

The Watermelon Way: Anticapitalism and Environmentalism in the American Rights of Nature
Movement

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INTRODUCTION

American environmentalists are sometimes dubbed “watermelons” by their opponents. “Green on the outside, red on the inside,” they are suspected of using environmentalism to strengthen government regulation and transform the United States into a socialist country.¹ The exaggerated fears of environmentalists’ opponents, I believe, are not to be ignored—indeed, I think environmentalists *need* to become so-called watermelons, and engage in anticapitalism if genuine environmental sustainability is to be achieved. But environmentalists need not turn the United States into a “socialist state”—which for many is short for Stalin’s Russia and Mao’s China.

The American Rights of Nature movement, spearheaded by the Community Environmental Legal Defense Fund (CELDF)—a public-interest law firm whose work in the United States consists in fostering environmental activism in communities by practising civil disobedience through legislation²—has aims and effects that are as anticapitalist as they are environmental. I strongly believe that this combination is necessary to achieve genuine environmental sustainability, and ensure that natural entities beyond humans can exist and flourish. Of course, underlying this claim is the argument that capitalism, as an economic system that has completely pervaded how we understand the world, is inherently environmentally destructive and incompatible with sustainability.³ I here take this argument as a given.

¹ Robert Kenner, “Merchants of Doubt | Official Clip HD (2014)” (Sony Pictures, 2014), <https://www.youtube.com/watch?v=cpbZCPvCEjQ>.

² The CELDF also engage in other instances of environmental activism in the legal realm: they helped draft the Rights of Nature provision in the Ecuadorian Constitution and are doing similar work in India and Nepal. See “International movement,” Community Environmental Legal Defense Fund (website), last modified November 9, 2015, <https://celdf.org/join-the-movement/where-we-work/international-movement/>.

³ For arguments and evidence for this idea, see, for instance, David Schweickart, *After Capitalism*, 2nd ed, New Critical Theory (Lanham, Md: Rowman & Littlefield Publishers, 2011) (specifically 142–161), Fred Magdoff and John Bellamy Foster, *What Every Environmentalist Needs to Know about Capitalism: A Citizen’s Guide to Capitalism and the Environment* (New York: Monthly Review Press, 2011), as well as Stephen D’Arcy, “Environmentalism as If Winning Mattered: A Self-Organization Strategy”, *The Public Autonomy Project* (blog), September 17, 2014, <https://publicautonomy.org/2014/09/17/environmentalism/>.

In this essay, I explore the conceptual links between anticapitalism and ecocentrism present in the philosophical underpinnings of the CELDF's work. I begin by unpacking the organization's implied commitment to ecocentrism. I then explain the role of ecocentrism in the CELDF's anticapitalism. I elaborate on the CELDF's legal approach and how it is anticapitalist. Next, I remark on the parallels between the abolitionist and suffragist movements and the Rights of Nature movement in the United States. I draw out the common strategic and philosophical underpinnings shared by these movements, and hold that the parallels between them are, despite criticisms, still fruitful.

On the CELDF's Method

For the sake of clarity, I will briefly elaborate on the nature of the CELDF's work in the United States. Primarily, the organization helps American communities draft and attempt to pass legislation in the form of a "Community Bill of Rights" in their county or municipality.⁴ The Community Bill of Rights can come in the form of legal documents like "municipal or county ordinances, home rule charters, charter amendments, state legislation and state constitutional amendments."⁵ (So far, the efforts have largely been limited to the municipal and county level, which is why I focus only on these two levels.) Whatever its form, the Community Bill of Rights allows the municipality's or county's residents to assert rights (the right to self-government, the rights of natural entities, and others). This empowers communities to ban environmentally

⁴ Community Environmental Legal Defense Fund, "Common Sense Community Rights Organizing," 2018, 21.

⁵ Community Environmental Legal Defense Fund, "Common Sense Community Rights Organizing," 21.

harmful and dangerous practices like toxic waste dumping, hydraulic fracturing (fracking), or water extraction.⁶

Often, communities will ban a practice that a corporation is threatening to impose on their municipal territory in the near future, or has imposed on them in the past. Many communities also include in their legislation a clause that strips corporations and their representatives of constitutional rights. Corporate constitutional rights are very often invoked by big businesses and their lobbies to discourage communities from contesting harmful corporate practices. Corporate constitutional rights allow corporations to be treated as legal persons, thereby giving them the right to claim in court that their constitutional rights have been violated when a municipality or county attempts to stop the corporation from building an injection well or a factory farm, for example.⁷

Along with helping communities draft the legislation, the CELDF also pairs communities with community organizers. These individuals help community members directly involved in passing the bill reach out to fellow residents and garner support for it. Once the Community Bill of Rights is drafted, community members behind the bill must often gather signatures to put it on the ballot and have it approved by their local elected representatives. If the bill gets a majority of the vote and is approved by the municipal or county officials, it then becomes part of the county's or municipality's constitution. While the Community Bill of Rights is recognized by the municipality or county as legally binding, this is often contested by the state and federal governments.

⁶ For the usual template communities follow in drafting their Community Bill of Rights, see Community Environmental Legal Defense Fund, "Community Rights Do-It-Yourself Guide to Lawmaking," 2019, 27–31. For an example of a Community Bill of Rights, see 39–43.

⁷ Community Environmental Legal Defense Fund, *Rebelling Against the Corporate State / Forging a Community Rights Movement* (Mercersburg, PA: CELDF, 2018), 65–66.

Community Bills of Rights are, in essence, a form of civil disobedience. The matters they deal with (rights, legal persons, the removal of constitutional corporate rights) are typically beyond municipalities' and counties' legal purview according to the federal and state governments. If, for instance, the Environmental Protection Agency (EPA) grants a fracking permit to a corporation, the municipality or county cannot, within the current American legal framework, legally refuse the fracking take place. This incapacity to object can be attributed to state preemption and Dillon's Rule. Preemption "means the state legislature enacts law that removes authority from the community to govern or pass a local law on a particular issue"; Dillon's Rule "defines the legal relationship between the state and the municipality as that of a parent to a child."⁸ In this way, the municipal and county levels are subject to the state's decisions, which must themselves respect decisions made by the federal legislators. As a result, passing a Community Bill of Rights is an act of civil disobedience because the municipality or county is exercising powers it does not possess in the eyes of the state and federal governments. While some Community Bills of Rights have passed and remain legally binding, many are being contested in court, by corporations and by state governments.⁹

With the CELDF's main activities and their context established, let us now move to defining capitalism and how the CELDF can be understood as anticapitalist.

Sustainability, Capitalism, and Anticapitalism

Attempting to give a definitive assessment of capitalism and anticapitalism would easily require more than the entirety of this work. Instead, I simply explain the meanings I understand these

⁸ Community Environmental Legal Defense Fund, "Common Sense Community Rights Organizing," 3.

⁹ See, for example, "News Release: Ohio Community Members File Federal Civil Rights Lawsuit," Press release, Community Environmental Legal Defense Fund (website), February 4, 2019, <https://celdf.org/2019/02/news-release-ohio-community-members-file-federal-civil-rights-lawsuit/>.

terms to have in the context of the present project. But first, I will clarify what I understand by “sustainability,” which is key to my definitions of capitalism and anticapitalism. “Sustainable” means that in a year, for instance, one uses only the amount of resources that can plausibly regenerate within that year, and not more. Using more than what can regenerate would mean that every year, there are fewer and fewer resources—a pattern we cannot *sustain* because resources will run out.

In the case of “capitalism,” I use this term primarily to identify the activities of corporations and businesses through which they seek unfettered and exponential profits. This must happen through equally unconstrained growth, which means an ever-increasing amount of resources must be used.¹⁰ Capitalism is thus unsustainable.¹¹ Such increases in profit and output happen to the detriment of the health and flourishing of ecosystems, lakes, oceans, glaciers, mountains, wildlife, and humans, endangering their survival.¹² It is this instantiation of capitalism that the

¹⁰ A concurrent definition of capitalism is put forward by Erik Olin Wright: “Yes, there is economic growth, technological innovation, increasing productivity and a downward diffusion of consumer goods [in a capitalist system], but along with capitalist economic growth comes destitution for many whose livelihoods have been destroyed by the advance of capitalism, precariousness for those at the bottom of the capitalist labour market, and alienating and tedious work for the majority. Capitalism has generated massive increases in productivity and extravagant wealth for some, yet many people still struggle to make ends meet. Capitalism is an inequality-enhancing machine as well as a growth machine. What’s more, it is becoming ever clearer that capitalism, driven by the relentless search for profits, is destroying the environment.” (Erik Olin Wright, *How to Be an Anticapitalist in the Twenty-First Century* [London; New York: Verso, 2019], 14, Adobe Digital Editions EPUB).

David Schweickart also points out that capitalism’s main characteristics are 1) the private ownership of the majority of the means of production, 2) a market economy, and 3) individuals who are paid for their labour are usually paid by those who own the means of production (Schweickart, *After Capitalism*, 24–25). However, he also characterizes capitalism as demanding “overproduction” and unsustainable “ever increasing consumption” as integral to capitalism (Schweickart, *After Capitalism*, 3). Also, for a detailed explanation of how capitalism’s expansionary dynamic affects people and the environment, see Schweickart, *After Capitalism*, 147–149.

¹¹ While it is true that technological progress can make production processes more effective, thereby curbing the need for resources, this increase in efficiency is not enough to make production sustainable if the business’s main goal is to keep growing. It will simply cost them less to grow their business and increase their profits. For evidence as to why growth outpaces efficiency, see Gregory Mikkelsen, “Growth Is the Problem; Equality Is the Solution”, *Sustainability* 5, no. 2 (30 January 2013): 432–39, <https://doi.org/10.3390/su5020432>. For an argument as to why this is the case, see David Schweickart, “Is Sustainable Capitalism an Oxymoron?”, *Perspectives on Global Development & Technology* 8, no. 2/3 (June 2009), <https://doi.org/10.1163/156914909X424033>, 562-70.

¹² A very similar definition of capitalism is developed in Magdoff and Foster, *What Every Environmentalist Needs to Know about Capitalism*. The view that there can be no unlimited economic growth in our necessarily limited environment is credited to Herman E. Daly (see specifically Herman E. Daly, “Sustainable Growth: An

CELDF is confronted with in the communities they help, and it is this type of capitalism they are implicitly working to oppose.

In all fairness, I recognize that this kind of capitalism is not the capitalism of every enterprise. Many smaller and/or local businesses do operate within the capitalist system, but do not have the obsession for expansion and profit bigger businesses do. Smaller businesses may still aim to grow and increase profit to some extent, but without entering the kind of capitalism practised by big businesses and corporations that operate in an unsustainable manner and without regard for the health and well-being of natural entities. However, it is unlikely that these small businesses are entirely independent from the destructive practices of capitalist corporations. Therefore, smaller businesses are indirectly complicit with capitalism as I have defined it above. But they are not the only ones who are wrapped up in capitalism. The vast majority of us—not to say everyone of us—as individuals, depend on these unsustainable practices and businesses in our daily lives. To mention only the obvious: plastic is in practically everything we use, and plastic requires crude oil, a business for which “unsustainable” is an understatement, to say the least.

I would add to our initial definition that capitalism is also a way of seeing the world that has pervaded our thoughts and habits. In this sense, capitalism is our culture. It is a culture of unsustainability through which we have let harmful big businesses and corporations go unchecked and wreak havoc on our health and on the health of the environment. Consequently, in the context of this essay, I understand capitalism as the unsustainable and harmful business practises of actors who aim at unlimited growth and profit, as well as the culture we live in that allows and is reinforced by the practices of these actors. In light of this, I understand the CELDF

Impossibility Theorem,” in *Valuing the Earth: Economics, Ecology, Ethics*, ed. Herman E. Daly and Kenneth N. Townsend, [Cambridge, Mass.; London, England: MIT Press, 1992], 267–274, eBook [PDF]).

to not only be directly fighting these big businesses and their lobbies, but also as indirectly fighting the capitalist culture that has shaped most of our ways of thinking and our way of life.

As a result, our definition of anticapitalism now becomes quite clear. What I mean by “anticapitalism,” and by the claim that the CELDF is anticapitalist, is that they are fighting the unsustainable practices of corporations, as well as creating a dent in our culture of unsustainability by helping communities engage in municipal self-governance. With the help of the CELDF, communities are putting their well-being and the well-being of natural entities before corporate profits, contrary to what state and federal level regulations achieve. Nevertheless, the CELDF is *implicitly* anticapitalist because they do not target capitalist excesses directly. Their efforts are very clearly focused on giving rights to nature and giving communities the right to self-determine. They do not call for socialist reforms, or ask communities to rise against the *economic* system that capitalism is, for example. Even in their efforts to strip corporations of constitutional rights, their argument is couched in a rights-based discourse, not in an overtly anticapitalist or politico-economic discourse. Yet by opposing unsustainable and environmentally harmful practices, they are indirectly—yet forcefully—disrupting capitalism as I have defined it above. My aim, throughout this essay, is to shine light on the ways in which this commitment to anticapitalism is implicit in their explicitly environmental stance.

The Appeal of the CELDF’s Approach

But before we launch into the heart of our analysis, let me elaborate on an aspect I believe to be central to the merits of the CELDF’s method. Environmentalism in the United States is today mostly associated with younger liberals. It does not usually appeal to older, more politically conservative individuals, as it may directly advocate against their interests. Thus, it is not

surprising that the Rights of Nature movement *does* appeal to communities that tend to vote for the Democratic Party in federal elections.¹³ But one could reasonably expect most conservative-leaning individuals to be indifferent or opposed to the Rights of Nature movement, and not be swayed by its arguments into putting nature before their personal economic interests or what they understand to be the economic interests of their country. The same may be said about anticapitalism which, to say the least, is not generally supported by those with conservative politics.

And yet, the very opposite happens in the context of the CELDF's community rights movement, where many of these individuals end up supporting, and even actively advocating for, the Rights of Nature, anti-corporate measures, and the importance of putting nature's well-being before capitalist growth and profits.¹⁴ This advocacy, however, seems to be indirect. Many community members appear to support foremost their community's right to self-determine with regard to environmental harm and corporate activities. Put differently, they most likely would not identify as anticapitalists or environmentalists, at least not as typical ones. Nevertheless, even the active support for the Community Rights movement itself (that is, apart from any environmental or anticapitalist concerns) seems to come as a surprise to community members. This is palpable in the testimonies of those involved in passing a Community Bill of Rights in their municipality. Community rights activist Mark Clatterbuck says that Lancaster County is "not known as a politically radical community [...], we're pretty conservative people¹⁵," while Diane St-Germain, board member of the New Hampshire Community Rights Network

¹³ Cliff Brown, "Water Concerns Unite Citizen Activists: A Community Rights Movement Transcends Party, Age, and Gender," *Carsey Perspectives*, 2 August 2016, 5.

¹⁴ It may be the case that support from communities and individuals who identify as politically conservative is—at least in part—due to the CELDF keeping their commitment to anticapitalism implicit, and characterizing their movement primarily in terms of community rights to self-governance and rights for nature.

¹⁵ Community Environmental Legal Defense Fund—CELDF, "Violation of the Sacred, Episode 8," October 5, 2019, video, 0:02, accessed 22 March 2020, https://www.youtube.com/watch?v=q7jwg4_JGUo.

(NHCRN), highlights that “people were ready to think out of the box, and that’s why [she] think[s] it [passing a Community Bill of Rights] happened here in Barnstead, one of the most conservative towns in the state.”¹⁶

These remarks are also supported by Cliff Brown’s analysis of Barnstead (pop. 4,605), Barrington (pop. 8,842), and Nottingham (pop. 4,855), New Hampshire. All three municipalities sought out the CELDF’s help in passing their own Community Bill of Rights, and in each of these municipalities close to or more than half of the population voted for a Republican candidate in the primaries.¹⁷ For one, the Barnstead ordinance passed with almost unanimous support.¹⁸ Therefore, the anticapitalist and environmental Community Rights movement of the CELDF appeals to more conservative communities as well as to more liberal communities which, in theory, seems very unlikely. It allows individuals with differing and even conflicting political beliefs to come together to protect their community by passing a Community Bill of Rights.¹⁹

Let us now move to the heart of the argument, starting with the CELDF’s commitment to ecocentrism.

¹⁶ Community Environmental Legal Defense Fund—CELDf, “What can we do differently? Episode 4,” September 6, 2019, video, 1:55, accessed 22 March 2020, <https://www.youtube.com/watch?v=rtd-1AUdaL0>.

¹⁷ Brown, “Water Concerns Unite Citizen Activists.” 7.

¹⁸ Brown, “Water Concerns Unite Citizen Activists.” 7.

¹⁹ Brown, “Water Concerns Unite Citizen Activists.” 4.

PHILOSOPHICAL UNDERPINNINGS

1. On Ecocentrism and the CELDF

My aim in this section is ultimately to highlight the ways in which the CELDF's ecocentrist stance is also anticapitalist. But first, I address some objections that have been made with regard to ecocentrism, and more precisely concerning the CELDF's ecocentrist position.

a. The CELDF's Commitment to Ecocentrism

Ecocentrism can broadly be defined as a moral theory that states that “[a]ll organisms, species, and ecosystems have *irreducible* intrinsic value.”²⁰ That is, species and ecosystems *in themselves* have inherent moral worth not merely because the individual living organisms that constitute them have inherent moral worth. What is more, ecocentrism recognizes that ecosystems, species, and living organisms are fundamentally interconnected, and are shaped by these connections.²¹ Their intrinsic value, however, need not be equal to that of humans in a way that would warrant vital human interests never or hardly ever being given priority over the interests of other natural entities.²² The kind of ecocentrism I present here, and the one I take the CELDF to subscribe to, only holds that non-human natural entities must not be “ignored in

²⁰ Gregory Mikkelson, “Value Theories,” (lecture, McGill University, Montreal, QC, February 13, 2020). Emphasis in original.

²¹ Charles Birch and John B. Cobb, *The Liberation of Life: From the Cell to the Community* (Denton, TX: Environmental Ethics Books, 1990),

https://digital.library.unt.edu/ark:/67531/metadc52174/m2/1/high_res_d/liberation_of_life.pdf, 95, eBook (PDF),

²² Some authors do appear to hold problematic value egalitarianism between humans and other natural entities. See, for instance, Arne Naess, “The Shallow and the Deep, Long-range Ecology Movement. A Summary*,” *Inquiry* 16, no. 1–4 (1973), <https://doi.org/10.1080/00201747308601682>, 95–96. But Naess himself denies that this is the position deep ecologists like him hold. See Arne Naess, “A Defence of the Deep Ecology Movement,” *Environmental Ethics* 6, no. 3 (1984): 265–70, <https://doi.org/10.5840/enviroethics19846330>. Regardless, there is no need to take such an egalitarian approach in ecocentrism, and I do not take the CELDF to be taking this approach either.

human decision-making *simply* because they are not human or because they are not of instrumental value to humans.”²³

Two early and central proponents of ecocentrism are Aldo Leopold and Arne Naess. A later but still significant contributor is Peter Miller (whose work I elaborate on at length below). Leopold characterizes his famous “land ethic” as “chang[ing] the role of *Homo sapiens* from conqueror of the land-community to plain member and citizen of it. It implies respect for his fellow-members, *and also respect for the community as such.*”²⁴ This echoes the intrinsic value of ecosystems and species for ecocentrism. Arne Naess highlights that one of the central tenets of deep ecology (and which is shared with ecocentrism)²⁵ is a *relational* conception of nature and its parts (as opposed to a *segregated* one), where “[a]n intrinsic relation between two things A and B is such that the relation belongs to the definitions or basic constitutions of A and B, so that without the relation, A and B are no longer the same things.”²⁶ This passage highlights the fundamental role of connections between natural entities endorsed by ecocentrism.

The CELDF’s commitment to ecocentrism is embedded in their approach, although the organization does not overtly claim to be ecocentrist. For instance, on their website, the CELDF highlights that giving rights to nature implies “acknowledging our dependence on nature and respecting our need to live in harmony with the natural world.”²⁷ The organization also writes that recognizing nature’s right “to be healthy and thrive” is essential to respecting the *human*

²³ Robyn Eckersley, *Environmentalism and Political Theory: Toward an Ecocentric Approach* (Albany: State University of New York Press, 1992), 57. Emphasis in original.

²⁴ Aldo Leopold, *A Sand County Almanac and Sketches Here and There* (New York, NY: Oxford University Press, 1949), 204. Emphasis mine.

²⁵ Deep ecology and ecocentrism are not the same. They nonetheless have many principles in common, including the one I present here.

²⁶ Naess, “The Shallow and the Deep . . .,” 95.

²⁷ “What are the Rights of Nature?”, Community Environmental Legal Defense Fund, last modified April 22, 2020, <https://celdf.org/advancing-community-rights/rights-of-nature/>.

right to a healthy environment, a right already recognized by a number of countries.²⁸ This reference to human rights may seem counterintuitive—after all, isn't ecocentrism centred on non-human entities? But the intrinsic value of nature “need not be totally at odds” with humans’ well-being,²⁹ and can even be complementary. This is clear in many instances where the CELDF collaborates with communities to give rights to nature and ban environmentally harmful practices within their territory which, in turn, can stop serious health risks (like abnormally high cancer or multiple sclerosis rates)³⁰ from affecting community members.

The organization also recognizes that when human rights and rights of nature conflict, “a court weighs the harms to the interests, and then decides how to balance them,” just as it would when human rights conflict.³¹ This is based on an understanding that “humans are part of nature as well, which means that human needs must also be considered when the rights and interests of ecosystems come into conflict with ours.”³² Subsequently, the CELDF’s ecocentrism does not commit them to a disregard for human rights and needs, only to giving fair consideration to nature’s interests and rights. In addition, the CELDF, in the principles it claims to follow for the implementation of the Rights of Nature, deplores the fact that the law currently disregards the interconnection of natural entities and ecosystems.³³ All of this makes the CELDF’s commitment to an ecocentrist approach clear.

²⁸ “The Human Right to a Healthy Environment,” Community Environmental Legal Defense Fund (website), last modified April 22, 2020, <https://celdf.org/advancing-community-rights/rights-of-nature/>.

²⁹ Peter Miller, “Value as Richness: Toward a Value Theory for an Expanded Naturalism in Environmental Ethics,” *Environmental Ethics* 4, no. 2 (1982), <https://doi.org/10.5840/enviroethics19824216>, 114.

³⁰ Thomas Linzey and Anneke Campbell, *We the People: Stories from the Community Rights Movement in the United States* (Oakland, CA: PM Press, 2016), 43–44.

³¹ “Frequently Asked Questions About the Rights of Nature,” Community Environmental Legal Defense Fund (website), last modified August 14, 2019, <https://celdf.org/advancing-community-rights/rights-of-nature/rights-nature-faqs/>.

³² “Frequently Asked Questions About the Rights of Nature,” Community Environmental Legal Defense Fund (website).

³³ “Rights of Nature Principles,” Community Environmental Legal Defense Fund (website), accessed March 30, 2020, <https://celdf.org/wp-content/uploads/2015/08/rights-of-nature-principles-for-celdf-website.pdf>.

b. The Forgotten Originator View, the Primordial Unity View, and the Human-Nature Relationship

In this section, I review some of what I take to be the mistaken views about the CELDF's philosophical commitments. In the three subsequent sections, I present views I believe highlight more plausible ways of understanding these philosophical commitments.

The question that arises from the CELDF's commitment is whether there is a good argument for the view that natural entities and ecosystems have intrinsic moral value. Mihnea Tanasescu suggests that the CELDF's ecocentric³⁴ portrayal of nature in their activism relies on a reverence humans owe nature for being our originator—something humans had forgotten until very recently.³⁵ I refer to this as the “forgotten originator view.” Tanasescu suggests that the forgotten originator view is problematic because the value it assigns nature relies on human judgment rather than on some value intrinsic to nature.³⁶ He understands the Rights of Nature movement led by the CELDF to be committed to this flawed position.³⁷

In addition, Tanasescu remarks that the CELDF, in its Rights of Nature activism, also relies on the idea of a “primordial unity” with nature.³⁸ The main implication of this view—which I refer to as the “primordial unity view”—is that humans have, for millennia, lived in idyllic communion with nature and respected its intrinsic moral worth. Only recently have humans' relationship with nature been spoiled. We must now work to return to our original harmonious unity with nature. Tanasescu points out that this view is misguided, considering that, for

³⁴ To be clear, Tanasescu does not refer to the CELDF's position as *ecocentric*, but as *holistic*. However, the evidence he presents for holism is evidence for ecocentrism. I thus hold his view to be denying the validity of the CELDF's ecocentric approach. See Mihnea Tanasescu, *Environment, Political Representation, and the Challenge of Rights* (London: Palgrave Macmillan UK, 2016), <https://doi.org/10.1057/9781137538956>, 138–139, eBook (PDF).

³⁵ Tanasescu, *Environment, Political Representation ...*, 140.

³⁶ Tanasescu, *Environment, Political Representation ...*, 140. The implication here is that if nature has intrinsic value, this value must necessarily exist independently from human judgment, or else it would not be properly intrinsic to nature.

³⁷ See Tanasescu, *Environment, Political Representation ...*, 139–140.

³⁸ Tanasescu, *Environment, Political Representation ...*, 140.

example, “we [humans] have been slashing and burning forests for about as long as we have walked upright.”³⁹

I now turn to Rodrigues’s and Tanasescu’s claims about disruptions in nature and the role of humans in these disruptions. Rodrigues and Tanasescu understand the Rights of Nature movement as painting humans solely as disruptors to the balance in nature. Rodrigues writes that at least one of the CELDF Community Bills of Rights implies “that there exists in nature an ecological equilibrium that is continually unfettered unless and until it is disturbed by destructive, human activities.”⁴⁰ Tanasescu claims that the Rights of Nature movement presents humans and nature (defined as “pristine wilderness”) “as pitted against each other in a millennial struggle.”⁴¹ Rodrigues takes this view of humans’ relationship to be one-sided⁴², and Tanasescu shows how it is not representative of the complexity of the relations between humans and nature historically.⁴³

I fully agree that it is inaccurate to portray humans as only being able to interfere with nature’s balance and harmony. I am also completely in accord with Tanasescu and Rodrigues that the forgotten originator view and the primordial unity view are misguided. However, I do not take the Rights of Nature movement to be making any of these misleading claims.

c. Why the CELDF’s Ecocentrism does not Entail the Forgotten Originator View

In this section, I propose that the CELDF’s ecocentrism need not be based on the forgotten originator view, and present Peter Miller’s ecocentric theory as a sound alternative the CELDF could plausibly be committed to.

³⁹ Tanasescu, *Environment, Political Representation ...*, 139.

⁴⁰ Rodrigues, “Localising ‘the rights of nature’”, 179.

⁴¹ Tanasescu, *Environment, Political Representation ...*, 140.

⁴² Rodrigues, “Localising ‘the rights of nature’”, 179.

⁴³ Tanasescu, *Environment, Political Representation ...*, 140.

There seems to be an unjustified assumption on Tanasescu's part that the CELDF's view ecocentric view (which he calls holistic) is *necessarily* accompanied by the forgotten originator view to justify nature's inherent moral worth.⁴⁴ In light of the question of how humans can recognize nature as having intrinsic value independently from human judgment, he replies: "But in what sense can something be owed to nature irrespective of my life and my powers of judgment, and entirely in light of its own life? Does a river have a life-plan that can be thwarted, regardless of human considerations?"⁴⁵ As it turns out, at least one ecocentric theory—Miller's "value as richness"—allows humans to recognize interconnectedness with nature (and their own interconnectedness with nature), as well as nature's intrinsic value, without relying on mere human judgment.⁴⁶ Tanasescu's example of a river's "life-plan" is unnecessarily anthropomorphizing, and does not strike me as a fair representation of the claims of Rights of Nature activists. Nonetheless, value as richness would indeed recognize that a river's flourishing can be thwarted if humans (or other factors) negatively affect its richness. I elaborate on Miller's ideas below.

In brief, Miller's theory puts forward the view that richness "in certain specifiable respects" is what makes non-human entities intrinsically valuable.⁴⁷ Miller identifies these respects as richness or poorness "in *resources, in development and accomplishment, in diversity and*

⁴⁴ See Tanasescu, *Environment, Political Representation ...*, 138–139: "The idea of the inherent and intrinsic value of nature is very important to these claims, and comes to reinforce the view of nature as a kind of subject. The narrative that accompanies the idea of independent values in nature is that of a break from the natural milieu that occurred, depending on the author, anywhere between Greek antiquity and early modernity. Whatever the exact date, it is claimed that modern humans have forgotten their ancestral link to nature through the domination of instrumental reason and mechanical industrialization (Chuji, 2008). The narrative of forgetfulness therefore opens up toward the image of a primordial unity, a pre-fall communion with nature, where its value was recognized as a matter of fact, and its independent existence respected, feared, and revered. In other words, the inherent value of nature, just like the inherence of human rights, is a matter of re-discovery, not of invention or creation: nature has always had a value independent of humans."

⁴⁵ Tanasescu, *Environment, Political Representation ...*, 140.

⁴⁶ Additionally, it is unclear that either Leopold's or Naess's views would fall prey to Tanasescu's critique. I focus here on Miller's work since it is explicitly committed to avoiding relying on human judgment.

⁴⁷ Miller, "Value as Richness," 106.

inclusiveness, in harmony and integrity, and in utility and generativity.”⁴⁸ For Miller, the richer a living or non-living entity is in these areas, the more intrinsic value they possess. This is based on the entity’s potential being more fully achieved when richness in these respects is higher.⁴⁹

Thus, we have identified an alternative to the forgotten originator view critiqued by Tanasescu. We now have a sound alternative based on value as richness which, contrary to the forgotten originator view, is intrinsic to nature. Here, I want to make clear that I am not arguing that the CELDF is committed to Miller’s theory—only that the organization is not necessarily committed to the problematic forgotten originator view, contrary to what Tanasescu implies. Miller’s work is an example of a theory where intrinsic value does not problematically rely on human judgment.

d. Why ‘Harmony,’ ‘Balance,’ and ‘Community’ do not Entail the Primordial Unity View

I have elaborated on why the CELDF can hold an ecocentric position without relying on the forgotten originator view. I now turn my attention to why I do not take the CELDF, as part of the Rights of Nature movement, to be committed to the primordial unity view, contrary to Tanasescu’s claims.

The CELDF’s talk of “natural communities” and of “harmony within nature,” for instance, can more plausibly be understood as highlighting that, first, humans and other entities are *interconnected*, meaning that harm done to one element of an ecosystem will affect other natural entities as well as humans within this ecosystem, for example. Interconnectedness defined as such is part of what Kent A. Peacock describes as *symbiosis*. A symbiotic relation is one where “the organisms involved include each other in their life cycles” in a causal way, non-occasionally

⁴⁸ Miller, “Value as Richness,” 107–108. Emphasis in original.

⁴⁹ Miller, “Value as Richness,” 110.

or accidentally.⁵⁰ Symbiotic relations also do not require direct physical contact between organisms.⁵¹ Another central claim of Peacock's is that symbiosis can be seen on a planetary scale, since the aggregation of innumerable symbiotic relations at smaller scales creates global changes.⁵²

Thus, I take it one may very well say that, to the extent that there is symbiosis, there is some harmony, balance, and community in nature. But here, it is crucial to mention that this does not imply any intentionality or predetermined course on nature's part, nor does it depict nature as generating only life-enhancing or survival-promoting behaviours that benefit all organisms equally. I instead take 'community,' 'harmony,' and 'balance' to be referring to the symbiotic relations that exist and evolve within nature and are fundamental to the constitution of organisms and ecosystems, although these symbiotic relations may lead to the death of some or all members of a species.

Moreover, Peacock highlights that the study of symbiotic relations usually focuses on changes brought through competitive behaviour.⁵³ Competition in nature can be illustrated as the struggle for survival between prey and predator, or between two species or organisms who compete for resources they both need. However cooperative and constructive behaviours are also kinds of symbiotic relations⁵⁴, and as a result, are as important as competition to our understanding of the underlying mechanisms in nature. Unlike competition, cooperative behaviours are mutualistic—that is, they benefit all organisms involved.⁵⁵ Constructive

⁵⁰ Kent A. Peacock, "Symbiosis in Ecology and Evolution" in Kevin deLaplante, Bryson Brown, and Kent A. Peacock, eds., *Philosophy of Ecology*, 1st ed, Handbook of the Philosophy of Science, v. 11 (Oxford, UK; Waltham, MA: North-Holland, 2011), 223, eBook (PDF).

⁵¹ Peacock, "Symbiosis in Ecology and Evolution," 223.

⁵² Peacock, "Symbiosis in Ecology and Evolution," 236.

⁵³ Kent A. Peacock, "The Three Faces of Ecological Fitness," *Studies in History and Philosophy of Biological and Biomedical Sciences* 42, no. 1 (March 2011), <https://doi.org/10.1016/j.shpsc.2010.11.011>, 103.

⁵⁴ Peacock, "The Three Faces of Ecological Fitness," 103.

⁵⁵ Peacock, "The Three Faces of Ecological Fitness," 103.

behaviours, in Peacock’s words, help “construct a bigger ecological pie”—meaning they increase available resources for the organism engaging in the constructive behaviour and potentially for other organisms, too.⁵⁶ Moreover, Peacock advances that cooperative behaviours must also be more prevalent than competitive behaviours since

“[e]arthly life has proved remarkably resilient for over 3.5 billion years[.] [...] This could only be possible if the persistence of complex life is somehow probabilistically favoured [...], and that is only possible if life (despite the constant recurrence of endemic parasitism at all scales from the viruses to human society) has had (so far at least) *a net tendency to co-operate in order to maintain the conditions necessary for its continuance.*”⁵⁷

These mutually beneficial behaviours, once again, do not imply any kind of intentionality or “warm feelings”⁵⁸ on nature’s part. Yet, I believe their dominant presence in nature reinforces my argument for the existence of harmony, balance, and community in nature through its symbiotic relations. All symbiotic relations, in virtue of their necessary regularity, strike me as worthy of being described as harmonious, balanced, and community-like. Cooperation hardly seems possible in a chaotic, unbalanced, and isolated setting. In light of the above, I believe that Rights of Nature activists can refer to the balance, harmony, and community within nature without necessarily holding a problematic view like the primordial unity view Tanasescu describes.

e. *Why the CELDF is not Committed to the Position that Humans can Only Harm Nature*

I have argued above that the existence of symbiosis in nature shows that it is reasonable for one to claim there is balance, harmony, and community in nature. I now turn to the claims the CELDF and its supporters make concerning the significant responsibility humans have in the

⁵⁶ Peacock, “The Three Faces of Ecological Fitness,” 103.

⁵⁷ Peacock, “Symbiosis in Ecology and Evolution,” 238. Emphasis added.

⁵⁸ Peacock, “Symbiosis in Ecology and Evolution,” 239.

destruction of nature. I argue the CELDF's claims can much more plausibly be understood as being restricted to our very recent historical context, and as highlighting an overwhelmingly destructive trend in current human impact. In comparison, I take Tanasescu and Rodrigues to be interpreting the claims made by the Rights of Nature movement in light of an unnecessarily broad historical context that distorts the CELDF's position.

To adequately understand the claims made by Rights of Nature activists, I believe one must first bring to mind the context of their activism. The CELDF, for instance, is helping communities stop practices like fracking or toxic sludge dumping in their municipality, for which there is ample evidence of its harm to both human and non-human entities. These practices, the increasing toll they are taking on communities, and their harmful effects, are all fairly recent in our history. It is thus more reasonable to understand the claims made by the CELDF concerning the disturbance of nature's equilibrium as highlighting the extreme human-caused disruptions to the natural world in the past two centuries. Put differently, the claims simply do not concern the much larger history of human-nature interaction, and are not in contradiction with evidence that humans were never in perfect respectful unison with nature. This is simply not the context the CELDF is concerned with.

Additionally, in our current context, the responsibility for ecological damage overwhelmingly lies in human activity, and more specifically in western capitalist human activity. Thus, claims made by the CELDF that human activity is disrupting the harmony, balance, and community within nature are more reasonably understood as referring to our current human-caused environmental plight. Similar to the point I've made above, I take the CELDF's claims about human disruption of nature's coherence and equilibrium to be fully compatible with recognizing that nature itself can cause major destructive disruptions, and that humans can have

extremely positive impacts on nature. This compatibility stems from the fact that the claims made by the CELDF are restricted to our current context in which it is clearly humans' fault that important symbiotic relations in nature are being so widely disrupted.

Of course, one salient example of human-led natural disturbances in our time is climate change. Rodrigues herself acknowledges climate change, stating that "it is probably the case that anthropogenic climate change is among the more significant catastrophes to affect nature, and poses a far greater threat to the healthy functioning of ecosystems and natural communities than the so-called internal disturbances within the system."⁵⁹ Yet, she goes on to claim that "the belief that 'community,' 'harmony' and 'balance' are inherent in nature are the product of a conceptualization of nature that is socially constructed."⁶⁰ But in light of the interconnectedness of nature present in widespread symbiosis, I disagree with Rodrigues's claim that 'balance' and 'harmony' in nature's processes, and the use of 'community' to refer to nature, is merely a social construct. As I have stated before, I believe these terms adequately reflect the immeasurable number of symbiotic relations and the ways they shape nature. Therefore, the CELDF is not committed to misguided views on the relationship between humans and nature.

The three main upshots of the above sections are the following. First, as I have just explained, the CELDF is merely relying on an understanding that *currently*, and *as a result of human-caused widespread ecological destruction*, the symbiotic relations which interconnect organisms in a fundamental way have been significantly disrupted. Second, it is not inaccurate nor misleading to speak of nature as having intrinsic balance, harmony, and community considering the importance of symbiotic (and especially cooperative) relations within nature.

⁵⁹ Rodrigues, "Localising 'the rights of nature'", 179.

⁶⁰ Rodrigues, "Localising 'the rights of nature'", 179.

Lastly, a commitment to ecocentrism or holism in nature can rely on sound views (like Miller's) instead of on a problematic view like the primordial unity view.

f. *Ecocentrism as Anticapitalist*

In sum, I conclude that the CELDF's approach presupposes and is otherwise compatible with a defensible form of ecocentrism. Their characterization of nature, along with their views on the relationship between humans and nature, are sound as well. I now argue that on their understanding of ecocentrism, their position is also anticapitalist. The two positions have not always been associated. For example, Robyn Eckersley elaborates at length on how the conquest of nature was central to Marx's idea of the post-capitalist system.⁶¹ David Schweickart's *After Capitalism*, which presents the author's own anticapitalist economic and social system, "Economic Democracy," recognizes the inherent incompatibilities of capitalism and environmental sustainability but does not take an ecocentric stance toward the natural world.⁶²

In contrast, however, if one adopts an ecocentric approach of the kind I have defended above, it is difficult to maintain a pro-capitalist position. As I mentioned before, ecocentrism is committed to the *intrinsic* and irreducible value of natural entities. This position is in direct opposition with the exploitation or destruction of nature for the purposes of a lucrative project. Yet such behaviour is characteristic of capitalism as I have described it earlier. This pushes the ecocentrist toward an anticapitalist stance. In the short term, an ecocentrist may perhaps maintain their respect for nature's inherent moral worth while continuing to engage in capitalism. This could be done by weighing the value lost in destroying the natural entities at hand against the value created by one's activities and projects. However, in the long run, since capitalism is

⁶¹ Eckersley, *Environmentalism and Political Theory*, 80–81.

⁶² Schweickart, *After Capitalism*, 147.

driven by exponential growth and profit, this respect for the intrinsic value of natural entities seems impossible to maintain. For example, one's business must keep growing, and consumers must buy the products of this business. This is required for capitalism as I have characterized it to go on.⁶³ But this unrelenting growth demands so many resources it is inevitable that to achieve it, the intrinsic value of natural entities must be disregarded. It thus appears to be only a matter of time before the ecocentrist must commit to a system other than capitalism, and indeed a system other than one driven by never-ending expansion. As a result, because the CELDF is committed to ecocentrism, and capitalism is incompatible with ecocentrism, the CELDF's ecocentric stance is also implicitly anticapitalist.

2. Legal Philosophy and Political Strategies of the CELDF

I turn now to the question of the legal perspectives and political strategies employed by the CELDF. I explore how the CELDF's legal perspective is inspired by critical legal studies, and how its legal approach of civil disobedience through municipal lawmaking is unique. I also highlight the strategies the CELDF borrows from prior rights movements. Lastly, I address the impacts of a disanalogy between the Rights of Nature movement and other rights movements.

a. The CELDF's Unique Legal Approach

The field of philosophy of law is in major part characterized by a foundational disagreement on the nature of law: is morality inherently part of this nature, or must moral concerns be evacuated from the law to obtain an accurate portrayal of what law is? This generates an additional query: must law, to any extent, conform to morality in order to have normative force? While the theories of prominent figures like H.L.A. Hart, Lon L. Fuller, and Ronald Dworkin

⁶³ Schweickart, *After Capitalism*, 150.

remain central to philosophy of law, the canonical positions have been accused by the exponents of what is known as “critical legal studies” of failing to respect “the idea that they should conduct conceptual and historical examinations of prominent legal doctrines in order to expose the political and social assumptions upon which they were based.”⁶⁴ For instance, it is impossible to ignore that the United States and the United Kingdom were built on slavery, colonization, and more generally, the oppression of racialized people, women, and those who did not possess property, and that legal systems of these countries were instrumental in maintaining this structure. Thus, canonical legal theories that prescribe abiding by the law regardless of its immoral content appear even more morally repugnant in our day and age, as oppression is more widely recognized.

Preliminarily, the CELDF does seem to take the perspective of critical legal studies, and endorse the position following Dr. Martin Luther King Jr. that an immoral law must be challenged or disobeyed.⁶⁵ However, the organization does not simply claim that the rights given to corporations, for instance, are illegitimate and allow for harm to be done to individuals, communities, and nature,⁶⁶ but focuses on helping communities enact legislation to strip corporations of their constitutional rights and give municipalities and counties the right to self-government.⁶⁷ In other words, the CELDF consistently moves beyond critical legal *analysis* to, as they put it, break a system that is fixed.⁶⁸ This strategy of combining a critical legal studies approach with civil disobedience specifically through the legal framework strikes me as unique to the organization.

⁶⁴ Mark Tebbit, *Philosophy of Law: An Introduction*, 2nd edition (Milton Park, Abingdon, Oxon; New York, NY: Routledge, 2005), 82.

⁶⁵ Community Environmental Legal Defense Fund, “Common Sense Community Rights Organizing,” 4.

⁶⁶ Community Environmental Legal Defense Fund, “Community Rights Do-It-Yourself Guide,” 2.

⁶⁷ Community Environmental Legal Defense Fund, “Community Rights Do-It-Yourself Guide,” 42.

⁶⁸ Community Environmental Legal Defense Fund, “Community Rights Do-It-Yourself Guide,” 4.

Moreover, the CELDF's ultimate goal is to amend the United States Constitution to include rights for nature as well as a right for communities to self-govern one certain matters.⁶⁹ Their main contention with respect to the way the United States' Constitution has been used is that it has consistently legalized putting profits over the health and well-being of communities.⁷⁰ In the same vein, they highlight how American environmental protection laws and labour laws were created with the explicit purpose of ensuring that commerce grows unimpeded, and provides a framework for the exploitation of the natural environment and labourers.⁷¹ Thus, the CELDF's desire to create more moral laws to replace oppressive ones is clear.

In light of these realities—and in this tacit yet unequivocally anticapitalist struggle—the CELDF is attempting to give rise to a community right to self-government at the municipal and county levels. Such a right would allow, among other things, the establishment of rights for nature. For the CELDF, community self-government is right because communities should have the power to democratically decide what corporate projects take place, and to what extent they wish to enhance the rights of living beings, for instance. On the other hand, interference from corporations and the state or federal preemption on these matters is wrong. It is wrong more specifically because it is done to the detriment of the communities and the individuals and ecosystems that are part of them, only for the benefit of corporations and higher levels of government. This makes manifest the CELDF's commitment to replacing laws they believe perpetuate injustice through capitalism with more moral, anticapitalist ones. This commitment is also aligned with the critical legal studies perspective.

⁶⁹ Community Environmental Legal Defense Fund, *On Community Civil Disobedience in the Name of Sustainability: The Community Rights Movement in the United States*, PM Press Pamphlet Series 0013 (Oakland, CA: PM Press, 2015), 20–21.

⁷⁰ Community Environmental Legal Defense Fund, “Community Rights Do-It-Yourself Guide,” 2.

⁷¹ Community Environmental Legal Defense Fund, *On Community Civil Disobedience in the Name of Sustainability*, 9–15.

Nonetheless, the CELDF is not unilaterally opposed to the role state and federal governments play in counties and municipalities with regard to legislation. For instance, the CELDF would certainly not oppose higher levels of government forcing a municipality or county to recognize women's right to vote if it were attempting to deny the women of their community this right. Indeed, they would support the intervention in this case because they believe that the federal and state governments should provide a "legal floor" in terms of rights—and hence prohibit denying rights that are already established by the Constitution—but not a "legal ceiling," as higher levels of government are currently doing when prohibiting communities to give rights to nature within their borders.⁷² Once again, this position underscores the CELDF's dedication to more moral laws.

b. *The CELDF's legal philosophy and anticapitalism*

The CELDF's approach to law is strongly influenced by the moral values the organization aims to uphold. I now highlight ways in which the organization's legal philosophy, in virtue of being committed to moral values, is also implicitly anticapitalist.

According to Erik Olin Wright, the grounds for opposing capitalism should not merely stem from class interests, but also from moral values.⁷³ Moral values can rally a much greater number of individuals to a cause, even if some have conflicting interests. The CELDF's commitment to what is *moral*, and not to what is easiest or most practical for human beings is anticapitalist. It is so because capitalism, as I defined it earlier on, aims solely at increasing corporate profits and output growth. Corporate shareholders and top executives benefit financially from the environmental harm they cause, and are not negatively affected by it (at least not directly). As a

⁷² Community Environmental Legal Defense Fund, "Community Rights Do-It-Yourself Guide," 5.

⁷³ Wright, *How to Be an Anticapitalist* ..., 18–19.

result, it is not in their interest to stop environmentally harmful activities, as this would decrease profits. Thus, when the CELDF helps communities affirm their right to self-governance and the rights of nature, the effect is an anticapitalist one. The organization causes the protection of the natural community, which is morally right, to take precedence over corporations' and capitalism's ability to maximize profit.

Democracy, as well as community, are identified by Wright as two important values of anticapitalism. Both of these make clearer the CELDF's implicitly anticapitalist approach. Wright defines a fully democratic society as one where "all people would have broadly equal access to the necessary means to *participate meaningfully in decisions about things that affect their lives.*"⁷⁴ The CELDF's conviction that people should be able to non-trivially take part in the decisions impacting their lives is central to their approach, and is anticapitalist. Indeed, the organization highlights that, under the current American legal system, communities in the United States can sometimes have a say on *how much* sewage sludge can be dumped within their borders, or *where* fracking can happen in their community, but they do not have a right to simply say "no" to these practices.⁷⁵ Put differently, these communities do not have the opportunity to participate *meaningfully* in the decisions that affect their lives.

The assistance the organization offers communities enables them to make these significant decisions, thereby interfering with the federal and state decisions to allow harmful corporate projects within a municipality's or county's borders. This stronger form of democracy is anticapitalist because, for a change, it interferes with corporations' ability to make profits. When communities have the right to refuse that sludge dumping, fracking, or water extraction

⁷⁴ Wright, *How to Be an Anticapitalist* ..., 22. Emphasis mine.

⁷⁵ Community Environmental Legal Defense Fund, "Common Sense Community Rights Organizing," 7.

take place in their municipality or county, this stands in the way of corporate gain. This is why corporations do not hesitate to sue communities who attempt to refuse.

Giving communities the right to refuse corporations access to their territory is also anticapitalist because it allows communities to put the health and flourishing of their natural community before corporate profits. Capitalism has these priorities reversed. Thus, the CELDF is helping communities put the value of community first, along with democracy—and doing so because it is morally right. This resonates with Wright’s definition of community: “that people ought to cooperate with each other [...] from a real commitment to the well-being of others and a sense of moral obligation that it is right to do [so]”.⁷⁶

c. Similarities Between the Rights of Nature Movement and Other Rights Movements

The CELDF’s work is greatly inspired and informed by the struggles of the earlier abolitionist and suffragist movements, which also sought to bring about constitutional change in the United States. First, the CELDF’s efforts, on an ideological level, seem similar to those of Suffragists and Abolitionists working toward ratifying new rights in the Constitution. We now consider these rights indisputable, and yet, at the time, many found them ridiculous and unnecessary, just as some people today find rights for nature foolish or excessive.

Another similarity between other rights movements and the CELDF’s is their common goal of obtaining recognition for an entity’s legal personhood and rights. However, there likewise seems to be a crucial divergence in the aims of previous rights movements and the Rights of Nature movement. The former aimed at emancipating women and people of colour from being treated as property by the law. The latter aims for the recognition of legal personhood and rights for nature, but without in general standing in the way of nature being owned. It is true that some

⁷⁶ Wright, *How to Be an Anticapitalist ...*, 26.

nature rights *do* prohibit ownership of a natural entity by any human or institution. The Te Urewera National Park in New Zealand, for example, has stewards, but owns itself and cannot be owned anyone else.⁷⁷ Nevertheless, the CELDF in its work in the United States, only aims for nature to stop being considered *solely* as property in the legal realm. In this way, both the intrinsic value of nature and the interests of its owner can be weighed.

As Roderick Nash points out, currently, the harm that is done to a natural environment or ecosystem is only considered harm insofar as it damages an owner's property. Only the owner can be compensated, as they are considered by the law to be the only victim of the harm to their property.⁷⁸ Giving rights to nature would likely benefit its restoration, as the law would at least understand nature as one of the victims of the harm done to it, and thus as deserving restitution. This idea—of the natural entity being restored when it is harmed—is also endorsed by the CELDF and the communities attempting to adopt self-government with regard to their decision on how nature is to be treated in their municipality or county.⁷⁹

Concerning methods of organizing, many techniques and insights from the abolitionist and suffragist movements are applied by the CELDF in their effort to bring about constitutional change.⁸⁰ The organization recognizes that movements must start small and local, with individuals who are personally affected by unjust laws, as the abolitionists and suffragists did. This is precisely how the CELDF works toward their goal of amending the U.S. constitution to include the Rights of Nature and the right for communities to enforce these rights through self-

⁷⁷ David R. Boyd, *The Rights of Nature: A Legal Revolution That Could Save the World* (Toronto, ON: ECW Press, 2017), 134.

⁷⁸ Roderick Nash, *The Rights of Nature: A History of Environmental Ethics* (Madison, Wis.: University of Wisconsin Press, 1989), 201, eBook (PDF).

⁷⁹ Community Environmental Legal Defense Fund, "Community Rights Do-It-Yourself Guide," 30.

⁸⁰ Community Environmental Legal Defense Fund, *On Community Civil Disobedience in the Name of Sustainability*, 21–29.

government.⁸¹ In addition, the organization uses civil disobedience through municipal lawmaking to expose the illegality of community self-government and, subsequently, show how unjust the illegality is as communities find themselves without any legal means to refuse harmful corporate activity within their territory. This technique has its roots in the abolitionist and suffragist movements where, for example, black students were sitting-in at lunch counters to simultaneously bring attention to segregation laws and to show how unjust these were.⁸² Thus, the CELDF is using techniques that made the suffragist and abolitionist movements successful in the hope that these will also serve them well in their own journey to constitutional change.

d. *The Disanalogy between Nature and Humans as Subjects of Rights*

In this section, I argue that a disanalogy between the Rights of Nature movement and other rights movements does not imply that giving rights to nature is mistaken.

Tanasescu argues that the analogy between the Rights of Nature movement and other rights movements is flawed.⁸³ He remarks that “[i]t is not at all clear that, if I buy a piece of forest and keep it unchanged by donating it to a land trust, the forest is harmed in any way.”⁸⁴ In contrast, a human being, no matter how well they are treated, suffers intrinsic harm to their dignity from being owned.⁸⁵ This, in part, leads Tanasescu to claim that the analogy between the Rights of Nature movement and other rights movements is unfruitful because, unlike when a human being

⁸¹ Community Environmental Legal Defense Fund, *On Community Civil Disobedience in the Name of Sustainability*, 22.

⁸² Community Environmental Legal Defense Fund, *On Community Civil Disobedience in the Name of Sustainability*, 25.

⁸³ Note that there are two separate issues here: (1) whether there is a compelling analogy to be made between the Rights of Nature movement and other rights movements like the abolitionist and suffragist movements; and (2) whether Rights of Nature activists see themselves as adopting the ideas and tactics of earlier rights movements. I do take (2) to be true about the CELDF, especially in the context of their work in the United States. Nonetheless, in this section, I concentrate my attention on (1).

⁸⁴ Tanasescu, *Environment, Political Representation* ..., 136.

⁸⁵ Tanasescu, *Environment, Political Representation* ..., 136.

is treated as property, no inherent harm is done to nature.⁸⁶ He then takes this to support his argument that giving rights to nature is not the right way to go about environmental protection.⁸⁷ While I agree with Tanasescu that this is a point of disanalogy, I disagree that, as a result, giving rights to nature is mistaken.

While owning land to promote the health of the natural entities and ecosystems on this land is practiced by some and can be beneficial, this is uncommon in comparison to owning land to exploit its resources. That is to say, although there is no inherent harm done to nature when it is owned, the likelihood and extent to which it may be harmed by being owned and not having rights justifies still giving it rights. In fact, Tanasescu's claim in this regard seems to evacuate any kind of social context, or more precisely, our current and inescapable *capitalist* context. In the context of capitalism as I have characterized it, and in light of its rhetoric of exponential growth, land preservation is not particularly conducive to such high growth and profit, and so not particularly valued. Thus, while owning natural entities is not inherently harmful to them, contrary to owning of a human being, it does not follow from this that giving rights to nature would be misguided or ineffective.

In addition, the Rights of Nature movement does not aim to ban ownership of any and all natural entities. As I've mentioned, the goal is rather to stop mere ownership of a natural entity from justifying its destruction by requiring that its intrinsic moral value be considered. Because unrestricted ownership is one of the vectors through which severe environmental harm takes place, affording nature rights that forces owners and other individuals to consider its intrinsic value can be impactful. This is so independently from the fact that nature isn't inherently harmed

⁸⁶ Tanasescu, *Environment, Political Representation ...*, 136.

⁸⁷ To be clear, this is not the only or the main reason Tanasescu gives for why we should not afford nature rights. Thus, I take myself to solely be arguing that *this* disanalogy between the rights of nature movement and other rights movements does not support his argument that giving rights to nature is misguided.

from ownership. Consequently, the absence of intrinsic harm in owning natural entities does not mean that giving them rights is misguided.

e. Challenges in Recognizing Moral Personality in Light of Legal Personality

Here, I argue that, although recognizing legal personality does not automatically lead to the recognition of one's moral personality by others, it does not follow from this either that giving rights to nature would be unproductive.

Tanasescu is also critical of giving rights to nature since if "legal personality would imply moral personality, then the discriminatory treatment of colored people would have stopped the moment their personality was signed into law, which has obviously not been the case."⁸⁸ Put differently, affording nature rights will not instantaneously change the way individuals and corporations see and treat non-human natural entities. While I agree with Tanasescu's point, it seems to me quite implausible that those fighting for the Rights of Nature, or for any other constitutional change, have this expectation that reaching their goal will be the end of the fight.

Instead, I take it that the demand for legal rights is a stepping-stone to the eventual recognition of moral rights. Out of the struggle to have moral rights acknowledged comes the consciousness-raising efforts that aim to bridge this gap between legal and moral personality. Affording nature rights can therefore be seen as a crucial step in having its intrinsic moral value recognized and respected.⁸⁹ Moreover, in addition to encouraging the recognition of nature's moral personhood, giving rights to nature will also provide more substantial legal recourse when

⁸⁸ Tanasescu, *Environment, Political Representation ...*, 138.

⁸⁹ Christopher D. Stone makes a similar point in "Should Trees Have Standing—Toward Legal Rights for Natural Objects," *Southern California Law Review* 45, no. 2 (1972), <https://heinonline.org/HOL/P?h=hein.journals/scal45&i=452&a=ZmFsYXcubGFuLm1jZ2l5bC5jYQ>, 489.

environmental harm takes place. Rights for nature may thus be a better way of going about environmental activism and protection than Tanasescu takes them to be.

f. *Giving Rights to Nature and Anticapitalism*

Finally, allocating rights to nature has important anticapitalist implications. While giving rights to nature does not stop all nature from being property, it nonetheless has the potential to cause significant disruption to the capitalist system. More precisely, it can interfere with capitalism's inclination to see environmental harm as a mere "negative externality" of exponential growth and profit. If nature has rights, then it cannot be used or abused in whatever way deemed necessary by corporate interests. Much of our western ways of life are entrenched in the exploitation of nature and environmental harm. Whether it be overgrazing lands and the use of harmful pesticides to grow our food, the destruction of national forests in Romania and elsewhere to build our cheap IKEA furniture⁹⁰, or the electronic devices we use which require rare minerals and for which both land and marginalized people are exploited; plundering the natural world is ingrained in our way of life. In this context, giving rights to nature thus takes on a much bigger meaning than a symbolic one; it could potentially destabilize the whole capitalist structure at the basis of this harm, and instigate a shift toward a more ecocentric, post-capitalist society.

⁹⁰ Steve Rivo, "Deadly Dressers," Docuseries, *Broken* (United States: Netflix, 2019).

CONCLUSION

Overall, I hope to have made a compelling case for the claim that the Rights of Nature movement in the United States, led by the CELDF, is just as anticapitalist as it is environmental, even if this is not expressed by the organization in such explicit terms. This anticapitalist commitment, according to my analysis, is present in the intellectual commitments of the CELDF regarding ecocentrism, legal philosophy, and political strategies. Combining Rights of Nature and Community Rights, as the CELDF does, is certainly not the only way to unite environmental and anticapitalist concerns. It is, however, an effective one.

Social movements like the Rights of Nature movement, fighting for radical change, frequently seem to be divided along political lines. They appeal only to individuals on one side of the political spectrum, and alienate those on the other side. But the CELDF defies this divisive pattern. It instead brings together individuals from different political allegiances, and gives communities the means to fight back against corporations threatening theirs and nature's health and flourishing.

The Community Bills of Rights are often spoken of as giving communities the right to say "no" to unwanted and environmentally harmful corporate projects in their municipality or county. I believe it may now also be said that Community Bills of Rights give communities the right to begin to say "no" to capitalism.

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