Nature’s place in PH Constitution

Ten years ago, the people of Ecuador ratified their new constitution by referendum. What sets it apart from other constitutions is that it is the first to establish and award inalienable rights to nature. From being mere property, nature became a rights-bearing entity.

Rights are typically afforded to actors who can claim them — i.e., humans — but, in recent years, these have expanded to nonhuman entities such as corporations. With the 1987 Philippine Constitution now planned for amendment, perhaps it is high time we reconsidered our conventional anthropocentric understanding of sovereignty, and realigned how we value the natural world.

The Ecuadorean constitution recognizes that “nature in all its life forms has the right to exist, persist, maintain and regenerate its vital cycles, structure, functions and its processes in evolution,” and that Ecuadoreans have the legal authority to enforce these rights on behalf of their ecosystems, where natural systems can be named as defendants.

Bolivia, another South American country, followed Ecuador’s example in 2010 when it instituted the Law of Mother Earth. This law lays out rights for nature, such as the rights to life and to exist, to pure water and clean air, and to be free from toxic and radioactive pollution; it includes a ban on genetic modification, and freedom from interference by massive infrastructure and development projects that disturb the balance of ecosystems and local communities.

New Zealand also granted rights to nature when it bestowed legal personhood on the 821-square-mile Te Urewera National Park and the Whanganui River, the nation’s third largest river. Unlike in Ecuador and Bolivia, these rights are not embedded in New Zealand’s constitutional law but, rather, protect specific natural entities.

An American environmental legal scholar, Christopher Stone, was first to articulate the legal notion of the rights of nature. In his essay “Should Trees Have Standing?” Stone conceptualizes nature through law that did away with the existing paradigm of nature as commodity. A primary example of commodifying the natural world is through property rights. When treated as property, nature incurs damages that often go unrecognized. Many externalities that negatively impact the environment are not factored into cost calculations. Stone argues that transforming nature legally from mere property to a rights-holding entity would force environmental externalities of production to be included in the cost of an action.

The move to incorporate rights of nature into a national constitution is, in itself, a powerful paradigm shift. But it may seem idealistic and hypocritical given the continuing dependence of many countries, including Ecuador and Bolivia, on extractive industries. Nonetheless, ideas such as this present a revolutionary rupture in the way human beings treat the natural world. In that regard, Ecuador is on the right track, most especially on moral grounds.

The Philippine natural world is as famous for its beauty as it is for overuse and plunder. With climate change posed to shrink it further, leaving many Filipinos not only vulnerable but also anxious about the future of their ecosystems, protecting these dynamic systems upon which we depend needs to be part and parcel of good citizenship. Placing nature at the core of our Constitution is the right way forward.

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