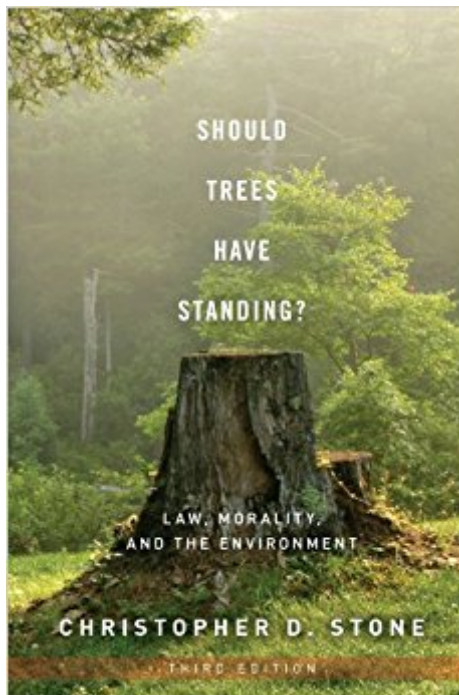


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# Should Trees Have Standing?: Law, Morality, And The Environment



## Synopsis

Originally published in 1972, *Should Trees Have Standing?* was a rallying point for the then burgeoning environmental movement, launching a worldwide debate on the basic nature of legal rights that reached the U.S. Supreme Court. Now, in the 35th anniversary edition of this remarkably influential book, Christopher D. Stone updates his original thesis and explores the impact his ideas have had on the courts, the academy, and society as a whole. At the heart of the book is an eminently sensible, legally sound, and compelling argument that the environment should be granted legal rights. For the new edition, Stone explores a variety of recent cases and current events--and related topics such as climate change and protecting the oceans--providing a thoughtful survey of the past and an insightful glimpse at the future of the environmental movement. This enduring work continues to serve as the definitive statement as to why trees, oceans, animals, and the environment as a whole should be bestowed with legal rights, so that the voiceless elements in nature are protected for future generations.

## Book Information

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## Customer Reviews

"Christopher Stone's book reflects a truly original contribution to the environmental law movement. Stone's unique idea about nature and natural objects--that perhaps they should have their own rights--is now ripe to be considered seriously by policymakers. As Stone suggested decades ago, and expands upon in his new book, the time has finally come to move from an anthropocentric to an eco-centric view of the environment." -Jan G. Laitos, John A. Carver, Jr. Professor of Law University of Denver Sturm College of Law "The third edition of this book of essays demonstrates that

Christopher Stone's ideas are as challenging, as eye-opening, and as thought expanding as they were when he first penned his landmark work. Clearly written and cogently argued, Stone's writing succeeds in being simultaneously provocative and persuasive." -John S. Applegate, Walter W. Foskett Professor of Law, Indiana University Maurer School of Law "The publication of Christopher D. Stone's new essay collection, *Should Trees Have Standing?*, could not be more timely...To his credit, Stone does not shy away from these morally and legally troublesome issues. He confronts them head-on, often at length, and even takes his best stab at resolving some of them. Although this book does not provide all the answers (nor could it), it does give the reader plenty to ponder..." --California Lawyer

Christopher D. Stone is J. Thomas McCarthy Trustee Chair in Law at the University of Southern California School of Law. A leading advocate for the environment, he has written for Harper's, The New York Times, The Nation, Boston Globe, and Los Angeles Times.

Read this one text if you want to really understand the legal basis upon which human and non-human entities are recognized as having legal rights under human legal systems. The definitive text, written in an engaging and coherent style. If you don't know the information in this book you cannot construct cogent or logical arguments which can attempt to produce change within our existing legal system.

Good book

This book is very helpful to have if you are a community activist interested in saving trees and maintaining the canopy of your neighborhood and city. It is not only informative, and makes an excellent argument toward the rights of trees, but it is a particularly good thing to wave about at City of Miami Historic Preservation Board hearings where we regularly go to appeal tree removals.

Book in perfect conditions

Fabulous book

I am very happy with my purchase. The product was as advertised and arrived in a timely manner. I encourage everyone to consider this dealer when looking for merchandise.

Introduction- Should Trees Have Standing Legal standing is a term which applies to the ability of a person, or parties to demonstrate their position before a court. In the context of environmental law, there has been great discourse regarding the nature of legal standing and its applicability to natural objects. This includes forests, oceans, rivers, and other objects which ought to have some degree of recognized rights but do not have the faculties to independently obtain them. Christopher D. Stone has become a forerunner in the environmental movement by writing his seminal book, "Should Trees Have Standing?", amongst his other literature, which proposes the idea of bestowing rights into non human parties. Stone's central thesis is that natural objects should be granted legal rights and or standing to ensure a greater recognition of their rights. Stone ultimately reflects the success of the environmental movement and provides insightful forethought as to where the movement is going. Notwithstanding some contradictory arguments, and even sometimes fallacious statements; Stone's position is generally concise, valid, and comprehensive. Throughout this text Stone articulates a rather esoteric idea in a very apprehensive manner. Therefore, "Should Trees Have Standing" is a book that can be grasped not only by those who are experts in the study of environmental law, but also by those who simply wish to supplement their environmental literacy. Nonetheless, this work will continue to serve as foundation for advocates and many others who concern themselves with the study of environmental law.

Summary of Literature- Stone begins the novel with the proposition that society ought to do the "unthinkable" by investing legal rights into the authority of natural objects. He recognizes standing on behalf of the forests, oceans, and rivers. Stone also identifies that this recognition is yet to become common consensus amongst the masses. However, he maintains an idealistic view in regards to the success of the environmental movement. The quote, "we have become so accustomed to the thought of corporations having legal standing, that we forget how jarring the notion was to early jurists." emphasizes that law is not static. It presents the possibility that perhaps the environmental movement could parallel the success of the corporate movement, and that future people may accept legal standing rights for the environment similar to which they do in regards to corporate standing. Next, Stone's focus broadens as he examines the need for legal standing not only amongst trees, but also for the climate, agricultural, and marine systems. Degradation of the earth's climate is becoming an increasingly imminent environmental issue. Stone identified that "those who are concerned about the future of the environment have no shortage of reasons to be worried. Atmospheric accumulations of carbon and chlorofluorocarbons are threatening the climate and ozone shield." Moreover, similar circumstances are highlight in regards to the situations of the agricultural and marine development.

The quote, "aquaculture, such as fishing, used to be only a hunter gather practice. but the modern trend is to heavily farm the seas and inland waters, much the same as we have over-farmed the land" identifies that human beings have increasingly been aggregating both land and water supplies since the hunter gather practices of past generations. Therefore, the need for legal standing rights for natural objects is becoming increasingly important with respect to increasing environmental damage. Moreover, it was not enough for Stone to only analyse the current conditions of environmental law and to suggest legal standing be given to natural objects. In addition to this, Stone proposed remedies to which he felt would best advance the environmental movement and the conditions of the world's commons. Stone's proposal first identified that perhaps a form of legal representation would benefit the environment. This is referred to as the Guardian, whose position was original created and defined in the Maltese Proposal. A guardian would speak on behalf of natural objects who could clearly not speak for themselves, and would therefore see to the representation of the environment's interests. Secondly, Stone proposed the creation of a Global Common Trust Fund, or a GCTF to finance the first proposal of guardianship. He considers the benefits of having a fund that is not constructed and dependent on voluntary donations, such as the previous funds were. Nonetheless, the Guardian proposal would provide protection to the environment, specifically the commons, and the GCTF would be the mechanism to support it financially. Lastly, Stone commented in regards to the overall livelihood or death of the environmental movement. There needs to be a change in individual values and how people assess their impact on the world. Despite slow progress, Stone concludes by identifying that environmentalist efforts are at their best, and therefore appear to be alive.

Literature Strengths-Foregoing Stone's proposal, one ought to consider the depth of his arguments. First, Stone provides strong support to justify the position of the Guardian. Stone recognizes that an environmental Guardian would be no different than the other forms of Guardians that legal systems often embrace. The quote " Such a guardian is not inconsistent with guardians pleading for other interests and values" reflects the fact that Guardians have been embraced outside of environmental law. It is not uncommon for a Guardians to be used in respect to the aid of minors, developmentally disabled persons, and even incapacitated seniors. Therefore, the Guardian principle has certainly been embraced under many legal circumstances. Perhaps it is then fair to recognize a Guardian in regards to an environmental context as well. Secondly, Stone goes on to question who the Guardians should be. This provides additional support to his argument because it helps readers conceptualize the inherent issues of having government-operated Guardians. The quote, "a strong argument can be made for establishing a Guardian as an NGO, thereby providing it a freer hand to

criticize and supplement the activities of government" identifies that it would be best if Guardians worked unilateral to the government. This claim is important because if Guardian's were operated by the government, it would present the risk of the operations becoming a political instrument or even swayed from political subjectivity. This would certainly hinder the effectiveness of Guardians. On the contrary, a non governmental agency would make the best Guardian because they are more free to scrutinize the actions of the government. Stone provides strong support for the guardian position. Moreover, he also presents strong arguments in regards to the Global Commons Trust Fund proposal. It is important to emphasize the fact that the GCTF is not just a creative user tax, but rather it is an instrument used to ensure the sustainability of the global commons. Stone identifies that the GCTF "simply seeks from users of the global commons a reasonable fee so as to apply it back to the commons". This is important because state-nations receive benefits from paying into the program and would therefore be more inclined to be obliged by its provisions. Money collected from a wrongdoer will be used in respect to the restoration of the commons, as opposed to conventional litigation which would waste financial resources of both the defendant and the plaintiff. Foregoing these arguments and the complexity of the subject, one must lastly consider the clarity of the text. Stone provides great insight with respect to in depth legal matters. He does this all while maintaining relatively comprehensible language. This is important for the overall success of the environmental movement because it provides those who haven't studied law a foundation to which they can begin to develop their environmental literacy.

**Literature Weaknesses-**Clearly a reader must consider the strength of Stone's position, however one must further recognize that some arguments were poorly addressed throughout the text. Let us first view the inherent problems that are attributed to Stone's proposal regarding the implementation of a Guardian. According to Stone, "The proposal contemplates appointment of an eminent person, without known prejudice, having practical wisdom, integrity, moderation and humility." This is a definition that at first glance appears to be whole, however it increasingly becomes questionable when viewed in depth. The accessibility of these qualities seems rather subjective. For instance, it would be problematic if two countries couldn't agree upon what constitutes "moderation and humility". Certainly there would then be a great deal of problems attributed to the Guardian's appointment process, such as creating international consensus as to who best constitutes the Guardian position. We must therefore recognize that Stone's proposal embodies some inherent problems. To further support this, Stone identifies that "the bulk of the efforts will require concerted and cooperative action among nations". However, he then goes to undermine his own position by identifying that "the Kyoto process has proved that this is hard to achieve." This is important to note because it is evident through precedent that

nation-states are often reluctant to ascend to treaties that may not directly benefit them. If the costs of a treaty outweigh its benefits, certainly a nation-state will be unlikely to participate. The Kyoto protocol emphasizes this point because it has failed to bind one of the largest polluter in the world, the United States. Therefore, clearly there have been, and likely will be more problems regarding international consensus for many environmental issues. Furthermore, we must also consider weaknesses in regards to Stone's preservation argument. He proposes that Guardians preserve the environment for future generations. However, this too is inherently problematic because involves the discretion of current generations with respect to their perceived value of certain objects. This is identified in the quote "in predicting the value future persons will attach to an environmental legacy, under estimation is at least as much of a trap as over estimations." The problem is that what we perceive to be of important now, may not necessarily be held of similar value by future generations. Clearly this weakens Stone's argument because the process of preservation has proven itself to be a sort of guessing game. Lastly, one must also recognize that Stone's position is weakened by the fallacies incorporated in his arguments. In particular, his space argument is questionably a slippery slope and seems to be an exaggeration of current reality. Stone talks about "Tapping the wealth of the planets" and "auctioning space slots that would yield several hundred millions annually." Maybe this argument will become reality or of relevance sometime in the future. However, this is certainly not a current issue. The argument appears to be far fetched, and so it's presence weakens Stone's overall position.

Summary/ General Evaluation-In summary, Stone's central thesis is that natural objects should be granted legal rights and or standing to ensure a greater recognition of their rights. Stone identified remedies to which he felt would best advance the environmental movement. Stone first proposed that guardianship is necessary for the protection and preservation of the environment. Then he claimed that a Global Commons Trust Fund would finance this establishment. To reconcile the strengths and weaknesses of his proposal, it would appear that Stone effectively argues his position. Stone recognizes the limitations of law, and notes that the legal process is not necessarily a whole solution. Notwithstanding some contradictory arguments, and even sometimes fallacious statements; Stone's position is generally concise, valid, and comprehensive. Therefore, Stone's novel "Should Trees Have Standing" is an overall success. It is without a doubt that this text will remain a seminal piece of literature in the environmental movement.

Published just two weeks before the Gulf Oil disaster, the updated "Should Trees Have Standing?: Law, Morality, and the Environment" takes on extra significance in arguing that the environment itself has an important place in the debate over how much human damage should be tolerated. First

published in 1972, author Christopher D. Stone's arguments have taken on new urgency, laying out a case that environmental issues can't be seen only from the human perspective and that trees, the land and the water are themselves worthy of rights. This edition updates his initial argument, noting that his original argument seemed over the top 38 years ago, but have won fans and legal support. As he notes, the argument that streams or forests have no standing because they don't speak has no meaning when corporations are granted rights alongside people. Part of the argument is that future generations of people have a right to a quality environment but Stone's argument runs deeper, explaining current case law and the tussle over the definition of legal standing. He also assesses the place and success and failure of environmentalism itself. This is an honest look at the effects of his own argument, a good legal analysis of what the courts and individuals have decided to accept and a forward-looking assessment of what could come next. Students of environmental issues, lawyers and others will find this book a valuable tool in understanding the issues beyond the effects of poisoned water or destroyed mountain tops on humans and into a eco-centric view of what we should be doing.

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