of *apus* (ancestor mountains)









## Maori (New Zealand)

Potential for invoking linguistic evidence:

Concepts of rivers as ancestors are reflected in possessive morphology

*o* vs *a* marking in possessives, indicates whether the noun is alienable (separable from the speaker) or inalienable: ancestral land is inalienable, such that the people belong to the land; the land does not belong to the people. Human ancestral kinship.

Also possibly: *toko* is a prefix added to some numerals to mark human / personhood

## Tibetan (Kham, Southwest China)

Mountains as embodied spirits (*gzhi bdag*): *mgo* 'head' = summit; *sked* 'waist' = slopes; *zhabs* 'foot' = base; *Gzhi bdag* speak and take action; they have names, homes, and life force (*srog*)

(compare with body-part names for orchid species in Ilingot, Philippines)

For most Tibetans, the spiritual significance of conservation is more important than the ecological significance. Nevertheless, the sacred natural sites of Southwest China are refugia of biodiversity (approx. 25% of the Tibetan Plateau, 30% of Ganzi Tibetan Autonomous Prefecture and 60% of the Yubeng Valley, northwest Yunnan is sacred landscape (Studley, 2019)







## Conclusion

Legitimacy of belief systems in cases of environmental personhood is often legally challenged

Animacy is universally grammaticalized; evidence of grammatical animacy in denoting sacred landscapes may be used to bolster claims of authenticity of belief systems in litigation

Research continues on forms of reference and address to endangered, sentient landscapes, through rituals and narratives.



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