

## LETTER TO THE EDITOR

### The Rights of Nature may Improve Water and Sanitation in Sierra Leone

Mansaray, Abubakar S: PhD Candidate<sup>1</sup>; Jason, A: Assistant Professor of Practice<sup>2</sup>

1. Oklahoma State University, Environmental Science Graduate Program
2. Oklahoma State University, Spears College of Business

#### ABSTRACT

Water resource protection is becoming increasingly important in Sierra Leone. Concomitantly, on the world stage, attention is drawing to the Rights of Nature as Ecuador, India and New Zealand and various Non-Governmental Organizations pioneer this ancient social construct into law in the twenty-first century. The coincidental emergence of these two issues raises the question: Might the Rights of Nature provide a way to address Sierra Leone's water concerns? This paper suggests consideration of Rights of Nature to help boost water and sanitation in Sierra Leone.

**Keywords:** Rights, Nature, Water, Sanitation, Beings.

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**Corresponding author Email:** [absmansaray@gmail.com](mailto:absmansaray@gmail.com), Tel: +14057143566

Water resource protection is becoming increasingly important within the nation of Sierra Leone. Concomitantly, on the world stage, attention is drawing to the Rights of Nature as Ecuador (Anon., 2008), India (Zimmer, 2017) and New Zealand (Roy, 2017) and various Non-Governmental Organizations (Global Alliance for the Rights of Nature, 2017) pioneer this ancient social construct into law in the twenty-first century. The coincidental emergence of these two issues raises the question: Might the Rights of Nature provide a way to address Sierra Leone's water concerns?

The answer is a resounding *maybe*, but only if Sierra Leone can shift away from considering water to be merely a resource. Such a shift in focus will, require water to no longer be viewed as something to be "used," "exploited," or even "conserved." Rather, water, or perhaps discrete water bodies (as is the case in India and New Zealand) will be respected as beings with the rights to exist, grow, change and create. In a Rights of Nature system, *all* things are beings, and all things have rights that must be balanced and respected. "Beings" are (in the Rights of Nature concept) thought to at once be all of the Earth, and all things that make up Earth. Accordingly, the shift is away from human needs, and towards the needs of all beings, *including* humans.

Respecting the Rights of Nature would address ongoing water concerns in Sierra Leone. Using this powerful tool will, however, require a significant social and political commitment. While we cannot in this paper comment on the social or political will, we can (and do) analyze the general contours of the Rights of Nature so that policymakers in Sierra Leone can continue their important consideration of how the nation will sustainably ensure a bright future, perhaps (as we hope) for all *beings*.

In 2010, the United Nations (UN) General Assembly convened a meeting in which global leaders agreed to regard water and sanitation as a

human right (Meier, et al., 2014). However, it has been very difficult to incorporate the right to clean drinking water into national policies especially in the least developed countries where the need to do so is greatest (Mehta, et al., 2014). In Sierra Leone, for instance, there is no adequate access to clean drinking water, and that problem is exacerbated by major conflicts concerning water as a resource and how it may compromise land rights (Bottazzi, et al., 2016). Those conflicts tend to reduce access to water. However, ensuring the rights of water courses themselves (streams, lakes) may not be as difficult in Sierra Leone because most local communities *already* respect the rights of natural resources such as water bodies. Building on the Rights of Nature from that framework may at once address land conflicts and increase access to clean water.

These questions of competing rights beg the question of what "rights" really means. Ayn Rand (Rand, 1990) describes rights as a moral concept that provides a logical transition from the principles guiding an individual's actions to the principles guiding his relationship with others. Thus, an individual's rights come with their obligation to recognize that others are entitled to the same rights they enjoy. This is the concept of rights that we believe applies in a general policy setting concerning water, and would at the same time support the implementation of the Rights of Nature.

The idea of extending rights to Nature is not *Avant Garde*. Indeed, rights and their corresponding obligations have been extended to inanimate objects (Supreme Court of the United States, 1971) and corporations (Stone, 1974; Sierra Leone Web, 2017). Chapter III of Sierra Leone's constitution is a collection of rights enjoyed by Sierra Leonean citizens and *corporations* which are simply "beings" constructed from human ingenuity (Sierra Leone Web, 2017). Chapter III ensures that citizens and the Government of Sierra Leone respect and uphold those rights at all times. Indeed, it makes

the eminent sense that nature's rights should be at least as protected as the rights of a fictitious corporate being (Kauffman & Martin, 2017).

The Rights of Nature (United Nations, 2010) themselves might be considered a derivation of natural law. The Hellenic roots of natural law theory postulated that those laws which were the same everywhere were a part of the "natural law." Indeed, the major world religions refer to a sort of natural law of reciprocity, most easily discerned in the Golden Rule. Likewise, indigenous people speak in terms of natural law being handed down to them by their creator. Taken to its logical endpoint, and applied to the relationship of humans to the other beings comprising Mother Nature (a relationship we are constrained to enjoy and analyze), the echoes of the Bolivian Andean concept of *Pachamama* (Mother Earth) which embodies a symbiosis between humankind and nature, clearly demonstrate that a Rights of Nature social bargain not only can be struck but that it can be successful in sustaining a society for millennia (Supreme Court of the United States, 1971).

Nature, in this context, might be referred to as Mother Earth. However, we would assert a more appropriate term is Mother Nature, and it has been widely accepted by others. Nature (instead of Earth) is appropriate because Nature refers to all the beings, including living components such as animals, trees and microorganisms; and non-living components such as rivers, oceans, mountains and the air. Hence, the name "Mother Nature" disaggregates Mother Earth into its component elements each of which would be regarded as Beings entitled to rights (along *with* Humans) (United Nations, 2010).

As is implied by Pachamama, the idea of the Rights of Nature is as old as the very existence of indigenous peoples around the world (United Nations, 2010). Many indigenous communities, for thousands of years, have consulted different components of Mother Nature for justice, healthcare, financial liberation, and family welfare. Hence, it is not difficult to see, from the indigenous perspective, that Mother Nature is a living entity that deserves rights and respect. (Africa Renewal

Online, 2017). In Sierra Leone, many communities that are more connected to their indigenous roots are also known for preserving natural resources such as forests, mountains, rivers and some wild animals for traditional rituals, healing, and personal protection (James & Bah, 2014).

The indigenous and natural law perspectives, however, have competition for being considered the route of jurisprudence giving rise to the Rights of Nature (Babcock, 2016). One of the early modern works of advocacy relating to the Rights of Nature was that of Christopher Stone in his book, "*Should Trees Have Standing? - Toward Legal Rights for Natural Objects* (Stone, 1974)". Stone's question has endured in courts around the world. Ecuador was the first country to adopt the Rights of Nature in its constitution in 2008 (Anon., 2008). Kauffman and Martin, in 2017, present their analysis on the constitutional provisions for Rights of Nature in Ecuador (Kauffman & Martin, 2017).

The Ecuadorian experience is shaping how the Rights of Nature may follow a trajectory that complements that of human rights. While advocacy for human rights gathered momentum at global levels and then filtered to country levels, the Rights of Nature is taking the opposite route. Globally, the Ecuadorian experience has thrown light on the unique route global advocates may take in institutionalizing the Rights of Nature (Kauffman & Martin, 2017).

In the United States, when the question of the Rights of Nature has arisen, it has been addressed by the Courts who examine the legal concept of "standing." "Standing" requires the plaintiff to show that there is proof of injury in fact, that the defendant caused the injury, and that the offence can be redressed by the court hearing the controversy. This has created challenges to the advancement of Rights of Nature by the US courts. However, proponents of the Rights of Nature have argued in favour giving corporations and some inanimate objects the right to be represented as persons in court. Indeed, in a famous dissenting opinion, former US Supreme Court Justice Douglas favoured the idea of Rights of Mother Nature, by treating her as a person in so much the same way

corporations and inanimate objects are given Article III standing in court. Justice Douglas used Professor Stone's article to great effect (Supreme Court of the United States, 1971).

Justice Douglas believed that environmental agencies did not have the requisite credentials to adequately protect or represent Mother Nature. His argument was not in terms of institutional capacity or corruption. He rather thought those institutions were answerable to powerful leaders who may come in confrontation with issues affecting Mother Nature. That is why constitutional provisions that enhance the Rights of Nature would be necessary to meet the goal of adopting a series of laws and social goals that protects all beings (Supreme Court of the United States, 1971).

### Conclusion

Should Sierra Leone wish to address the concerns arising in relation to water, it might join Ecuador, India and New Zealand in adopting the Rights of Nature. To do so, it will need to adjust its view away from "resources" and towards "beings." While obviously a difficult social task that will require a great deal of social will, Sierra Leone's traditions of respecting certain water courses, and its many communities' indigenous knowledge which are in line with the cultural perspective of other indigenous cultures, provide hope that beings may find a respect for the Rights of Nature under the future laws of Sierra Leone.

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