

Tilo Wesche. *Die Rechte der Natur: Vom nachhaltigen Eigentum*.

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Rights of Nature have come a remarkable way in recent decades. Since their inclusion in the Ecuadorian constitution in 2008, Rights-of-Nature initiatives have emerged in over 45 countries. While mainly legal scholars, political ecologists and political scientists have dealt with this topic to date, there have been very few philosophical analyses on the subject. Tilo Wesche's book *Die Rechte der Natur: Vom nachhaltigen Eigentum (The Rights of Nature: On Sustainable Property)* fills that gap but also offers an innovative argument on the subject that departs from previous approaches.

Wesche defines the main concern of his book as the project to provide a normative reconstruction of ecological subjective rights (17). In contrast to objective rights, which treat nature or ecosystems as mere objects of protection, subjective rights assign legal personhood to nature or specific ecosystems, so that a new legal subject is created.

From a metaethical perspective, Wesche builds his argument in favor of sustainable property by drawing on a philosophy of practice (128). This metaethical strategy does not rely on, for example, self-evident moral beliefs or the coherence of a network of moral beliefs; instead, moral arguments are justified because they are derived from existing practices and their implicit recognition within those practices. Wesche thus derives the validity of sustainable property rights from the validity of existing property rights.

In the first part of his book, Wesche prepares the conceptual ground for his thesis by distinguishing between two conceptions of property (36): *Sacheigentum* (material property) and *Gütereigentum* (property of goods). He then argues in favor of conceptualizing property in terms of *Gütereigentum* and demonstrates that property rights go beyond mere possession and encompass the rights to use, exploit and transfer property – which gives property owners the status of legal subjects.

In the second part of his book, Wesche first deals with anthropocentric and ecocentric justification strategies regarding the Rights of Nature. He then elaborates his own property-theoretical argument in favor of nature's subjective rights. According to Wesche, anthropocentrism denies the normative intrinsic value of nature (162). Only humans have rights and owe each other their recognition.

In ecocentrism, by contrast, nature is not only valuable to humans but is also valuable in itself. Ecocentrism thus implies an ontology of value that consists of two assumptions: Nature has intrinsic value, and this intrinsic value is based on a certain ontological property that characterizes nature (175). Several ecocentric variants exist, which can be roughly divided into four groups according to the different characteristics of nature. These characteristics are the wholeness of nature, its character as a gift, its being an end in itself, and its interests.

However, Wesche criticizes ecocentrism for failing to justify the subjective Rights of Nature. This gap in justification traces back to a naturalistic fallacy: A description of what *is* does not result in a prescription of what *should be* (183). The description of nature's wholeness, the unavailability of a gift, a teleology, and the interests of nature do not yet include an explanation of why nature is worth protecting.

Moreover, ecocentric rights cannot be universalized beyond their cultural contexts. Hence, they do not allow for an expectation that such rights must be observed by other cultures. Proponents of ecocentrism cannot demand that Rights of Nature be established in areas that are not already pervaded by an ecocentric worldview. Their worldwide implementation could only be demanded if the universalizing power of reason gives them validity that is not context-dependent (191).

Wesche then proposes a third path between anthropocentrism and ecocentrism, namely the theory of sustainable property. In this theory, the normative intrinsic value of nature is not based on a concept of value but rather on the rationality of property rights. Instead of the Rights of Nature being justified by recourse to the value of nature, they should derive from the validity logic of existing property rights.

He bases this argument on a value theory of property, according to which there is a precontractual right to ownership of one's labor yield (218). Anyone who contributes to creating value has a right to ownership of that value. The corresponding rule of value theory is that "value creation justifies ownership."

On this basis, Wesche constructs the following argument in favor of the subjective Rights of Nature:

1st premise: The rule "value creation justifies ownership" is valid.

2nd premise: Human labor and ecosystem services are two types of value creation.

Conclusion: Human beings have property rights regarding the fruits of their labor; ecosystems have property rights regarding the resources they create.

On the human side, Wesche bases property rights on the value of human freedom, which implies material self-determination (222). However, because nature is not free, it initially has no right to ownership of the natural resources it creates. Freedom can therefore not be used as a reason for a property right of nature, because freedom does not belong to nature but only to humans. There must, therefore, be another reason.

Wesche identifies that reason in the rationality of existing property rights. Property rights must be transferred to nature because that is the only way to fulfill their conditions of validity. Consistency makes it necessary to apply the rule of "value creation justifies ownership" to all cases that fall under it. These cases include ecological value creation.

Wesche's subsequent transfer of this same rule from humans to nature occurs in three steps (225). First, the rule applies to labor yields. Secondly, the rule applies to the human processing of natural resources, which means the scope of the rule can be extended to those resources. Thirdly, by extending the scope of the rule to processed natural resources, the rule can be *applied* to nature. Consequently, if a property right to the proceeds of labor is justified for humans – on the basis of human freedom – then it is justified that nature has a property right to its resources on the basis of the underlying rule.

In the third part of his book, Wesche finally lays out the following argument in favor of ecological sustainability (235). He now presupposes the role of nature as owner, as he has established this point in the previous part. His argument is as follows:

1st premise: Property protection obliges us to use the property of others sustainably.

2nd premise: Natural resources belong jointly to humans and nature, which is why the human use of natural resources always involves the use of the property of others.

Conclusion: The use of natural resources by humans entails an obligation to sustainability.

Subsequently, Wesche addresses two common objections to the Rights of Nature.

The first objection is that rights correspond to duties, but nature has no duties – given its lack of freedom – and therefore it cannot have rights (260). According to Wesche, however, this objection can be dispelled with reference to representative trusteeship. Duties can be exercised by trustees just as vicariously as rights.

A second objection is the fear that giving equal status to human rights and the Rights of Nature would jeopardize dignity as a unique characteristic of human beings (284). Following Wesche, however, the boundaries between human dignity and Rights of Nature are by no means torn down. A basic normative distinction remains: While human beings have a right to utilize nature, nature does not have a right to utilize human beings.

In summary, Wesche's book offers an impressive examination of the most important philosophical questions associated with the Rights of Nature. The book accomplishes two goals: It provides a concise analysis of existing justification strategies for the Rights of Nature and presents an innovative justification proposal based on the validity logic of property rights. I can unequivocally recommend the book to anyone with an interest in the Rights of Nature and environmental ethics.

Two small questions remain for me, however. The first concerns Wesche's critique of ecocentric justification strategies. Against Wesche's post-metaphysical position, I would argue that non-Western ontologies can lend some plausibility to ecocentric justifications. One example is relational ontologies, according to which the cosmos does not primarily consist of individual things but rather of relationships that are normatively laden. Moreover, it is debatable whether Western property rights are universally applicable, especially given the divergent understandings of property among Indigenous peoples.

My second question concerns Wesche's argument of transferring the rule "value creation justifies ownership" to nature. In my opinion, Wesche convincingly shows that the scope of this rule also *touches* on natural goods, because humans are constantly processing natural goods. At least, this raises normative questions about how to interpret value creation by nature in the context of ownership. But can we already deduce from this that the rule "value creation justifies ownership" can be plausibly *applied* to natural goods that create value? Or would such a step not require further analysis of the commonalities and differences between our recognition of ownership among humans and our potential recognition of ownership by nature?