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Mary Warnock's Challenges to Rights of Nature: Accepting Interests, but Not Rights, of Nature

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ABSTRACT *Rights of nature (RoN) is an emerging legal tool for strengthening nature conservation, receiving increased scholarly attention and finding its way into domestic legislation. RoN is an innovation in legal thinking often justified with ethical arguments and concepts such as 'intrinsic value' or 'interests'. But there are many challenges with justifying RoN based on such concepts which are rarely considered by RoN advocates, blocking the formulation of stronger arguments. Based on Mary Warnock's discussion of RoN, here I investigate two related claims: (1) that environmental entities can be said to have interests, but (2) while this means that they have moral status, it does not justify concluding that they are rights-holders. By way of critical engagement, I put Warnock's discussion in contact with scholarship on RoN and the scope and grounds of rights, scholarship that has expanded since Warnock's engagement with the concept. Warnock's observations are attentive to the relevance of concepts such as intrinsic value and interests to the environment, but also to their limits, in ways that can benefit RoN scholarship.*

1. Introduction

Recent years have seen a growth in discussion of and an increasing number of legal recognitions of rights of nature (henceforth RoN). The core and defining feature of RoN is that environmental entities, such as rivers, forests, trees, or ecosystems, have rights, resulting in agents having *direct duties* to such entities. In legislations where RoN are recognized, such entities have standing, meaning that they have permission to appear as plaintiffs and face a defendant who has allegedly injured them. That is, claims can 'be raised on behalf of elements of Nature, claims that are not simply – and indirectly – for the derivative welfare of humans'.[1] This stands in contrast to previous legislation involving the environment.

Actual recognition of RoN is dependent on the contingent conditions of domestic legislation – such as what entities can be ascribed legal personality in that specific legislation – but there are several who provide justifications for RoN relying on more universal and general arguments. The focus of this article will be on ethical arguments justifying RoN, and specifically critically engaging with Mary Warnock's discussion of RoN. Warnock engaged directly with RoN[2] at a time when actual legal recognition of it was sparse or non-existent.

Even if it is instructive for analyses of core conditions for RoN, Warnock's discussion is neglected in current RoN scholarship, despite providing many analytically valuable observations that impact justifications for RoN. I aim to show that Warnock discussed RoN in ways that can constructively benefit the growing scholarship by making several much-needed observations and arguments regarding its justification. She shows how notions

of interests can be made relevant to the environment. This makes it possible to state that non-sentient entities possess interests, and that those interests can be harmed. But she is also attentive to whether that means that legal standing ought to be accepted, something which she rejects. Thus, her critical engagement with RoN results in two main points, to be discussed throughout this article:

(1) Environmental entities possess interests.
(2) While those interests result in moral status, they do not result in rights.

Such a discussion has analytical benefits for RoN scholarship where there is often a rather rapid move from concepts such as intrinsic values and interests to holding rights, meriting a closer discussion of the concepts and their relation to rights. But Warnock's discussion is also preferable to those that quickly reject interests as being relevant to nature. While Warnock's argument does not justify RoN, it nevertheless makes it possible to state that a non-sentient entity that possesses interests can have those interests curtailed.

I will begin by briefly surveying RoN, with a focus on general arguments that are taken to justify it. Though legal standing and moral status differ, the discussion of such arguments will show how legal arguments for RoN draw on conceptual resources from moral philosophy, more specifically intrinsic value and interest-based theories of wellbeing. This will be followed by two sections that relate to (1) and (2), respectively. First, I will examine Warnock's discussion of the potential of teleological and perfectionist accounts of interests, conceding that nature has moral status. Then, I will discuss how there are limits to such accounts, as they do not lead to rights. Next, I will provide an assessment of the strengths and weaknesses of Warnock's account, vis-à-vis both a too enthusiastic and quick acceptance of RoN, and a too great reluctance to accept perfectionist interests, followed by a conclusion.

2. Rights of Nature: Moral Arguments for RoN

RoN have recently emerged as a viable alternative in environmental legislation to strengthen nature conservation. The 2006 Tamaqua Borough Sewage Sludge Ordinance in Pennsylvania, USA, states that natural communities and ecosystems shall be considered persons for purposes 'of the enforcement of the civil rights of those residents, natural communities, and ecosystems'.[3] In 2008 RoN were included in the Ecuadorian constitution. In 2010 Bolivia instituted the Law of the Rights of Mother Earth which recognizes that nature has rights to *inter alia* life, diversity, water, clean air, restoration, and pollution-free living.[4] The Whanganui River and the Te Urewera National Park in New Zealand were granted legal personhood in the Te Awa Tupua Act 2017, and the Te Urewera Act 2014, respectively. The Te Awa Tupua Act recognizes that the Whanganui River 'is a legal person and has all the rights, powers, duties, and liabilities of a legal person'.[5] The Act acknowledges the Māori relationship with the river, and the importance the river has to their identity.[6] In 2022 Spanish legislation recognized the legal personality of the Mar Menor lagoon, having the right to exist as an ecosystem and evolve naturally, and to be protected, conserved, and restored.[7] A network of Irish academics in 2024 suggested that Ireland's government hold a referendum on giving constitutional

rights to nature, and there have been motions in several local councils across Ireland.[8] More examples could be added.[9]

There are at least two central arguments to justify RoN that have clearly ethical bases.[10] One such argument justifies RoN with reference to intrinsic value, and the other by relying on interest-based views on rights and the ethical relevance of wellbeing. Though legal and moral rights differ, I here take such arguments to consist of justifying legal rights for nature by utilizing concepts and arguments from moral philosophy. If such arguments are successful, they at the very least provide strong reasons for why legislations could be expected to recognize RoN in some form. It is in this context that Warnock's contribution emerges.

2.1. Justifying RoN Based on Intrinsic Values

Arguments justifying RoN that rely on intrinsic value often have a common structure: (some part of) nature has intrinsic value, and intrinsic values merit rights. Thus, for instance, Chapron *et al.* write that 'entities that have value for their own sake, rather than for the value they provide others, can have rights', and that 'rights-of-nature advocates make a moral assertion that nature does have this intrinsic value'.[11] Similarly, Putzer *et al.* state that RoN entail that 'natural entities are conceived as subjects with intrinsic value independent of human interests'.[12] Kauffman and Martin suggest that the recognition of the legal personhood of the Whanganui River in New Zealand in 2017 codifies 'the intrinsic values of the river ecosystem according to the Māori worldview'.[13]

There are at least two challenges to justifying RoN with appeal to intrinsic value. First, it is not settled as to whether nature has intrinsic value that is relevant in this context, and, if so, what type; and what specific entities in nature (species, ecosystems, individual beings, abiotic and biotic entities, or their combination) such value would refer to. This lack of consensus is evident from the many divergent views in environmental ethics regarding the source and potential observer-dependency of intrinsic value, and the types of entities that have intrinsic value.[14] Arguments for the non-instrumental value of nature – if one wishes to restrict intrinsic value to such an account – come in both anthropocentric and non-anthropocentric forms. RoN advocates are not clear on which one justifies RoN.[15]

Second, and more importantly in this context, one can question the connection between something's having intrinsic value and its holding rights. That is, having intrinsic value is not equivalent to being a rights-holder, and RoN advocates seem to be moving too fast. This much is also acknowledged by an early RoN advocate, the legal scholar Christopher Stone, who states that 'corporations have no intrinsic value, yet they have standing', thereby rejecting intrinsic value as a necessary condition for holding rights.[16] That is, something can have legal standing, despite not having intrinsic value.

Yet even if intrinsic value is not a necessary condition, it could be a sufficient condition for holding rights. But that can also be questioned. Warnock for instance suggests that while it is possible to recognize the intrinsic value of species or individual animals through protective legislation, this does not necessitate the 'provision to them of standing as plaintiffs in their own right'.[17] That is, an entity's value can be legally expressed without giving the entity *per se* standing. In the context of the environment we could think of a number of entities, such as ecosystems, age-old trees, or rare species, that are intrinsically valuable in the sense of being non-instrumentally valuable, without suggesting that they have standing. An environmental area could also be non-instrumentally valuable to a group of

people, which could provide reasons to conserve and care for that area, without the area *per se* having legal standing.[18]

Joseph Raz's distinction between intrinsic and ultimate value clarifies this point. While we can legally recognize the intrinsic value of an environmental place, it does not require recognizing the *rights* of that place. Raz stated that *ultimate* value was the appropriate concept for beings whose interests result in duties and that not all things which have intrinsic value have ultimate value, the latter providing the capacity for rights.[19] Though both are distinguished from instrumental value, only ultimate value motivates interests in the sense of providing a 'sufficient reason for holding some other person(s) to be under a duty'.[20] To Raz, something can be intrinsically but derivatively valuable, when it is valuable for non-instrumental reasons but its value is derivative of another's ultimate value.[21] In this category Raz places for instance companion animals and works of art, stating that while their value is intrinsic and non-instrumental, it is not ultimate as their value 'derives from their contribution to the well-being of persons'.[22] We may have obligations to preserve those things of intrinsic value, but that is not due to their value *per se*, but rather due to their contribution to entities having ultimate value, to whom we have direct duties.

If the above holds, justifying RoN with appeal to intrinsic value is unlikely to be a convincing strategy. Yet, as we saw above, one reason why Raz discusses 'ultimate value' is because only beings with ultimate value can possess interests that place others under a duty. This leads us to interest-based arguments for RoN, of which there are also examples in RoN scholarship.

2.2. *Interest-Based Arguments for RoN*

In this section I will investigate the claim that 'nature has interests, and having interests result in being a rights-holder'; that is, an acceptance of (1), but a rejection of (2). Chapron *et al.*, after discussing intrinsic value, suggest that RoN 'may be most easily grounded in the interest theory of rights'.[23] Echoing Joseph Raz, they argue that a person or entity has a right if 'some aspect of their interests or well-being' 'is a sufficient reason for holding some other person(s) to be under a duty'.[24] Yet, as we saw above, in Raz's account, interests relate to bearers of *ultimate value*, who have interests due to the capacity of wellbeing. Thus, relying on Raz's account to justify RoN is risky.[25]

An interest-based justification of RoN lies close to Stone's original justification, where he stipulates three conditions for legal standing:

1. That the thing can institute legal actions *at its behest*
2. That in determining the granting of legal relief, the court must take *injury to it* into account
3. The relief must run to the *benefit of it*[26]

Though the interest-based view is implied in concepts such as injury and benefit, and that legal action can be instituted at the entity's behest, Stone provides examples that more specifically point in the direction of an interest-based view. For instance he writes that 'natural objects *can* communicate their wants (needs) to us'[27] even better than other right-holders:

> The lawn tells me that it wants water by a certain dryness of the blades and soil – immediately obvious to the touch – the appearance of bald spots, yellowing, and lack of springiness after being walked on; how does 'the United States' communicate to the Attorney General?[28]

He suggests that since we can make decisions on behalf of and in the interests of others and since nature can be damaged and thereby have its interests curtailed, there should be no problem in recognizing nature as a rights-holder. Consequently, Stone recognizes an interest-based foundation.

There are several challenges to interest-based justifications of RoN.[29] One central concern is the controversy of ascribing interests to non-sentient entities, in the sense of establishing interests that lead to holding others to be under a duty, as suggested by Raz.[30] To legal philosopher Matthew Kramer, from a conceptual standpoint the interest theory of rights permits ascribing legal rights to inanimate natural entities. But even if conceptually possible, there is a 'considerable moral significance attach[ed] to this distinction between living things that are conscious and living things that are nonconscious'.[31] The moral distinction has implications for our case at hand, rejecting the relevance of interests to non-sentient entities.

Alasdair Cochrane distinguishes two sets of values underlying interests.[32] One is perfectionist, which concerns 'what makes an individual a good example of its kind'.[33] This view is teleological to the extent that it bases the assessment of that individual relative to a teleological view of its kind. The perfectionist value is contrasted with prudential value, which concerns what is 'good for the individual whose life it is'.[34] A prudential value requires that the interest and wellbeing must matter to the individual whose life it is, which requires additional conditions, such as sentience, for interest to be a relevant concept.

Committing to a perfectionist account has troublesome practical implications, according to Cochrane. Even if it is conceptually possible to state that 'for a state of affairs to be in X's interests, it must *improve X's condition*', this 'extremely liberal' view would normatively 'allow for an enormous number of entities to be described as possessors of interests'.[35] Untenable implications would follow; as Cochrane puts it: 'animals would have interests, plants would have interests, but so too would vases, books, bicycles, and much besides'.[36]

But Cochrane does not end his criticism of the perfectionist view with it generating too many entities having interests. While it may be practically cumbersome and costly to protect all those rights-holders, to Cochrane there are stronger arguments than plenitude for rejecting the perfectionist view on interests. Even if objects, not limited to plants but also vases, bicycles, books, and computers, can be in better or worse shape, and their conditions can deteriorate or improve, 'they themselves receive nothing from such states of affairs – and they thus possess no interests'.[37] Cochrane's main concern is to construct a case for animal *rights*, and not only moral status, where the capacity to consciously experience the benefits and harms is a necessary condition. To Cochrane, interests is not an appropriate concept for non-sentient beings. One may object that Cochrane sets the bar for interests too high. In response one can reply that he maintains a rigorous understanding of rights based on interests, that refrains from a too generous account of rights-holders but preserves its normative strength. The rights that Cochrane identifies 'impose extremely demanding obligations on us',[38] which explains setting a high bar for interests that provide a foundation for such rights.

A response from RoN advocates could be that rights are not absolute and such a high threshold is not warranted. Since rights are not absolute, we can allow ourselves to be more generous with what entities we consider to be rights-holders. This strategy has a price, as it weakens the normative power that rights-holding implies. Indeed, to Stone, 'we do not have an absolute right either to our lives or to our driver's licenses',[39] and 'to say that the natural environment should have rights is not to say anything as silly as that no one should be allowed to cut down a tree'.[40] Rather, what follows from holding rights is that any possible infringement of a right must be preceded by procedures that justify that infringement and reflect the importance of the right, lest it be counted as a violation.[41] RoN would 'encourage the institution whose actions threaten the environment to really *think about* what it is doing, and that is neither an ineffectual nor a small feat'.[42]

Yet this strategy comes with the price of a too generous use of the concept of 'rights', and a troublesome claim that no rights are absolute, a claim which has substantial normative and practical implications. Stone's discussion is, however, more consistent with a view of moral status as espoused by Warnock. Even if (some) rights can standardly be overridden and at most give rise to *pro tanto* reasons, they generally impose obligations and duties on us, as suggested by Cochrane, that set a high threshold lest the overriding count as a violation. Moral status also implies duties, but in a different sense than rights. After all, we can imagine that performing actions that will affect trees and ecosystems ought to be preceded by careful justifications, but they do not result in obligations of the same strength as rights, due to the difference that sentience makes. Nevertheless, perfectionist conceptualizations of interests provide us with some obligations of conservation and protection.

There is one last objection to applying interests to environmental entities. Even if perfectionist values justify concluding that interest is a relevant concept, is it relevant to ecosystems?

It is noteworthy that the examples used for illustrating teleological accounts of interests – as a way of assessing whether an individual is a good example of its kind based on a teleological conception – to be further discussed below, tend to use individual rhododendrons, oaks, leaves of grass, or lawns where one species is highly dominant. This focus on individual entities is problematic as RoN often encompasses ecosystems. In ecology the observer-dependency for delimiting ecosystems and assessing which state they are to be in is widely discussed. It could be possible to make a meaningful claim that individuals of species S tend to be in condition C, *this* specific individual of S is not in C, and is therefore not flourishing (and, implicitly, we should – possibly – help this individual out). But in ecosystems there is a prevalence of stochastic events and chance,[43] which make it difficult to make analogous arguments that this ecosystem (understood as something more than 'this collection of entities that randomly happens to be in the same place at the time of observation') is of type E, but further conditions need to be fulfilled for this ecosystem to be a flourishing E.[44] In some cases, there are factors that facilitate such delimitation. Warnock discusses the River Thames,[45] and the Whanganui River has been granted rights. Despite seemingly departing from the individualist focus of teleological accounts, these could be stated to be observable and delimited entities,[46] where one can assess whether they match up to a perfectionist account of being good rivers through the judgment of knowledgeable observers. However, in many cases there will be difficulties in where to draw the line regarding a specific entity, and discussions of the criteria by which to establish functioning.

One possible response is to embrace long-standing conceptualizations of ecosystems as striving towards being 'in balance' or 'tending towards equilibrium' and determine the flourishing of this place as a token of type E according to such balance or equilibria, but those conceptualizations are largely considered unmerited.[47] Ecosystems as systems in equilibrium is the exception rather than the rule. But even if delimitations and conditions of ecosystems are observer-dependent, ecosystems need not be fully arbitrary units of randomly collected entities. Rather, there are plenty of concepts by which to delimit specific ecosystems and ecoregions that are also instructive when it comes to assessing the state they are in.[48] But even if two or more speakers can refer to ecosystems in intersubjectively meaningful and valid ways, it is more challenging and less intuitive to distinguish specific ecosystems or environmental places than to distinguish individual specimens.

So, we have at least two 'ecological' challenges to (1), that environmental entities possess interests: how to delimit ecosystems, and how to assess what state they are to be in. A possible 'gardener's view', as Warnock puts it, would perhaps be a possibility for delimiting ecosystems and establishing what conditions they are to be in. Maybe, as is often the case in practice when RoN are recognized, custodians and ecologists can be tasked with assessing what state an ecosystem is to be in. A risk for this strategy, however, is what ecologists call 'shifting baseline syndrome'. Marine biologist Daniel Pauly noticed something about setting baselines in fisheries, which he described thus:

> Essentially … each generation of fisheries scientists accepts as a baseline the stock size and species composition that occurred at the beginning of their careers, and uses this to evaluate changes. When the next generation starts its career, the stocks have further declined, but it is the stocks at that time that serve as a new baseline.[49]

The result is 'a gradual shift of the baseline, a gradual accommodation of resource species, and inappropriate reference points … for identifying targets for rehabilitation measures'.[50] Due to such shifting baselines, what is considered a productive fishery stock or healthy ecosystem will gradually change, and ever-greater losses and degradation of the natural environment will be accepted.[51] While scientists are not immune to this syndrome, longitudinal biodiversity studies and restoration of the natural environment have the possibility of mitigating the syndrome in ways that could parallel interests understood teleologically.[52]

Nevertheless, these issues make it difficult to assess what teleological state an ecosystem as such is to be in, both conceptually and in practice, and whether to accept that nature has interests from an ecological perspective. This motivates a greater involvement of ecologists and ecological knowledge in determining interests, but this lies beyond the scope of this article.

In summary, it is questionable whether reference to intrinsic value or interests provides such a strong justification as the rhetoric around RoN seems to assume. In the next section, however, we will see how Warnock argues for the potential of the interest-based account.

3. Warnock on the Potential of Interest-Based Accounts

In this section I will discuss the first point from Section 1 – that nature possesses interests. Though Warnock is more often associated with *inter alia* bioethics and education, she was

no stranger to discussing environmental issues. Between 1979 and 1984 she sat on the Royal Commission on Environmental Pollution, an experience described here in a way that gestures toward her attitude to nature:

> We wrote in-depth reports on a succession of different topics, some chosen for us by government, some of our own choosing … In the case of oil round the Shetland Islands, failure adequately to clear even quite minor slicks had driven away an enormous number of birds: puffins, guillemots, razor-bills and shearwaters … I, reluctantly, was prepared to argue that the presence, on these shores, of these relatively rare sea birds did count as an 'amenity' and could therefore be taken into account by the economists in their cost-benefit analysis. But it pained me to do so; and I found it difficult to explain why to either of my sets of colleagues. For a start I detested the word 'amenity'. It suggested the provision, in forest areas, of car parks, picnic areas, lavatories, and benches for granny to rest on, while the rest of the family went for a walk along specially marked 'nature trails'. The application of such a word to the wild, steep cliffs at Sumburgh Head … was totally inappropriate. At that time the law had not been so changed that damage to the environment could be brought as a charge in cases of pollution; but something of this kind was what I wanted, in order to explain what the loss of the birds meant.[53]

On some occasions, she was more explicit, stating that 'Nature has an intrinsic value, whether we think of it as the field of all our understanding of ourselves and other animals, and plants; or as the source of sometimes ineffable imaginative epiphanies'.[54] She discussed the possibility of a 'domestic yet outward-looking legislation',[55] conceding that private ownership, including land ownership, is here to stay but asking us how to enhance its virtues – generosity and good husbandry – while minimizing its vices – miserliness and greed.[56] Warnock comes across as a humanist philosopher with a deep concern for finding appropriate concepts to express care for the environment.

What does Warnock say about RoN? Stone applauds Warnock's discussion of interest, which she 'expands with a marvellous, empathetic, gardener's eye view of plants, with their shared *telos* but unequally promising buds, one which leaves my own imagery in the dirt'.[57] Her discussion has analytical benefits that unpack how the notion of interest can be made relevant to the environment. Warnock starts off her engagement with RoN by making a notable observation that stands in contrast to much rhetoric on the subject. Interests have been used to widen the sphere of moral relevance and rights-holding before, for instance when including animals. She observes that Stone's book-length version of his justification of RoN[58] spends substantial time discussing cases where animals are raised as plaintiffs. Can RoN draw on the resources of animal ethics? After all, both are expansions of rights, as Warnock observes. Some RoN advocates make use of the rhetorical point that RoN is the next step in a process of widening the sphere of moral (and legal) relevance through the concept of rights.[59]

A challenge to such an expansion drawing on analogies with animal ethics is that sentient animals have interests in a more conventional manner than trees. They have the prudential value that Cochrane discusses, rather than the perfectionist value. Philosophers such as Peter Singer base the extension of moral status to animals on equal consideration of interests. Yet Singer also holds that a prerequisite for having interests is the capacity for sentience.[60] Expanding moral status to sentient animals follows from putting the locus of

moral status on sentience. RoN would require something more radical than that, such as showing that something other than sentience justifies interests, and preserving the relation between interests and rights.

Warnock meets this issue head on, by providing nuances and a refinement of the concept of interest in a way that makes it relevant to the environment, without relying on sentience. In contrast to those views that make sentience a necessary condition of interest, Warnock writes that 'if we take an "interest" to mean "what is good for" something, then things look different'.[61] Taking the gardener as a model, she continues that 'anyone who enjoys gardening knows perfectly well that some situations of climate or of soil, of sunshine or of shade are good for a plant and some are bad … by "what is good for a plant", we mean what will allow it to flourish and grow as it should'.[62] Emphasizing this point, she writes that she 'feel[s] no discomfort at all in saying such things as that it is the interest of my lawn to have the sprinkler on' and that she 'know[s] when my lawn is in a good state and when it is not, even if the lawn does not know'.[63] Indeed, if it is to be a lawn at all, it is in *its* interest that it should be green.[64] She bases her view of interests on an explicitly teleological view by stating:

> Allowing interests to such environmental features as rivers and plants can be interpreted as an Aristotelian belief that everything (including Man) has a *telos* or end, which is to be a good specimen of whatever it is.[65]

As an example, she writes of the cleaned River Thames that it 'now displays the virtues or excellences peculiar to rivers, of being clean, strong flowing, and a suitable home for fish', being teleological because 'this is what rivers are *for*'.[66] This is consistent with the perfectionist view criticized by Cochrane, which Warnock consequently endorses and expands.

Warnock bases interest on the teleological capacity of *flourishing*. She notes that this concept is not metaphorical when applied to the environment. Rather, what is metaphorical is how descriptions of flourishing often use horticultural metaphors, such as in education where children must be provided 'space to blossom, must be encouraged to put out new shoots, will wilt if the atmosphere of the classroom is wrong, and must not be too savagely pruned or trained'.[67]

Warnock's perspective thus clearly seems virtue ethical in its use of flourishing and connecting interests to flourishing. This is a unique perspective in RoN scholarship. To virtue ethicist Philippa Foot, 'to flourish is to instantiate the life form of that species, and to know whether an individual is or is not as it should be, one must know the life form of the species'.[68] Environmental virtue ethicist Ronald L. Sandler suggests that 'an oak tree with shallow roots and a rhododendron that never flowers are defective' and are thus 'poor specimens of their kind'.[69] Whether a specimen is flourishing is to be assessed relative to the life form that it belongs to. This should be understood teleologically, as related to criteria such as self-maintenance.[70] In species with more psychologically and socially advanced features, the number and complexity of criteria by which to determine conditions required for flourishing increase.

Warnock highlights arguments we do not commonly find in current RoN scholarship, using a virtue ethical teleological or perfectionist ground for interests. It becomes possible to state what is good for something, and consequently how its interests may be curtailed. This much is consistent with Cochrane's discussion of perfectionist values, where wellbeing is determined by assessing whether an individual is a good example of its kind. Thus far, Warnock has only expanded on the notion of interests, connecting it to a virtue

ethical and teleological foundation. However, she disconnects interests from rights-holding, in ways that are both beneficial and challenging to RoN, which will be discussed in the next two sections.

4. Warnock on the Limits of the Interest-Based Account

In this section, I will discuss the second point in Section 1, namely that while there are reasons to concede that nature has interests, those interests do not lead to rights. Warnock observes that while 'non-sentient objects may have interests, and therefore are worthy of being taken morally into account in making decisions about their destruction, or preservation … I cannot see how one can go much further'.[71] She writes that 'it is plain that an object may have some moral status, that is, be deserving of some moral consideration, without having standing in the legal sense'.[72] Warnock rests content at deducing moral *status* from the Aristotelian *telos*-based account of interests and claims that rights are not appropriate, thereby not justifying RoN while nevertheless accepting interests as an appropriate concept for nature.[73]

Warnock's approach has benefits relative to Cochrane's prudential values, for instance. In his framework, impacts on environmental entities only count as harm if a sentient being is affected. In contrast, Warnock's disconnection of interests and rights makes it possible to state that the interests of such an entity are curtailed even if no sentient beings are affected. This makes Warnock less vulnerable to the objection that committing to a perfectionist base for interests would mean a plenitude of non-sentient beings having rights. Their interests lead to moral status, not the more rigorous rights, and she need not engage in discussions of whether rights are absolute.

While both Stone and Warnock support interest-based views related to the environment, they draw conflicting conclusions regarding the support such a view provides to RoN. In Stone's words, responding to her position, Warnock 'cannot see how those same interests could carry them beyond morals into legal standing'.[74] To Stone, there seem to be two responses to Warnock that will 'carry' interest-holders to the domain of legal standing, recognizing RoN. First, conditions for legal standing are less demanding than moral status, and 'anything with interests has more than is needed for standing in law'.[75] Second, Stone favours retaining the language of rights and RoN, as 'the ramifications of rights-talk … are positive, hastening a kinder, gentler future'.[76]

In the first response, Stone seems to be making a general claim regarding what legislations *can*, and are at liberty to, recognize. But different legislations have different rules of recognition and procedures for legislation. We could however concede that if a reasonable conceptualization of interests, in the sense of giving rise to duties, could be established in the case of environmental entities, then legislations have some possible ethically based reasons for recognizing RoN. But whether those reasons will suffice, which is unlikely, will depend on the legislations in which they are made. Of importance here is that such an argument does not necessarily have to be 'carried over' to the legal domain.[77]

Regarding the second response, whether RoN hastens us towards a kinder and gentler future, this remains to be seen as more cases are brought forward using RoN. This would nevertheless be a pragmatic justification of RoN, as it justifies RoN based on the impacts that recognition of the legal standing of nature would have. At times, Stone argues that 'the strongest case [for RoN] can be made from the perspective of human advantage for

conferring rights on the environment'.[78] To base the moral or legal status of an entity on its relevance for human utility could *approximate* legal rights of that entity *per se*. The right of the entity is derivative of the entity's utility to more conventional rights-holders.

A first response to the pragmatic defence is that environmental protection has increased without recognizing RoN. Warnock ends her reflection on her experience of being part of the Royal Commission on Environmental Pollution by stating the following:

> In those days at least, the environment itself was not considered as a gainer or a loser. It was only people who came into the equation, as gaining or losing an 'amenity'. However, this kind of difficulty has now more or less disappeared. The environment itself may properly be said to have interests: that is, it may be damaged. So far, then, things have improved, without our having to make litigants either of the beaches or indeed the puffins on the cliff.[79]

Increased consciousness about and consideration of the environmental impacts of human affairs have grown since Warnock's time at the Royal Commission on Environmental Pollution (1979–84), without going to the trouble of accepting RoN. A possible rebuttal is that since Warnock wrote this in 2012, species extinction and threats to habitat loss have increased, and we need all the legal, moral, and political tools we can muster to change this course. Yet again, whether RoN is the appropriate measure remains to be seen.

By stressing that entities such as lawns can communicate their wants and needs to us as meriting rights-holding, Stone seemingly suggests that interests lead to holding rights, thus basing RoN on the interests of an environmental entity *per se*, regardless of human interests. Stone persisted in using RoN and discussing the rights of environmental entities *per se*, because pitching environmental damage 'in anthropocentric terms distorts what we are really doing, discouraging the development of a more accurate and noble discourse'.[80] The claims raised on behalf of nature are not 'for the derivative welfare of humans'.[81] This departs from the pragmatic defence of RoN. He calls for 'a radical new conception of man's relationship to the rest of nature',[82] and for us to 'cultivat[e] the personal capacities *within us* to recognize more and more the ways in which nature … is like us'.[83] In his 1987 work *Earth and Other Ethics*, we see Stone wrestling extensively with including, as he puts it, the 'Nonperson' as having independent and non-derivative standing.[84] This focuses the gentleness and kindness directly toward the environment *per se*, rather than relying on human interests for justification. That is, a tree itself can have its interests curtailed, regardless of whether any human is affected, and humans have direct duties to the tree. Consequently, while Stone concedes that there are pragmatic grounds for accepting RoN, he prefers non-anthropocentric reasons for accepting RoN.

To Warnock, moral status without recognizing legal rights results in a stewardship model of environmental responsibility. This seemingly stands in contrast to Stone's non-anthropocentric defence of rights for environmental entities *per se*. Warnock's model embraces 'the inescapable fact that it is human beings who make decisions concerning the destruction, preservation and the value-meaning of the natural world, but of simultaneously acknowledging and responding to the interests of nature itself'.[85] She expresses her concern that stewardship models of environmental governance lead to and rest upon anthropocentrism, which would stand in contrast to Stone's non-anthropocentric defence;[86] that is, that the necessary human involvement in environmental decisions means a risk that priority is given to human interests. While Warnock concedes that such stewardship, following from her gardener model and interests of non-sentient beings,

requires human involvement, she also recognizes, drawing on David Wiggins and Bernard Williams, that 'the human scale of values is not a scale of exclusively human values'.[87] Thus, she avoids the anthropocentrism that she is concerned about.

To Warnock the stewardship model need not be confined to catering to human interests, instead being based on the teleological view. While conservation decisions are ultimately human decisions, the content of those values need not necessarily be human in the sense of exclusively favouring human interests. In the same spirit as Warnock, Williams suggests that even wilderness preservation will be a human decision, and as such be influenced by human intention and design.[88] This stands in contrast to Stone's choice of either making the legal standing of nature approximated by human utility, which he rejects, and the non-anthropocentric ambition of RoN, which he prefers. Instead, Warnock is observant to the possibility that while these are human choices, they can express care for environmental entities that are not fully derivative of human interests.

A pragmatic defence of RoN will have to show that RoN are more efficient than other available forms of environmental legislation at protecting nature. But more substantially, advocates of RoN, such as Stone, attempt to make the case for environmental entities having standing regardless of human interests, and that it is this standing that is recognized through RoN. This neglects that moral status is already a big leap forward in the extension of moral consideration. While that moral consideration can be based on a teleological account of interests, it is less certain whether it should also lead to legal standing. Warnock is attentive to how human decisions will be at the centre of conversation, but that those decisions need not be limited to human interests. This stands in contrast to Stone's discussion of the Nonperson in law.

5. The Strengths and Contributions of Warnock's Arguments

There are several strengths of Warnock's discussion of interests and RoN that benefit current scholarship. In contrast to the positions of both Cochrane and Stone, Warnock provides a reasonable alternative. As we saw above, a possible response from Stone's position to Cochrane's rejection of interests as relevant to environmental entities is – since Cochrane sets a high threshold for what counts as rights due to rights placing 'extremely demanding obligations on us'[89] – to weaken the obligations that rights result in. That is, it merely results in infringements on rights being preceded by a thoughtful and reflective process that reflects the value of the rights-holder. This enables a more generous use of the concept of rights, but also a troublesome claim that no rights are absolute, a position that has substantial conceptual and practical implications. Such shortcomings support Warnock's hesitancy about 'going further' to accept RoN, as she maintains a restrictive conceptualization of what rights are, in contrast to Stone.[90]

A problem with Cochrane's position in tying rights to interests, and interests to sentience, is that, as he concedes, 'when environmentally destructive policies can be shown to cause no harm, they may well be permissible'.[91] Thus, we may for instance only blame someone for polluting a river if a sentient being is affected. In contrast, recall that Warnock's stewardship model highlights how the human scale of values is not exclusively a scale of human values, and can thus also consider the state of non-sentient beings. We can still determine that the pollution is *wrong* due to the interest-based moral status of the river, even if no sentient beings are affected, and merely by virtue of how the pollution

affects the river *per se*. This is a benefit of Warnock's approach that we do not find in Cochrane's. An alternative to using 'interest' to denote moral status and to determine that pollution of a river is blameworthy is to refer to the concept of 'intrinsic value'. But an additional benefit of using the concept of 'interest' in this context is that it avoids many of the issues related to intrinsic value, as discussed above.

Warnock maintains a strict understanding of rights, in contrast to Stone, but is also sensitive to how the environment has direct moral status based on a teleological account of interests, in contrast to Cochrane. Warnock has a keen alertness to how environmental entities can be assessed teleologically, meriting the relevance of moral status, without that leading to rights. But while Cochrane rejects that interests is a concept relevant to the environment, Warnock argues that it is. Thus, while both keep intact the notion of rights as a strong duty-evoking concept, they differ regarding the notion of interests and whether that leads to holding rights. Thus, Warnock's position upholds the strengths of the demands that rights-holding gives rise to – which excludes the environment – but she nevertheless makes it possible to state that an environmental entity can be wronged due to its teleological interests.

Which position to adopt depends on how one determines the notion of interest. On a teleological account, which Cochrane rejects, it is relevant to environmental entities. However, Warnock's position makes it possible to say that when for instance a river is polluted, even if neither animals nor humans are affected by it, the river is wronged. The perfectionist account of interests permits such an assessment and moral blame, which is a strength of her account.

Warnock took great care in assessing which concepts are appropriate and justified for understanding our relation to the environment. While she concedes that it is possible to speak of the interests of nature to the extent that individual specimens can deteriorate or be improved, and nature has intrinsic value, it is not necessarily the case that 'rights' is an appropriate concept for expressing this.

6. Conclusion

The legal, ethical, and political scholarship surrounding RoN is growing, and arguments are being refined and critically scrutinized. I have shown that this scrutiny and refinement can benefit from Warnock's discussion. She engages with core conditions such as intrinsic value and interests, but also shows their limitations in the case of RoN, and highlights the human scale of values at the core of conservation. This has analytical benefits for scholarship on RoN and attempts to establish general justifications of RoN.

Warnock has done RoN scholarship a service by engaging directly with the conceptual foundation that underlies justifications for RoN that draw on ethical arguments. Her view strikes a balance between a too enthusiastic embrace of non-anthropocentric RoN such as that advocated by Stone, and a too narrow account of interests that would only derivatively value nature such as that advocated by Cochrane. By striking this balance, she argues that nature has interests, but that those interests do not lead to rights. By being hesitant about accepting rights-holding in this context, she preserves the conceptual and normative rigour that rights-holding implies, while also making it possible to say that an environmental area can have its interests curtailed. While there may be pragmatic reasons for retaining a rhetoric of RoN, there are few normative grounds for recognizing RoN

based on the above. Nonetheless, even without RoN, we can reasonably state that the interests of elements of nature can be benefited or curtailed.

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NOTES

1 Stone, "Response," 103.
2 Warnock, "Should Trees Have Standing?"
3 Tamaqua Borough Sewage Sludge Ordinance, 6.
4 Chap. III, art. 7, Law of the Rights of Mother Earth, Bolivia.
5 Te Awa Tupua Act 14(1).
6 Boyd, *Rights*, 134; Kauffman and Martin, *Politics*, 192.
7 Krämer, "Rights."
8 Killean *et al.*, "Rights"; BBC, "Ireland."
9 Putzer *et al.*, "Putting."
10 Though Stone argues that there are important moral dimensions of legislation, the two domains are not equivalent; see Stone, "Response," 102ff.
11 Chapron *et al.*, "Rights Revolution," 1392; see also Epstein and Schoukens, "Positivist Approach."
12 Putzer *et al.*, "Putting," 89.
13 Kauffman and Martin, *Politics*, 192.
14 See for instance Rolston, *New Environmental Ethics*; Callicott, *Thinking*; Næss, *Ecology*; Taylor, *Respect*. These works all in different ways argue for increased protection of nature and recognition of intrinsic values. Yet they differ substantially in both the source of intrinsic value, and the holders of such value.
15 For a thorough discussion of intrinsic value in the context of RoN, see Baard, "Legal Expressivist Lens."
16 Stone, "Response," 107.
17 Warnock, "Should Trees Have Standing?," 59.
18 Baard, "Legal Expressivist Lens."
19 Raz, *Morality*, 177; see Baard, "Fundamental Challenges"; Baard, "Legal Expressivist Lens."
20 Ibid., 166.
21 Ibid., 178ff.
22 Ibid., 178.
23 Chapron *et al.*, "Rights Revolution," 1392.
24 Ibid.; Raz, *Morality*.
25 Adding to this risk is Raz's somewhat peculiar resistance to including companion animals in the sphere of holders of ultimate value and thus rights-generating interests, despite wellbeing. See Raz, *Morality*, 177ff. The details need not derail us here, but Raz's discussion of ultimate values, wellbeing, and companion animals makes it a risky enterprise to rely on his account in defences of RoN.
26 Stone, "Should Trees Have Standing?," 458.
27 Ibid., 471.

28 Ibid.
29 For criticism, see Baard, "Legal Expressivist Lens"; Baard, "Fundamental Challenges"; Baard, *Ethics*; Baard, "Manifesto Rights"; Kurki, "Can Nature Hold Rights?"
30 Feinberg, "Rights of Animals."
31 Kramer, "Getting Rights Right," 35.
32 Cochrane, *Animal Rights*.
33 Ibid., 37.
34 Ibid.
35 Ibid.
36 Ibid.
37 Ibid., 37.
38 Ibid., 13.
39 Stone, "Should Trees Have Standing?," 482.
40 Ibid., 457.
41 Ibid., 488ff.
42 Ibid., 484.
43 Justus, *Philosophy*.
44 Stone gestures towards this problem in a footnote, but based on the scale of the potential rights-holder, rather than its ecological features; see Stone, "Should Trees Have Standing?," 471–2.
45 Warnock, "Should Trees Have Standing?," 63.
46 For example, the Te Awa Tupua Act 2017 stipulates the borders of the Whanganui River. In contrast, in ecology the observer-dependency of concepts such as ecosystem or functioning have been widely discussed (see for instance Jax, *Ecosystem Functioning*, 83ff). Thus, even if it may be ecologically challenging to establish the exact borders of an entity such as a river, borders can be legally stipulated.
47 Odenbaugh, "Seeing."
48 Baard, "Manifesto Rights."
49 Pauly, "Anecdotes," 430.
50 Ibid., 430; see also Soga and Gaston, "Shifting."
51 Soga and Gaston, "Shifting," 225–6.
52 Ibid.
53 Warnock, "Should Trees Have Standing?," 66.
54 Warnock, "What is Natural?," 450.
55 Warnock, *Critical Reflections*, 127.
56 Ibid., 126.
57 Stone, "Response," 108.
58 Stone, *Should Trees Have Standing?*
59 See for instance Nash, *Rights*.
60 Singer, *Practical Ethics*; Singer, *Animal Liberation Now*.
61 Warnock, "Should Trees Have Standing?," 62.
62 Ibid.
63 Ibid.
64 Ibid.
65 Ibid., 63.
66 Ibid. (original emphasis).
67 Warnock, "Should Trees Have Standing?," 62.
68 Foot, *Natural Goodness*, 91.
69 Sandler, *Character*, 15.
70 Foot, *Natural Goodness*, 31.
71 Warnock, "Should Trees Have Standing?," 63.
72 Ibid.
73 In this she is not alone. Environmental ethicist Paul W. Taylor for instance argued that while entities such as trees and flowers are teleological life centres meriting respect, he rejects that rights is an appropriate concept (Taylor, *Respect*, 244, 246ff; see also Baard, "Fundamental Challenges"; Baard, *Ethics*).
74 Stone, "Response," 108.
75 Ibid.

76 Ibid., 109; for an expansion of the usefulness of 'rights' and RoN, see Stone, "Should Trees Have Standing?", 487ff.
77 Warnock seems to conclude that it is not necessary in the sense of obligatory that an interest-holder be regarded as a rights-holder. However, she is not clear on whether it is *forbidden* or *permissible* for a legislation to recognize RoN based on the interests of non-sentient beings.
78 Stone, "Should Trees Have Standing?," 492.
79 Warnock, "Should Trees Have Standing?," 66.
80 Stone, "Response," 109.
81 Ibid., 103.
82 Stone, "Should Trees Have Standing?," 495.
83 Ibid., 498.
84 Stone, *Earth*.
85 Warnock, "Should Trees Have Standing?," 56.
86 Ibid., 64.
87 Wiggins, "Nature," 8; Williams, "Must a Concern."
88 Williams, "Must a Concern," 240. It could be noted here that Williams rejects that the notion of 'interest' is relevant or, at the very least, does not result in any direct claims on us (ibid., 236).
89 Cochrane, *Animal Rights*, 13.
90 In another paper Warnock describes her view on rights as being positivist, in the sense that it must exist in law and confer correlative duties (Warnock, "Loyalty," 24). For a discussion of RoN not giving rise to clear correlative duties, see Baard, "Manifesto Rights."
91 Cochrane, *Animal Rights*, 180.

References

Baard, Patrik. "Are Rights of Nature Manifesto Rights (and is That a Problem)?" *Res Publica* 29 (2023): 425–443. DOI: 10.1007/s11158-023-09584-5.

Baard, Patrik. *Ethics in Biodiversity Conservation*. London: Routledge, 2022.

Baard, Patrik. "Fundamental Challenges for Rights of Nature." In *Rights of Nature: A Re-Examination*, edited by D. T. Corrigan and M. Oksanen, 156–175. London: Routledge, 2021.

Baard, Patrik. "Rights of Nature Through a Legal Expressivist Lens: Legal Recognition of Non-Anthropocentric Values." *Ethical Theory and Moral Practice* (2024): 1–17. DOI: 10.1007/s10677-024-10479-4.

BBC. "Ireland Could Give Nature Constitutional Rights." 2023. https://www.bbc.com/news/articles/cd1d959wkq0o.

Boyd, David R. *The Rights of Nature: A Legal Revolution that Could Save the World*. Toronto: ECW Press, 2017.

Callicott, J. Baird. *Thinking Like a Planet: The Land Ethic and the Earth Ethic*. Oxford: Oxford University Press, 2013.

Chapron, Guillaume, Yaffa Epstein, and José Vicente López-Bao. "A Rights Revolution for Nature." *Science* 363 (2019): 1391–92.

Cochrane, Alasdair. *Animal Rights Without Liberation*. New York: Columbia University Press, 2012.

Epstein, Yaffa, and Hendrik Schoukens. "A Positivist Approach to Rights of Nature in the European Union." *Journal of Human Rights and the Environment* 12 (2021): 205–227.

Feinberg, Joel. "The Rights of Animals and Unborn Generations." In *Philosophy & Environmental Crisis*, edited by William T. Blackstone, 43–68. Athens: University of Georgia Press, 1974.

Foot, Philippa. *Natural Goodness*. Oxford: Oxford University Press, 2001.

Jax, K. *Ecosystem Functioning*. Cambridge: Cambridge University Press, 2010.

Justus, James. *The Philosophy of Ecology*. Cambridge: Cambridge University Press, 2021.

Kauffman, Craig M., and Pamela L. Martin. *The Politics of Rights of Nature: Strategies for Building a More Sustainable Future*. Cambridge: MIT Press, 2021.
Killean, Rachel, Jérémie Gilbert, and Peter Doran. "Rights of Nature on the Island of Ireland: Origins, Drivers, and Implications for Future Rights of Nature Movements." *Transnational Environmental Law* 13, no. 1 (2024): 35–60. DOI: 10.1017/S2047102523000201.
Kramer, Matthew. "Getting Rights Right." In *Rights, Wrongs and Responsibilities*, edited by Matthew Kramer, 28–95. London: Palgrave, 2001.
Krämer, Ludwig. "Rights of Nature in Europe: The Spanish Lagoon Mar Menor Becomes a Legal Person." *Journal for European Environmental & Planning Law* 20 (2023): 5–23.
Kurki, Visa. "Can Nature Hold Rights? It's Not as Easy as You Think." *Transnational Environmental Law* 11 (2022): 525–552.
Næss, Arne. *Ecology, Community & Lifestyle*. Cambridge: Cambridge University Press, 1989.
Nash, Roderick Frazier. *The Rights of Nature: A History of Environmental Ethics*. Madison: University of Wisconsin Press, 1989.
Odenbaugh, Jay. "Seeing the Forest and the Trees: Realism about Communities and Ecosystems." *Philosophy of Science* 74 (2007): 628–641.
Pauly, Daniel. "Anecdotes and the Shifting Baseline Syndrome of Fisheries." *Tree* 10 (1995): 430.
Putzer, Alex, Tineke Lambooy, Ronald Jeurissen, and Eunsu Kim. "Putting the Rights of Nature on the Map: A Quantitative Analysis of Rights of Nature Initiatives Across the World." *Journal of Maps* 18 (2022): 89–96.
Raz, Joseph. *Morality of Freedom*. Oxford: Oxford University Press, 1986.
Rolston, Holmes. *A New Environmental Ethics*. London: Routledge, 2012.
Sandler, Ronald L. *Character and Environment: A Virtue-Oriented Approach to Environmental Ethics*. New York: Columbia University Press, 2007.
Singer, Peter. *Animal Liberation Now*. New York: Random House, 2023.
Singer, Peter. *Practical Ethics*, 3rd ed. Cambridge: Cambridge University Press, 2011.
Soga, Masashi, and Kevin J. Gaston. "Shifting Baseline Syndrome: Causes, Consequences, and Implications." *Frontiers in Ecology and Environment* 16, no. 4 (2018): 222–230. DOI: 10.1002/fee.1794.
Stone, Christopher. *Earth and Other Ethics*. New York: Harper and Row, 1987.
Stone, Christopher. "Response to Commentators." *Journal of Human Rights and the Environment* 3 (2012): 100–120.
Stone, Christopher. *Should Trees Have Standing?* Oxford: Oxford University Press, 2010.
Stone, Christopher. "Should Trees Have Standing? – Toward Legal Rights for Natural Objects." *Southern California Law Review* 45 (1972): 450–501.
Taylor, Paul W. *Respect for Nature: A Theory of Environmental Ethics*. Princeton: Princeton University Press, 2011.
Warnock, Mary. *Critical Reflections on Ownership*. Cheltenham: Edward Elgar Publishing, 2015.
Warnock, Mary. "Loyalty to the Planet: A Matter of Justice or of Love?" *Journal of Human Rights and the Environment* 10 (2019): 22–34.
Warnock, Mary. "Should Trees Have Standing?" *Journal of Human Rights and the Environment* 3 (2012): 56–67.
Warnock, Mary. "What is Natural? and Should we Care?" *Philosophy* 78 (2003): 445–459.
Wiggins, David. "Nature, Respect for Nature, and the Human Scale of Values." *Proceedings of the Aristotelian Society* 100, no. 1 (2000): 1–32.
Williams, Bernard. "Must a Concern for the Environment be Centred on Human Beings?" In *Making Sense of Humanity and Other Philosophical Papers*, 233–240. Cambridge: Cambridge University Press, 1995.