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Right of Nature in Africa: Assessing the Feasibility of Granting Legal Personhood to Rivers and Forests

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Abstract

A global movement has begun to grow, one that argues that nature itself ought to be viewed as an important subject of law and not only an object of mere regulations. This growing idea is often described as granting rights of nature or legal personhood to natural entities, which includes important environmental elements like forests, rivers, and some other components of the ecosystem. Drawing insights from emerging global experience, this study assesses whether granting rights of nature or legal personhood to natural entities across the continent is currently viable and, if so, what the recognition and adoption might entail. The study employs a doctrinal approach, alongside a structured narrative review style and complemented by illustrative case examples, to highlight how significant this notion of legal personhood to natural entities has become worldwide and its implications for Africa. Potential legal, guardianship and institutional challenges in its adoption are highlighted, as well as promising prospects for Africa's environmental governance if widespread acceptance and recognition of the rights of nature are ever achieved. The study reignites the historical idea that Africa's pre-colonial legacy was always accustomed to the idea of natural entities bearing a semblance of personhood, and provides recommendations that African states must adopt if the continent is ever to utilise the concept of rights of nature to help address its current environmental challenges, improve accountability, and also, possibly, widen access to environmental justice.

Keywords: Legal Personhood, Rights of Nature, Environmental Law, Environmental justice, Anthropocentric, Eco-centric

1. Introduction

There is no doubt that Africa is besieged by numerous challenges. Some of these challenges have been constant, critical and daunting over the years and are almost being viewed or accepted as parts or burdens that the continent has to bear. However, one particular challenge that has become more pertinent and relentless on the continent, albeit not unique to it, is the issue of environmental degradation[1]. Kwasi provides that a major concern of environmental conservationists is the numerous environmental crises that have bedevilled Africa in the 21st century[2]. The cases are abundant and in dire need of attention. Rivers that have long been important to local communities have become polluted. Forests that were once sources of livelihood and of huge cultural relevance to the people are diminishing in size as trees are constantly felled to give space for mining, urbanization and infrastructural developments. Even where and when environmental regulations, policies, laws, international conversation and institutions are put in place or established, they have done little to prevent harm to the ecosystem[3]. In most African countries, these formal environmental legal frameworks are not properly implemented, enforced, or regarded by the people, making adherence difficult[4].

A global environmental movement has begun to grow, one that argues that in order to mitigate the unrelenting impacts of climate change, water pollution and biodiversity loss, certain environmental entities or elements of nature ought to be recognized and protected as important subjects of law and not only as objects of mere regulations[5]. This idea, which has sprung up and quite successfully in some countries around the world, is often described as granting "rights" or "legal personhood" to nature or natural entities like forests, rivers, and some other components of the ecosystem[6]. Under this approach, some components of the environment will become recognised as having their own intrinsic value and legal interests. This then gives courts, persons serving as legal "guardians", or public institutions, the right to act on their behalf when necessary. This idea, in theory, fits into the traditional African context. Admittedly, several African societies and cultures have often treated elements of nature as sanctimonious entities. They are often viewed as part of the people's cultural identity and ancestry, while the communities observe a strict duty of care and protection towards them[7]. However, current African legal systems are predominantly defined by constitutional property rights, state control over natural resources, and developmental policies that often

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[1] Terence Epule Epule, 'Environmental Change, Resilience, Adaptation and Sustainability in Africa' (2022).

[2] Bismark Kwasi Osei, 'Indigenous Water Resource Conservation Practices in Contemporary Ghanaian Society' (2023) 3 Universal Journal of Social Sciences and Humanities.

[3] Rahul Sagar and Utsav Chandrappa, 'Environmental Law and Sustainable Development: A Comparative Analysis' [2023] SSRN Electronic Journal.

[4] Uzuazo Etemire and Nelson Uwoh Sobere, 'Improving Public Compliance with Modern Environmental Laws in Nigeria: Looking to Traditional African Norms and Practices' (2020) 38 Journal of Energy and Natural Resources Law.

[5] Elizabeth Newton and Rachel Killean, 'Global Rights of Nature Movements' (2025).

[6] L Fitzgetrald, 'Naturally Right: A Western Understanding of Why the Rights of Nature Are Salient in Ecuador, Bolivia, and New Zealand' (2013) 53 Journal of Chemical Information and Modeling.

[7] Wuraola OT, 'The Legal Rights of Natural Entities: African Approaches to the Recognition of Rights of Nature' *Human Rights and the Environment under African Union Law* (2020)

deem economic growth more important than cultural continuity and environmental preservation[8]. These systems are thus in direct conflict with the proposition that nature ought to be granted an independent legal status.

This study is concerned with this conflict. Using insights from emerging global experience, it examines whether granting legal personhood to natural entities like rivers and forests is feasible in Africa, especially considering the continent's present legal and socio-political context. Feasibility here does not mean theoretical appeal alone. It has more to do with whether any recognition of nature's legal personhood status is practicable, if it can withstand legal scrutiny, and, more importantly, if it can effectively protect the environment without any adverse problems. It is a question of what conditions, frameworks, and procedures will be most suitable for such an idea to work in Africa. The central problem behind this study is unmistakably clear. Environmental degradation in all its various forms persists in Africa today, despite decades of international, regional and national regulations, laws, reforms, and commitments. It is against this setting that the notion of legal personhood of natural entities like rivers and forests has been presented. A significant portion of the existing discussion on this subject is focused on jurisdictions outside Africa. The ones on Africa, albeit few, are focused more on its moral appeal and philosophical relevance. This study is relatively unique in the sense that it takes a more cautious and analytical approach to this topic. It presents the issue of granting legal personhood to natural entities as a way to sharpen legal focus on environmental issues, improve accountability, and also, possibly, widen access to justice.

2. Method

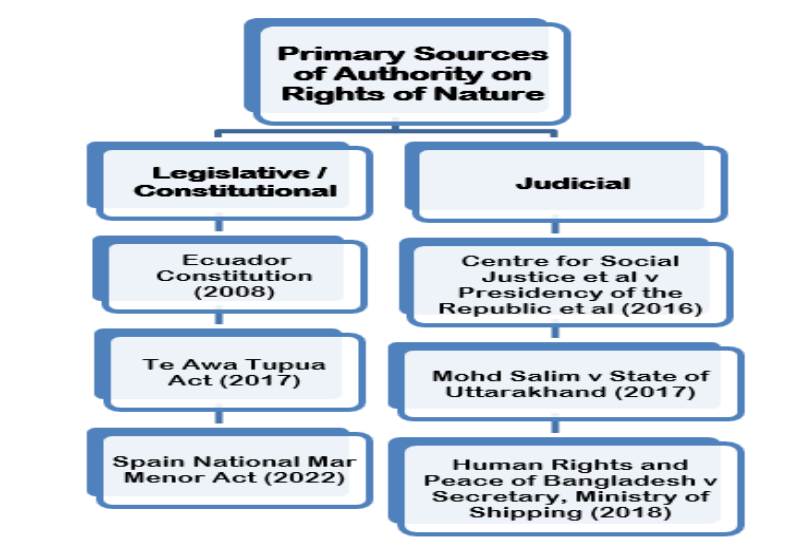
This study adopts a doctrinal approach, alongside a structured narrative review approach and is complemented by illustrative case examples to map how rights of nature have been recognised and adopted in other jurisdictions and the feasibility of granting such legal personhood to rivers and forests in Africa. This design was selected because this topic spans the fields of environmental science, sustainability governance and law. The doctrinal approach involves the exploration and analysis of legal doctrines, while the structured narrative review approach allows for flexibility in the process of synthesizing existing literature on the topic, focusing on key themes, trends and gaps. This is very useful in such an emerging area of study. The rights of nature are already taking root in countries like Ecuador, New Zealand, Colombia, India, etc. These are our case examples for their application in Africa. The data analysis, however, follows a PRISMA (Preferred Reporting Items for Systematic Reviews and Meta-Analyses) related method. This method is used to systematically search, evaluate and assess primary and secondary sources that deal with the granting of legal personhood to natural entities like rivers and forests. It makes the doctrinal analysis more transparent, rigorous, and replicable without turning the research into an empirical review.

The primary sources were the main base of our analysis and included countries' constitutions, legislations, court rulings, official legal documents, etc. They were

[8] Ibrahim Ayoade Adekunle, 'On the Search for Environmental Sustainability in Africa: The Role of Governance' (2021) 28 Environmental Science and Pollution Research.

identified first via the structured search of different countries' legal databases. The primary research data relied on are therefore presented below in a diagrammatic flow.

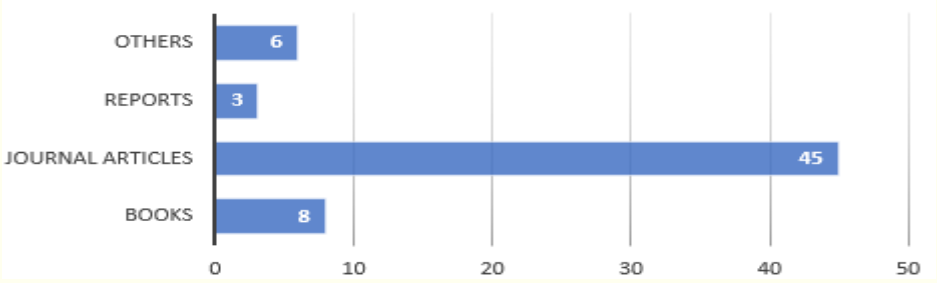
Figure 1: Primary Sources of Authority on the Right of Nature



Sources: Design by author with data obtained

Additionally, the secondary sources provided context and a deeper analytical theoretical guide as it concerns conceptualisation and in-depth discussion of the right to nature. Using the PRIMA framework, the secondary sources of research material were identified or chosen systematically through a thorough search of key academic databases like JSTOR, HeinOnline, Google Scholar and Scopus base journal account. Secondary sources used in this study comprised peer-reviewed journal articles, textbooks, book chapters, and theses/dissertations about different natural entities, how legal personhood has been granted to them in some foreign jurisdiction and how the same can be applied within the African context. Key themes were “Rights of nature”, “legal personhood” and “natural entities”. The secondary sources research material relied on is therefore presented in a diagrammatic flow:

Figure 2: Secondary Research Sources relied upon



Source: Design by the authors based on data obtained

At the PRISMA screening stage, these documents were considered for their direct relevance to issue of rights to nature or the granting of legal personhood to natural entities like rivers and forests. They were assessed based on their level of scholarship and whether the suggested material would contribute to the existing

corpus of material assessing the issue of the right to natural entities. At the eligibility stage, we further narrowed the materials to those that illustrated the practical recognition and adoption of the rights of nature and the challenges associated with such practice. The source must have provided either empirical evidence, implementation details, evaluative findings, conceptual framing, or policy/technical implications relevant to the subject matter. There were also criteria for inclusion that were limited to peer-reviewed articles and authoritative/recognised studies on the rights of nature, while non-scholarly commentary and sources lacking clear doctrinal relevance were excluded.

The adoption of this methodology allows this research to analyse how scholars develop meaning regarding the right to nature or legal personhood to natural entities, examine how legal systems, particularly African legal systems, currently handle nature and environmental protection and evaluate other legal systems outside Africa, especially those that have recognised legal personhood or rights for nature. This analysis involves an evaluation of their constitutional provisions, statutes, and judicial decisions, which are juxtaposed with each other and those found in Africa as well. The systematic synthesis of primary and secondary scholarship provides a more comprehensive, clearer, and systematic doctrinal analysis of the feasibility of granting legal personhood to rivers and forests in Africa.

Out of this analysis, certain legal procedures, institutional structures, and even challenges associated with granting legal status to natural entities are highlighted. The aim is not just to replicate foreign models in the African continent, but rather, to draw valuable lessons that can better inform African legal discussions on the topic of nature's legal personhood while also recognising the numerous contextual differences that exist between countries. These materials provide a good basis for a theoretical understanding of the topic of legal personhood, one that allows for comparative insight, and a critical evaluation of how "rights of nature" actually work. However, limitations exist on the use of the method. They include potential omission of some studies due to their normative interpretation and the lack of empirical validation. It also includes variation in database coverage and the rapidly evolving nature of the topic, which may lead to studies updating over time.

3. Analysis or Discussion

3.1. Conceptual Issues and Theoretical Framework

In recent years, there has been a significant amount of interest and studies on the rights of nature and the legal personhood of natural entities. This has happened because of how the continuous destruction of the environment, climate change, and biodiversity depletion have exposed the flaws in traditional legal frameworks. Much of this scholarly literature explores how law might assign rights or legal status to natural entities such as rivers and forests, why such recognitions have emerged, and what opportunities and challenges the notion presents for legal systems around the world. For clarity, legal personhood simply refers to the capacity of an entity to hold rights and duties under the law and to have those rights enforced through legal

processes[9]. In conventional terms, personhood is usually reserved for human beings and certain artificial entities such as corporations, trusts, and public bodies. Although these entities are not human beings, they are still recognised as legal persons because, based on their significance, actions, and relationships to, in, and with the world, it becomes extremely useful to assign them this independent legal standing[10]. Extending this status to rivers and forests will therefore follow the same logic. Kurki explains that it does not suggest that nature is human or that these natural entities are "persons", especially not in the conventional sense. However, it does suggest that they can be recognised as entities with rights for specific legal purposes[11].

The concept of legal personhood builds on this idea. It stretches further. It posits that, in principle, natural entities have intrinsic value and interests that deserve legal protection independent of how useful they are to humans[12]. This is a different direction from what most of traditional environmental law is used to. Most laws tend to protect nature indirectly by regulating human behaviour. However, under a system where "rights of nature" are recognised and normalised, harm to a forest, for instance, will be treated as a legal injury to that forest itself, as an entity, and not to an institution, person or group of persons. The concept of guardianship becomes relevant in this aspect. As natural entities like rivers and forests cannot represent themselves, legal systems recognising or providing for their legal personhood must designate representatives to act on their behalf, somewhat akin to when children who cannot speak for themselves in court are aided by guardians[13]**.** The way guardianship works may vary from one country to another. However, the practice often creates similar concerns, like how the guardians are appointed and removed, the duties and responsibilities these guardians have and who they are accountable to. These issues are important to conceptualising how feasible and practical the entire idea is, especially since poorly designed guardianship models could erode its very purpose, rendering it illegitimate once it has been found to allow for potential abuse.

While the term "legal personhood to natural entities" seems relatively recent in African academic usage, the notion or idea is not entirely alien to the traditional African societies. African local communities have always understood and accepted this concept. They often ensure that there are limits to environmental exploitation and recognise the moral obligations or responsibility that the local people have

[9] Visa AJ Kurki, *A Theory of Legal Personhood* (2019).
[10] Fitzgetrald (n 6).
[11] Visa AJ Kurki, 'Why Things Can Hold Rights: Reconceptualizing the Legal Person' [2015] SSRN Electronic Journal.
[12] Katherine Sanders, '"Beyond Human Ownership"? Property, Power and Legal Personality for Nature in Aotearoa New Zealand' (2018) 30 Journal of Environmental Law.
[13] Elizabeth Jane Macpherson, *Indigenous Water Rights in Law and Regulation: Lessons from Comparative Experience* (2019).

toward nature. Indeed, Africa's socio-cultural heritage is made up of a network of rivers and a vital forest system. There are about 55 major or international rivers in Africa, which include the Congo, Nile, Niger, Zambesi, Ogooue, Orange, Tugela, Limpopo, Volta, Senegal, and hundreds of other minor rivers[14]. The forest system, which covers about 22.7% of the continent, includes the forests of the Congo Basin, Mau, Ongoye, Newlands, Bioko Montane, Budongo, Cross-Niger Transition, Miombo woodlands, etc[15][16]. This ecosystem is very important for climate regulation, ecological stability and the economic well-being of the people. They are a fundamental part of the past, present and future lives and livelihood of the people of Africa[17]. However, these resources have been facing serious sustainability challenges in recent times. These challenges are often attributed to the poor protective frameworks and management systems provided for these natural elements.

The traditional African societies managed and protected their rivers and forests through a holistic approach that combined their indigenous knowledge of the environment, customary laws, and spiritual belief systems that promoted communal and sustainable responsibility[18]. They treated the waters and forests as living entities or home to deities, spirits and ancestors, that required reverence, guardianship and collective care[19][20]. Early recognition of ecological balance and protection reflects that the ancient Egyptians' cosmology regarded and worshipped the annual flood of the River Nile as a living deity and associated it with the god Hapy[21]. The River Niger running through West Africa was considered a spiritual ancestor and life-giver in some communities in Mali, Nigeria and Guinea. In fact, the Dogon people of Mali regard the Niger River as a living entity, worthy of worship.[22] Among the Buganda people of Uganda, certain rivers, lakes, forests, and swamps are perceived as having special healing powers that they were regarded as sacred. Gods/spirits are said to dwell in some of those places[23]. The Osun River in southern

[14] CW Sadoff, D Whittington and D Grey, *Africa`s International Rivers: An Economic Perspective* (2003).
[15] Barry Riddell, 'Africa: Geographies of Change' (2015) 34 African Geographical Review.
[16] James Delehanty, 'Africa: A Geographic Frame' *Africa: Fourth Edition* (2014).
[17] Dejene W Sintayehu, 'Impact of Climate Change on Biodiversity and Associated Key Ecosystem Services in Africa: A Systematic Review' (2018).
[18] Scholastica Akalibey and others, 'Integrating Indigenous Knowledge and Culture in Sustainable Forest Management via Global Environmental Policies' (2024).
[19] Samuel Alifa, 'African Traditional Religion and Its Relationship with Nature' (2019) 11 NJIKO: A Multi-Disciplinary Journal of Humanities, Law, Education and Social Sciences.
[20] George C Nche and Benson Ogar Michael, 'Perspectives on African Indigenous Religion and the Natural Environment: Beings, Interconnectedness, Communities and Knowledge Systems' [2024] Phronimon.
[21] Judith Bunbury and others, 'The Egyptian Nile: Human Transformation of an Ancient River' *River culture: life as a dance to the rhythm of the waters* (2023).
[22] Caroline Robion-Brunner, 'Dogon: Images & Traditions. By H. Blom. Momentum Publication, Brussels, 2010, 385 Pp., ISBN 978-2-8399-0725-5. € 85.00 (Hardback).' (2012) 10 Journal of African Archaeology.
[23] Mbalangu Adolf, Andrew Peters Yiga and Kiyingi Frank Pio, 'The Indigenous Knowledge and Natural Conservation Aspects of the Life of Baganda, the People of Uganda' (2024) 18 Journal of Global Research in Education and Social Science.

Nigeria is associated with the female deity Osun. The Osun-Osogbo Sacred Grove is recognized as a World Heritage Site by UNESCO[24]. The Shona people of Zimbabwe believe that the Shona rivers were the inhabitants of their water spirit (Njuzu), while the forests are associated with the ancestral spirit (Vadzimu)[25]. Such sacred recognition of the forests as abode of ancestral spirits and gods could also be seen among the people of Akan (Ghana)[26], Mijikenda (Kenya)[27][28], and the Igbos (Nigeria)[29]. Indeed, in pre-colonial times, cutting trees, fishing or polluting the rivers and forests of most African societies without rituals or permission was considered a taboo. Such an offender may be fined, sanctioned, ostracized or asked to be cleansed[30].

There was a system of communal custodianship or stewardship which enhanced sustainable use. In most instances, guardians were appointed for the purpose of exercising restraint in using any particular natural resource. These guardians or custodians could be clan leaders, priests or elders, who acted on behalf of the people, but often in the best interest of the natural entities. Thus, custodianship or guardianship was emphasised rather than ownership in the traditional African environmental governance[31]. However, current legal systems have now prioritised State control or ownership over natural resources and even normalised private incursion as well[32]. This, according to Kamoto et al, is why environmental harms continue despite efforts at tackling them[33].

Understanding the theoretical basis of nature's legal personhood requires an understanding of anthropocentric and ecocentric legal lines of thinking[34]. The anthropocentric view treats nature primarily as a resource meant for human use. While placing humans at the centre of value and concern when dealing with the

[24] Michael Olukayode Akinsete and Aderemi Suleiman Ajala, 'Traditional Beliefs and Healing Potential of the Osun River: Quest for Indigenous Water Management Approaches in Osogbo, Southwestern Nigeria' *From Traditional to Modern African Water Management: Lessons for the Future* (2022).
[25] Béatrice Caseau, 'Experiencing the Sacred' *Experiencing Byzantium: Papers from the 44th Spring Symposium of Byzantine Studies, Newcastle and Durham, April 2011* (2013).
[26] Samuel Awuah-Nyamekye, 'Salvaging Nature: The Akan Religio-Cultural Perspective' (2009).
[27] 'Sacred Mijikenda Kaya Forests - UNESCO World Heritage Centre' <https://whc.unesco.org/en/list/1231> accessed 25 January 2026
[28] UNESCO World Heritage Centre
[29] K Ikechukwu Anthony, 'Sacred Trees/Plants: The Greening of Igbo-African Religion' [2021] African Indigenous Ecological ….
[30] Mawere M, 'Traditional Environment Conservation Strategies in Pre-Colonial Africa : Lessons for Zimbabwe To Forget or To Carry Forward Into the Future ?' (2013) 4 Afro Asian Journal of Social Sciences
[31] Izuoma Egeruoh-Adindu, 'Leveraging Indigenous Knowledge for Effective Environmental Governance in West Africa' (2022) 13 Beijing Law Review.
[32] Alokwu Cyprian Obiora, 'African Indigenous Knowledge System and Environmental Sustainability' (2015) 3 International Journal of Environmental Protection and Policy.
[33] Judith Kamoto and others, 'Doing More Harm than Good? Community Based Natural Resource Management and the Neglect of Local Institutions in Policy Development' (2013) 35 Land Use Policy.
[34] Mihael Techie Quaicoe, 'The Post-Anthropocene Ubuntu: Reconceptualizing Legal Personhood for Rivers, Forests, and Sacred Sites in African Jurisprudence' [2025] International Journal of Humanities, Management, Engineering, Education and Legal Studies 153.

environment, this theorist expects humans to take responsibility in protecting nature because environmental harm eventually affects the welfare of humans[35]. This line of reasoning is closely associated with the Stewardship theory, which, in relation to the environment, posits that humans have responsibilities toward the natural world, responsibilities that are based on care, restraint, and accountability[36]. In legal terms, stewardship supports the idea that the government and other actors, as trustees, hold natural resources in trust and are to use them for the benefit of the people[37]. Such usage is hardly in the interest of nature. This theory is especially relevant in African constitutional systems that recognise state trusteeship over natural resources. With this principle, legal personhood for natural entities can be seen as a way of clarifying and enforcing stewardship duties by giving nature a recognised legal interest. Ecocentric, in contrast, places nature at the centre of the moral and legal concern. It posits that ecosystems have value in and of themselves, an intrinsic worth, and that laws should reflect this value directly, by granting them legal personhood as one way of expressing this recognition of value[3839]. While this study is ecocentric in nature, it, however, treats rights of nature not as an abstract moral claim, but as a tool that must fit into already existing legal and institutional realities.

3.2. Global Experiences with Granting Legal Personhood to Nature

Experiences from different parts of the world have shown that granting legal personhood to nature is no longer regarded as a fringe idea. It has become more acceptable, more concrete as a result of certain constitutions, statutes, and judicial rulings that have begun to accept it. These experiences offer useful insight into how frameworks that preside over rights of nature are created, how they are structured, and the challenges that arise once they are put into effect.

One of the most cited examples comes from Ecuador. In 2008, Ecuador became the first country to recognise the rights of nature at the constitutional level. The country enshrined in its constitution that natural entities like rivers and forest have the inalienable rights to exist on their own, flourish without interference and evolve[40]. Articles 10 and 71-74 of the Constitution recognize Nature or Pachamama as a subject of rights and not just a property to be owned, used or discarded at will.

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[35] Faruque Hossain, 'Anthropocentric Approach to the Environment : An Overview' (2021) 2 Journal of Social Science.
[36] Jennifer Welchman, 'A Defence of Environmental Stewardship' (2012) 21 Environmental Values.
[37] Joseph Orangias, 'Towards Global Public Trust Doctrines: An Analysis of the Transnationalisation of State Stewardship Duties' (2021) 12 Transnational Legal Theory.
[38] N Humaida, 'The Importance of Ecocentrism to the Level of Environmental Awareness for Sustainable Natural Resources' *IOP Conference Series: Earth and Environmental Science* (2019).
[39] Poonam Kanwal, 'Ecocentric Governance: Recognising the Rights of Nature' (2023) 69 Indian Journal of Public Administration.
[40] Nahim Alejandro Astudillo Sánchez and Luis Mauricio Maldonado Ruiz, 'The Rights of Nature in the Constitution of Ecuador: A Pillar of Good Living' (2025) 9 Centro Sur.

Nature was granted the right to exist, persist, and regenerate its vital cycle, function, structure, and evolutional processes (Art. 71). Article 72 of the Constitution states that nature has the right to restoration, With this right, citizens were allowed to petition courts on nature's behalf and could even name the ecosystem or entity as a "defendant". On the issue of guardianship, Article 399 provides that the full exercise of guardianship over the environment or natural entities shall be the joint responsibility of the State and citizenry, and this shall be articulated by means of a "decentralised" natural environmental management system, which shall be in charge of defending natural entities like rivers and forests. This marked a clear move away from the normative way of drafting environmental protection as mere regulation, and towards nature as a rights-bearing subject[41]. Since then, courts have continued to apply these provisions in cases involving rivers, forests, and development projects. While enforcement has not always been consistent, the constitutional status of these rights has allowed courts to order both full restoration and compensation in cases where they apply[42].

New Zealand is also an excellent case study. Instead of constitutional change, the parliament granted legal personhood to a natural entity through specific legislation. The 292 km Whanganui River was recognised as a legal entity through the Te Awa Tupua (Whanganui River Claims Settlement) Act of 2017, and for the first time in New Zealand, it became viewed as a whole legal entity, granting it the same rights and powers as a legal person[43]. Sections 13 and 14 of the Act recognized the Whanganui River (Te Awa Tupua as an indivisible and living whole, making up the Whanganui River from the mountain to the sea, as well as all its physical and metaphysical elements. By this, an intrinsic value and cultural significance were placed on the river, and it has been declared to have all the rights, duties and liabilities of a legal person. This recognition was predicated on the recognition of the Maori view that acknowledges the connections and relationships between all living and non-living things. Section 18 of the Act established the office of the Te Pou Tupua. It was made up of two guardians (the human face) who were appointed on behalf of the river (section 20). One of them was selected by the state, while the other was chosen by the Whanganui iwi. This guardianship structure reflects an effort to respect both state authority and indigenous values[44]. It is the Te Pou Tupua that must speak and act in the name of the Te Awa Tupua, as well as enforce its rights when necessary (section 46).

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[41] Johanna Elizabeth Jiménez Torres, 'Rights of Nature in Ecuador: The Constitutional Challenge' (2025) 26 Cuestiones Constitucionales.
[42] Craig M Kauffman and Pamela L Martin, 'How Ecuador's Courts Are Giving Form and Force to Rights of Nature Norms' (2023) 12 Transnational Environmental Law.
[43] Ramon van der Does, 'Understanding the Rights of Nature: A Critical Introduction' (2023) 32 Environmental Politics.
[44] Elizabeth Macpherson, 'Ecosystem Rights and the Anthropocene in Australia and Aotearoa New Zealand' *Environmental Constitutionalism in the Anthropocene: Values, Principles and Actions* (2022).

The New Zealand model shows how legal personhood can be carefully structured with clear governance arrangements and defined responsibilities in other parts of the world. Many Rights of Nature activists view this approach as a paradigm shift in environmental conservation and management. This is based on two factors. First, it strengthens the indigenous law of the people and the Tupua Te Kawa principles and secondly, it brought about less dependence on state jurisdiction, while strengthening the indigenous determination in the communal management of the environment[45]. Taking a clue from this, Spain became involved in these rights of nature discourse in 2022, notably with National Mar Menor Act, otherwise referred to Law 19/2022 of Spain. While Article 1 of the legislation granted legal personhood to the Mar Menor Lagon and its basins, Article 2 gave it rights of existence, protection, preservation and restoration and allowing citizens to defend it in court. It was eventually placed under a management and governance committee comprising of representative of the public authorities, a scientific committee and a monitoring commission. These three bodies make up the guardianship of the Mar Menor Lagoon (Art. 3). Although facing challenges from political opposition, this move is one of such examples that show how citizen action can trigger legal change and how legal personhood can be used to address specific environmental issues within existing legal systems. It established a new legal framework for ecosystems in not just Spain, but the entire Europe[46][47]. Several municipalities in the United States have adopted local ordinances recognising rights of nature, particularly to oppose extractive projects[48]. While these ordinances often face legal challenges, they demonstrate how rights of nature ideas can stem from grassroots activism rather than state or national institutions.

Apart from the parliament, the judiciary has also proven that the granting of rights of nature is possible and feasible. Through a 2016 landmark ruling in the case of Centre for Social Justice et al v. Presidency of the Republic et al (Judgment T-622/2016), the Colombian Constitutional Court confirmed the Atrato River as a subject of rights. The river runs through one of the most biodiverse regions of the world and has been under pressure from mining, deforestation and pollution. The judgement recognized the Atrato river, its tributaries and basins, as an entity, bearing legal and enforceable rights, specifically focused on its protection, maintenance, conservation, restoration and management[49]. The case was filed in

[45] Jeremie Gilbert and others, 'Understanding the Rights of Nature: Working Together Across and Beyond Disciplines' (2023) 51 Human Ecology.
[46] Yaffa Epstein, José Vicente López-Bao and Jeremy Bruskotter, 'Most EU Residents Support Rights of Nature Laws' [2024] Nordic Environmental Law Journal.
[47] Sofia Rehnstrom, 'Rights of Nature in Europe: The Mar Menor and the Future of Ecocentric Environmental Protection' (2025) 22 Journal for European Environmental and Planning Law.
[48] Alexandra Huneeus, 'The Legal Struggle For Rights Of Nature In The United States' (2022) 2022 Wisconsin Law Review.
[49] Whitney Richardson and Camila Bustos, 'Implementing Nature's Rights in Colombia: The Atrato and Amazon Experiences' [2023] Revista Derecho del Estado.

2015 against the government, based on its inaction to protect the environment against acts of deforestation, illegal mining, and pollution, acts that violated the rights of life, water and a healthy environment. The ruling recognized the rights of the indigenous and Afro-Colombian communities that lived close to the river. The court ordered the government to get to work with these communities, to save and restore the ecosystem, setting up a protective Commission to safeguard the River Atrato". The Commission is to be composed of community members and state representatives. They are to function as guardians of the river[50]. In doing all these, the court demonstrated the relationships between rights of nature, social justice, and community participation.

Similarly, in the Mohd. Salim v. State of Uttarakhand case (PIL No. 126 of 2014), which was decided in 2017, the Uttarakhand High Court in India declared the Ganges and Yamuna rivers to be legal persons, making mention of their cultural and spiritual importance. The lawsuit was filed in 2014 over illegal constructions, pollution and river encroachment[51]. The court cited as an example, the Whanganui River recognistion as a living entity with full legal rights by the New Zealand government. A state official was then appointed to act as the rivers' guardians[52]. However, this decision was later overturned by the country's Supreme Court. The Court determined that the rivers, although of utmost national importance, could not be granted legal personhood by the court, as such an assignment requires legislative authorisation[53]. Bangladesh is another notable example. The Turag River and all other rivers in the country became legally recognised as living entities with rights in 2019 by the Country's Supreme Court in the case of Human Rights and Peace of Bangladesh & others v. Secretary, Ministry of Shipping & Others (Writ Petition No. 13989 of 2018). The Petition sought to address the continuous pollution of Bangladeshi rivers that were both crucial to the livelihoods of locals and spiritually important too. In executing the judgment, a National Rivers Conservation Commission (NRCC) was set up and given authority to act as guardian, on behalf of the rivers and set out guidelines for enforcement, making violators accountable and shifting the legal view from undue exploitation of the resources to living ecosystem[54]. This case stands out because it applies legal personhood broadly rather than to a single river. These court cases reflect the extent of judicial activism.

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[50] Arlinton Cuesta Mosquera and Catalina Vallejo Piedrahíta, 'Take Me to the River: Have Riverine Rights Enhanced Community Participation in Environmental Governance within the Atrato River Basin?' [2024] International Journal of Human Rights.

[51] Kavita Upadhyay and Bibhu Prasad Nayak, 'Tracing the Legal Journey of Petitions in the Uttarakhand High Court That Became Springboards for Rights of Rivers and Nature in India' [2024] International Journal of Human Rights.

[52] Aditi Thakur, 'Why Nature Deserves a Seat at the Table: A Case Study on Nature's Personhood' (2024) 15 Jindal Global Law Review.

[53] Sugandha Yadav, 'Legal Equality for Nature in India' [2022] SSRN Electronic Journal.

[54] Ferdousi Begum, 'Implications of Conferring Legal Entity to the Turag River of Bangladesh: Recognising the Rights of Nature' [2025] SSRN Electronic Journal.

Feasibility of Granting Legal Personhood to Nature in Africa

As the idea of granting legal personhood to nature gains global traction, it is also becoming a talking point in Africa. Current laws and systems do not seem sufficient to address the damage done to the environment. There is a general acceptance in the continent that new approaches must be explored. While the idea of granting rights to nature will obviously not eradicate all environmental problems, it will surely add more weight to the severity of these cases and radically alter how they are treated in courts. The question now is whether it is possible, and the measure that could be put in place if legal personhood can be granted to natural entities like rivers and forests in Africa. Getting insight from global experiences with granting legal personhood to nature and considering the continent's unique legal, political, and social contexts, the following can be adopted in order to move Africa beyond the stage of theoretical thinking with regard to the legal personhood of natural entities.

There is a need for legal recognition and statutory design. This can be done through constitutional recognition, national legislation, judicial interpretation, or even local law[55]. Each path has implications for authority, scope, and enforceability. When it comes to the constitutional path, all that is needed is for the Constitution to recognise that certain facets of nature, ecosystems, have the right to exist, persist, maintain, and undergo their vital cycles and functions without undue interruption. It also grants individuals, communities and organisations the liberty to petition on behalf of nature. Ecuador's 2008 Constitutional change is a good example of this. Rights of nature can also be recognised through national legislation. It can be quite effective as it places legal rights within a comprehensive environmental law rather than a part of or a single article in a supreme law. It makes the scope of rights clear and also makes it easier to integrate with other statutory frameworks. Some countries have also had their courts interpret already-existing laws to recognise rights and legal personhood of nature, even when the legal wording does not explicitly state so[56]. This is the judicial recognition mechanism for implementing nature's legal personhood. A good example of this is the earlier-mentioned case in Colombia. That decision by the country's Constitutional Court showed the direct relationship between rights of nature and right to a healthy environment, protected by the Colombian Constitution, for those living close to the Atrato River. An example like this depicts the power that courts have. They can shape legal narratives in a country and fill in gaps in circumstances when the law is not explicitly clear.

There is also the need for guardianship and representation. Upon receiving legal personhood, a river or forest immediately becomes a legal subject. However, and observably so, they cannot represent themselves in court. It is "guardians", people or institutions designated to further their interests and protect their rights, that

[55] Quaicoe (n 36).
[56] ibid.

must do so on their behalf[57]. This system of representation exists in different forms, with each model having a significant impact on how guardians are selected, and in turn, how rights of nature are enforced. A popular model is the dual model of guardianship, the kind adopted by New Zealand. In creating a guardianship structure for the Whanganui River under the Settlement Act of 2017, two guardians were appointed; one from the Crown and one from the Indigenes[58]**.** This kind of structure, where a state-appointed guardian is paired with a community-chosen one, seeks to ensure a balance between state authority and the interests of local communities. Responsibilities are then shared between the two. Dialogue is encouraged. Cases where there are clear diverging interests can also be addressed amicably by both parties, arriving at practical concessions when necessary. There are other occasions where a state representative acts as the sole guardian. In Bangladesh, for example, the national river protection commission serves as a guardian for all rivers[59]. By assigning the guardianship role to an established government environmental commission, it becomes easier to reinforce the commission's importance and prove its capacity in dealing with such issues. However, for this model to be effective, the commission must be truly independent from state influence; capable of operating and making guardian-related decisions on its own; able to set up measures for protecting the natural entity it serves as a guardian to.

Enforcement mechanisms and compliance are also necessary in the granting of legal personhood to nature in Africa. When judicial rulings are not followed up with appropriate enforcement efforts, the rights of nature are never taken seriously. They become meaningless. People will still treat these rivers and forests as they have always done, even when a law or portion of the Constitution exists that explicitly restricts them from doing so. Guardians are disregarded. The entire structure upon which the concept of legal personhood was built collapses. In the Ecuadorian case, for example, the evaluation of certain parts of the constitution allowed for court rulings that stopped environmentally harmful projects like the infrastructure development close to the Vilcabamba River. The rulings were clear. They interpreted that the constitutional rights of nature demanded that heightened caution be taken when certain activities were found, not only to harm the environment, but also to have the potential to cause irreparable damage. Yet, after these decisions, enforcement stalled because those court orders were highly contingent on the willingness of the government to cooperate and allocate resources towards monitoring and possible punishment[60]. When rights are being recognised,

[57] Lynette J McLeod and others, 'Environmental Stewardship: A Systematic Scoping Review' (2024).
[58] Macpherson (n 46).
[59] Begum (n 56).
[60] Najeed Naved Siddiqui, Amisha Dash and Mirza Shaaz Beg, 'Debating Legal Rights of Rivers' *Rivers Unbound* (2025).

they ought to include provisions for penalties and procedures of compliance which could better equip guardians and state agencies to act in cases where rights violations occur.

Finally, policy implementation and political will are very necessary here. Frameworks that address political and administrative will are important. There were several debates in Ecuador over the constitutional reform that sought to grant legal personhood to rivers, simply because the government was torn between the choice of protecting the environment and pursuing opportunities for resource extraction. It is sustained political support and pressure on key political figures that ensures that rights of nature frameworks work[61]. This success will also need consistent public participation. Both the citizens and civil society groups must get involved. They must act as de facto monitoring agents, continuously keeping an eye on the process of implementation and critiquing the government when failures are spotted. Public campaigning and petitioning can be adopted too, as can be seen in the case of Spain, where the recognition of the *Mar Menor* lagoon as a legal entity would not have been possible without public efforts[62]. Morealso, the capacity of institutions must be improved with frameworks for funding, legal expertise, and monitoring effectively set up.

3.3. Implications and Challenges to Granting Legal Personhood to Nature in Africa

Although an emerging idea or study, if the necessary measures already discussed are put in place and legal personhood or rights of nature are granted to rivers and forests in Africa, it will have great social, economic and governance significance to the environment and wellbeing of the people. Granting Legal personhood or rights of nature to rivers and forests in Africa offers significant and transformative implications for environmental protection, preservation, justice and sustainability. While challenges abound, these legal rights align deeply with Africa's ecological background and realities, human rights imperative and global sustainability goals. Granting legal personhood and rights of nature to rivers and forests in Africa will help strengthen environmental protection and sustainability. It will enable forests and rivers to become Right-holders. They will no longer be seen or treated as properties whose protection is discretionary. This legal status will enable them to have legal guardians whose responsibility is the protection of the assigned entities from irreversible harm, thereby aligning with precautionary principles. It will also enhance access to Justice and enforcement of laws that are enacted to protect the environment. Legal guardians can now easily institute actions on behalf of the rivers

[61] Hen Friman and others, 'Public Participation as a Tool for Preserving the Environment' *E3S Web of Conferences* (2019).
[62] Oliver C Ruppel and Ruda Murray, 'A Global Comparative Constitutional Analysis of Natural Resources Protection' (2024) 18 ICL Journal.

and forests, and ensure that those who destroy the environment through their actions are punished accordingly. This will ensure environmental sustainability since procedural barriers that often hinder the enforcement of the rights of natural entities are reduced. It will therefore facilitate cases of environmental public interest litigation in Africa.

Another implication of granting legal personhood or the right of nature to forests and rivers lies in the advancement of environmental justice and human rights. Environmental degradation is a major challenge in Africa, affecting especially the vulnerable and Indigenous communities. Rights of nature will reinforce the legal provisions of the right to a clean and healthy environment that is already entrenched in the constitutions of many African countries. This will help to protect the health, livelihood and cultural ties of the people to their natural environments. It must also be stated that many African traditional systems recognise rivers and forests as living entities or even sometimes worshipped as deities. When legal personhood is recognised under the law and harmonised with indigenous ecological knowledge, it will go a long way in ensuring sustainability, since traditional custodians will be appointed and empowered to guard the ecosystem. Also, forests and rivers help mitigate the impact of climate change. They are vital carbon sinks and climate regulators. Such legal rights will ensure the protection of forests and rivers from acts of deforestation, pollution and over extraction. This will therefore support Africa's climate commitment to the issue of climate change, since it will enhance climate resilience and environmental stewardship. Furthermore, granting legal rights to forests and rivers will enhance transparency and accountability in the extraction of natural resources, thereby encouraging sustainability-based development planning and projects. It will enhance more responsible resource management and governance in Africa.

Granting legal personhood to forests and rivers will further align Africa with global environmental law trends. While building on the International experiences in New Zealand, Columbia and Ecuador, the right of nature will position Africa as not a bystander or spectator in the global environmental law trends, but a contributor to progressive environmental stewardship. It will help to strengthen Africans' voice and resolve in global environmental governance. While also reinforcing constitutional environmental rights and encouraging courts to adopt ecosystem-centred interpretation, granting legal rights to rivers and forests will enhance the availability and sustainable use of the ecosystem for agriculture, fisheries, energy and tourism. It will prevent environmental depletion and encourage green Investments. This will bring about long-term environmental stability in Africa.

The need, possibility and prospects of legal personhood to rivers and forests in Africa are clear. However, there are several challenges that delimit its chances of application, and perhaps, its possible success. Some of these challenges are unique

to the continent, while others are not. One difficulty is the issue of the legal framework. In some African countries, it may be difficult to amend the constitution or enact new and clear legislation that will provide or guarantee nature's rights. Such a provision or law must leave no room for ambiguity and misunderstanding, and its implications must be properly stated, and all guidelines and procedures in related cases must be spelt out without error. It may be difficult to attain this. Furthermore, many African Constitutions and statutes treat land and natural resources as state-owned or subject to private property rights[63]. For the concept of legal personhood for nature to work, it must, as much as possible, not create conflicts with these already-established ownership systems. This is not to suggest acceptance of harmful activities to the environment in a bid to avoid conflict; however, it is important to recognise the possibility of resistance on the basis of pre-existing laws, especially from those who have economic interests. Sectors like agriculture, mining, and energy are made up of individuals and companies who may engage in legal confrontation with the state if nature's personhood limits their access to natural resources.

Another challenge is institutional capacity. Agencies that are to be given the task of enforcing legal personhood recognition must be properly equipped. This is how they ensure compliance. They have the responsibility of monitoring, prosecuting violators, and managing conflicts whenever they arise, and need substantial resources to carry out these duties. However, weak institutions will always make even the strongest of laws seem redundant. The African continent has been plagued by multiple cases of institutional incapacity, especially with regard to environmental protection[64]. The problem often begins with judicial systems that are not trustworthy or capable enough to rule on the rights of nature. Then it transcends to other secondary agencies that are either understaffed, underfunded, or just underequipped to effectively carry out their duties of enforcement. It is also possible, as is evident in some countries, that courts could recognise the rights of nature in rulings but have their rulings rendered almost meaningless because of poor enforcement or lack of political will[65]. African governments must have the political will to enact and enforce this right. Legal reforms to incorporate such a right require literal alterations of existing legal documents and understandings. This requires serious government backers as well as unwavering public support[66]. In most instances, however, government policies tend to favour development projects even at the expense of environmental preservation.

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[63] Liz Alden Wily, '"The Law Is to Blame": The Vulnerable Status of Common Property Rights in Sub-Saharan Africa' (2011) 42 Development and Change.
[64] Adekunle (n 9).
[65] Ernest E Brisibe, Beimoyo and Vivian Brisibe, 'Adopting Environmental Personhood In Nigeria: Challenges, Opportunities And Implications' (2024) 7 African Journal of Law, Ethics and Education (ISSN: 2756 - 6870).
[66] Adekunle (n 9).

There are also unique challenges when dealing with natural resources that have a cross-border nature. Rivers like the Nile and Zambezi cross multiple national borders. The Miombo woodlands and the Upper Guinean forests also span different countries. The question of granting legal personhood to rivers or forests like these becomes even more confusing when their regional expanse is considered. If legal personhood is granted to just a section of the Miombo woodlands, for example, it could create several legal disputes and problems down the line. Addressing such an issue will require the use of multiple regional agreements or protocols, but they all have to align with different state legal systems and interests[67]. While arriving at such agreements is possible, it could still prove difficult as a result of differing interests and priorities, even among neighbouring countries.

4. Conclusion

The idea that elements of nature like rivers and forests could be regarded as having personhood is not a strange idea to the African continent. However, years of legal evolution, particularly towards a more Western-inclined perception of nature, slowly eroded those long-held[68] traditional beliefs. A global shift has begun in the opposite direction, one that started a few years ago. Individuals, civil society groups, communities, and even legal institutions have begun to clamour for a different perspective on how we treat the environment. The argument: that nature, and in several cases, its most crucial resources, ought to be granted legal personhood, treated as a legal entity with rights and interests that deserve protecting. This study has examined the possibility of adopting this idea in Africa. It has been shown that the rights of nature approach offers a new way of viewing and dealing with the continent's current environmental problems; problems that have barely been addressed by current laws, statutes, and institutional systems. The entire concept proposes an alternative legal suggestion to how we view nature. It suggests that our legal dealings with the environment might just improve if nature is treated as a subject of law rather than a passive object of regulation.

But to effectively address the numerous challenges with legal personhood for nature identified in this study, African countries must enact or adopt clear legislation that recognize nature's rights. The wording of such provision or legislation must be explicit, without ambiguity and misunderstanding, with set out guidelines and procedures for its compliance and enforcement. Adequate guardianship arrangements must also be made. This implies that careful case-by-case analysis must be conducted first to determine the most appropriate guardianship model, even before a guardian is assigned. Admittedly, dual guardianship which includes both state and community representatives, is much more likely to be applied in the majority of cases, as it may be perceived to be the most legitimate. Where institutions are engaged, such must have the capacity. Structures of consistent findings and technical training can be set up to ensure that environmental agencies

[67] Quaicoe (n 36).
[68] Ekpenisi Collins and others, 'An Appraisal of Contemporary Issues in Proof of Medical Negligence in Nigeria' (2024) 6 Kampala International University law journal.

and courts are properly equipped to effectively execute their duties. Admittedly, this requires strong political will; nevertheless, it is part of the process where accountability and public participation become critical. Morealso, public participation must be encouraged and engaged. The people or communities are most proximate to these natural entities; most affected by the harms done to them; and ought to have more of a voice when related legal issues are being addressed. The traditional African mindset of environmental protection being a shared responsibility can only be reinstated when citizens are reminded that the environment is invaluable, fully deserving of respectful treatment, and must be advocated for. Even when the legal personhood of nature spans national borders, African leaders must learn to elevate environmental interests over politics and engage in promising efforts to ensure more effective protection of nature and natural resources throughout the continent.