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A WORLD PARLIAMENT OF RIVERS

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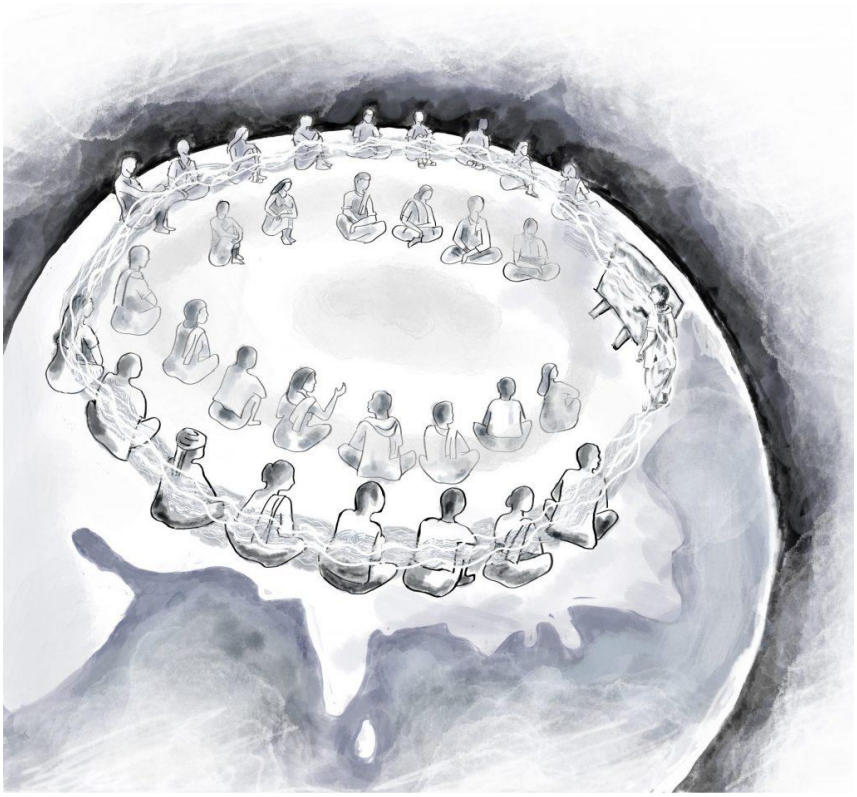
How do we rescue rivers from the ravages of the Anthropocene epoch? Legal systems in the Global South are merging law with local customs to forge new and significant legal interventions. In particular, the possibility of attributing legal personhood to nature affords a contemporary legal stratagem that unites the cultural personification of rivers with modern law. It grants rivers a voice in juridical and political life—the right to speak and be heard, and the right to sue.

Photo by Rolands Varsbergs on Unsplash

This way, a river can don twenty-first-century legal attire, stand in court, and file claims in its own name. Legal systems in the Global North have begun to listen to pronouncements on the rights of rivers, imparting global relevance to such strategies. But what can we learn from the application of these novel legal devices on the ground? How should we think with and beyond these legal measures as we grapple with the growing debris of the Anthropocene? What course do we chart next?

While rivers run across the earth, they are often partitioned by the boundaries of sovereign states. Thinking like a river suggests that nation-states—although legal entities—are obstacles that disrupt its flow. What is needed is a body that understands rivers as emplaced beings as well as fluid processes, and that represents riverine interests on a planetary scale. Specific concerns and practices are often well articulated by river assemblies. Such initiatives conjure ecological and democratic imaginaries of parliaments comprised of humans, rivers, and other beings that are federated above and below the nation-state level. We are thereby led to consider whether we can accord new meanings, life, and legal substance to the notion of a local assembly as a parliament, and correspondingly to the "parliament" as an "assembly" beyond the latter's institution as a legislative body grounded in the nation-state.



Sketch of a river parliament by Ranjan Kaul.

Although the idea of a world parliament is centuries old, the call for envisioning a parliament-style global body that reckons with planetary ecological change is rather recent.[1] In this altered context, Bruno Latour has made a case for a new constitution, a "parliament of things"—a collective of humans, with room for nonhuman nature to be represented politically at the supranational, national, provincial, and local levels.[2]

The concept of a "parliament" has a broad meaning. Derived from the French verb *parler* ("to speak"), it draws on local and vernacular conceptualizations of forums where citizens and their representatives assemble to discuss and address issues of common concern. In this view, the establishment of a world parliament of rivers is intended to facilitate upward, downward, and lateral communication with local river parliaments.

Legal Rights for Rivers: The Current Situation

Rivers often become sinks for domestic sewage and industrial effluents, which degrades water quality and biodiversity—particularly in the Global South. The construction of dams and excessive sand mining interferes with riverine flows and leads to habitat loss that continues despite a slew of environmental laws. Such failures catalyze the search for innovative legal instruments to protect rivers.

In South America, legal innovations are in dialogue with Indigenous and environmental perspectives about Mother Earth and Pachamama, an Andean divinity dating back to the Inca period, who lives on in many Latin American cultures. Pachamama and the related philosophies of *sumak kawsay* (good living) and *suma qamaña* (living well) bring together ecological, sociopolitical, and economic perspectives and offer alternatives to global capitalism. In 2008, Ecuador first incorporated the rights of nature into its constitution. Conversations on the rights of nature and/or their components, both in the legal field and other disciplines, were revitalized in this watershed moment. After Ecuador's pathbreaking constitutional reforms, Bolivia followed suit with two national laws in 2010 and 2012 that recognize the rights of nature. Similar laws are currently being debated in Argentina and were recently enacted by the Chilean constituent assembly.

Although decentralized strategies are not as robust as national laws or ones enshrined in a constitution, municipal and provincial initiatives allow smaller localities to forge their own paths through ordinances that mobilize citywide institutions, nongovernmental organizations, and committed citizens. These measures help to keep the damage to smaller ecosystems in check and strengthen the recognition of the rights of rivers at subregional levels.

Court-directed rights of rivers are now emerging in countries such as Colombia, Bangladesh, and India. While all courts issue rulings, the decisions of provincial courts can be reviewed or rejected by higher courts, as in the case of the Ganges and the Yamuna in India. Rights of rivers also appear in legal agreements between communities and the state, as witnessed in the iconic case of the Whanganui River in New Zealand.

> *Where collective representations of nonhuman nature personify rivers as ancestors or sacred beings, the personhood of rivers is popularly conflated with the legal construct of personhood.*

These legal innovations are courageously navigating new waters that test the field of law. The legal process of vesting rivers with rights and personhood within the national contexts of the Global South is a loud and resonant move, widely regarded as being close to Indigenous sentiments. Where collective representations of nonhuman nature personify rivers as ancestors or sacred beings, the personhood of rivers is popularly conflated with the legal construct of personhood, a conflation that works as a legally unanticipated but assimilative cultural invention. And yet, though buttressed juristically, legal rights are being weakened in the arena of political practice.

Undercurrents: The Sway of Political Capitalism

The according of legal personhood to rivers is an attempt to merge Indigenous and ecologically prudent practices with legal innovations. Yet, the transnational capitalist class and the political capitalism it espouses work hand-in-glove with officials and the colonial underpinnings of law to muddy the waters throughout the Global South.

In 2016 the Constitutional Court of Colombia declared rights for the Atrato River and the province's inhabitants. This river in the Colombian Chocó region is home to Afro-descendants (87 percent of the inhabitants) and Indigenous communities (10 percent). Judicial decisions here recognized the Atrato River as a subject of rights and appointed guardians for the river, including representatives from the state and from each community. However, five years later, mining continues unabated and the execution of the judgment is complex.

A 2021 report from the Arhuaco region avers,

> There is danger in instrumentalizing Indigenous peoples as stewards of the land and selectively legislating and institutionalizing their ontologies. Doing so does not allow Indigenous legal systems to exist and to be recognized as they are, as legal systems different in kind that operate independently from Colombia's civil law tradition. This, in turn, reinforces artificial structures of colonial legal hegemony.[3]

Nearly 12,000 kilometers away in Oceania, New Zealand granted legal personhood to the Whanganui River. The Māoris regard the river as a living ancestor in a temporal continuity that proclaims, "I am the River, the River is Me." The idea of merging Indigenous Māori conceptions with legal personhood for the Whanganui River was proposed by two Māori academics, James Morris and Jacinta Ruru, who were persuaded that the strategy envisaged by Christopher Stone could "create an exciting link between the Māori legal system and the state legal system."[4]

However, the ownership of water was left out of the agreement between the Māoris and the New Zealand state, diluting the interests of Indigenous inhabitants. The right to produce electricity from the water still rests with a private power company (guaranteed under pre-existing laws until 2039). While the Whanganui River was accorded rights of legal personhood, the interests of corporate energy producers were, more often than not, incorporated via the common law.

(Left) Polluted creeks in a coastal marsh in Oregon, United States. Photograph by Dan Meyers on Unsplash. (Right) Chinook salmon in their riverine environment. Photograph by Dan Cox, USFWS. CC BY 2.0.

Confronted with unceasing pollution in another part of the globe, the High Court of Uttarakhand in North India accorded the sacred Ganges and Yamuna rivers the rights of a legal person in 2017. These two sacred rivers, equated with deities, were declared juristic persons, in a move that called for their protection and guardianship since the "faith of society" was viewed as being compromised by their deplorable environmental state.

The Uttarakhand judgment ran into trouble since it was perceived as undermining India's secular constitution and pluralist religious heritage. Quasmi contends that "a river is not a deity for everyone—only a natural resource to be used in an effective and sustainable manner."[5] A secular argument for the river as a legal person, perhaps, would draw attention to the massive depositing of industrial effluents and sewage, which notably sully the waters for believers and nonbelievers alike. The view that the decision was "unimplementable" prevailed, although a final Supreme Court hearing is still awaited.

The bestowal of personhood upon rivers in many countries has brought us a big step forward. Yet, is it possible to glimpse a farther horizon and consider "parliament-style" forums that actively articulate and regulate riverine interests both above and below the nation-state level?

Cognizing "River Parliaments": Bottom-Up, Top-Down, and Sideways

Within the legal confines of nation-states, local and regional experiments with water and river "parliaments" have been carried out in France and India since the 1990s. Although not described as parliaments, assemblies articulating concern for rivers and water have also formed in several Latin American countries in the wake of large-scale mining, the construction of dams, or legislative setbacks that seek to repeal regulations that prohibit such activities.

In India, Tarun Bharat Sangh, an NGO led by Ramon Magsaysay Award–winner Rajendra Singh, has been at the forefront of a "parliament" (vernacular term: *sansad*) of the Arvari River in the province of Rajasthan since 1998. It comprises representatives from 70 villages and convenes twice a year. This parliament's pioneering efforts have led to a rejuvenation of the Arvari River and its stock of fish by constructing earthen dams. It has inspired citizens in other Indian provinces to follow this initiative and seek local solutions but without affiliation at the national or global level.

In France, Latour paved the way for "water parliaments," which included public hearings that brought concerned citizens, engineers, and biologists together to discuss the sustainability of the Dordogne and Garonne rivers. In a 2017 lecture, Latour returns to the theme of a parliament in the context of an environmental nongovernmental organization called "The Embassy of the North Sea" that puts this idea into practice.[6] Founded in the Netherlands in 2018, the Embassy is attempting a sea change as it seeks to give a political voice to entities as varied as codfish and gas fields. Can we think of other, older, or further possibilities that do not cede the notion of a parliament to the nation-state?

> *What we want for rivers now is an institution that can be entrusted with their environmental protection on a global scale.*

Setting up continental parliaments, as in Europe, and transnational subcontinental bodies can potentially take care of concerns arising along rivers that crisscross different territories. For instance, the Amazon, which runs through eight countries, or the Ganges, which traverses just two, could benefit from a regional, transnational body that looks into specific ecological issues affecting riverine environs. This measure harks back to the older practice of setting up joint river commissions and international river treaties between affected states where economic interests were overarching. But what we want for rivers now is an institution that can be entrusted with their environmental protection on a global scale—a platform where planetary riverine concerns can be expressed. Can a world parliament of rivers fulfill this role?

Calling for a Parliament of Rivers

While river assemblies and "parliaments," designated as such by local peoples, have been prevalent for a while, the template for a transnational world body to look into the interests of rivers as global commons has still to be formulated. Jo Leinen and Andreas Bummel note that,

> the manifesto of the first "alternative water forum," held in Florence in 2003, called for water to be recognised as a global common good and for privatization to be halted. Additionally, it noted that "citizens must be able to participate directly in the management of water and ecosystems, at local and global levels." "Such participation," ran the manifesto, "could be furthered by the creation of a world water parliament."[7]

For a start, a formal body for the discussion of worldwide river matters could report on the state of the world's rivers, provide recommendations, and enable the setting and promotion of international standards and protocols for river water quality, as well as its biotic life and nonbiotic components. Its design could incorporate representatives of local river parliaments, national parliaments, and civil society organizations. But why a parliament only for rivers and not for mountains, oceans, and other environments? We can expect demands from these quarters to increase as knowledge and concerns about the planet's dwindling future intensify and raise the stakes for parliaments that encompass both the distinct interests of identifiable components and the planet as a whole.

Whether a world parliament of rivers would be able to challenge the transnational capitalist class and corporations outright, without sovereign law-making and law-enforcing authority, remains a moot issue. But the power to lay down norms for the global macro-regulation of river-related practices would give it teeth if not a suit of armor. It would also stimulate the growth and empowerment of local river parliaments, since their concerns would be linked, articulated, and addressed along bottom-up, top-down, and lateral axes.

If local initiatives signify river assemblies as parliaments, though without formal legislative authority, a world parliament of rivers imbues parliamentarism and ecologies with a meaning beyond the context of the nation-state. These river parliaments invite legal fortification to open the door for a rule of law that aligns with the interests of rivers, humans, nonhumans, and the natures that rivers harbor. It is a call to amplify the voice of rivers, their rights, and their personhood, within and beyond the confines of local, national, and continental legal innovations and regimes, so that they resonate as invaluable and planetary commons.

Notes:

[1] Jo Leinen and Andreas Bummel, *A World Parliament: Governance and Democracy in the 21st Century* (Berlin: Democracy Without Borders, 2018).

[2] Bruno Latour, *We Have Never Been Modern* (Cambridge, MA: Harvard University Press, 1993); Bruno Latour, "Outline of a Parliament of Things," *Ecologie & Politique* 56, no. 1 (2018): 47–64.

[3] Mélanie Arsenault, "The Arhuaco Legal Tradition and the Decolonization of Environmentalism in Colombia," *McGill Journal of Sustainable Law* (blog)**,** 12 May 2021, accessed 7 August 2021, https://www.mjsdl.com/content/the-arhuaco-legal-tradition-and-the-decolonization-of-environmentalism-in-colombia.

[4] Christopher Stone, "Should Trees Have Standing: Toward Legal Rights for Natural Objects," *Southern California Law Review* 45 (1972): 450–501.

[5] Bushra Quasmi, "Rivers as Legal Persons: A Regressive Step," *Economic and Political Weekly* 52, no. 30 (2017).

[6] "Welcome to the Parliament of Things," Embassy of the North Sea, accessed 11 June 2022, https://www.embassyofthenorthsea.com/welkom-in-het-parlement-van-de-dingen.

[7] Leinen and Bummel, *A World Parliament*, 459.

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In 2021, Berros and Brara worked together on the project “River Rights: Tracing the Ebb and Flow of Judicial Currents across Countries and Continents” at the Rachel Carson Center.

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