

Theorizing Resource Rights

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This paper attempts to establish the framework for good governance of resources by answering the question: who ought to have rights to natural resources? Is it the state or the landowner under whose land the resources are located? Drawing mainly, but not exclusively, on Lockean principles of property acquisition, this paper makes a normative argument that takes account of the rights of the landowner and of the state as well as the interest of the investor. It proceeds by first evaluating three existing accounts of resource rights and why these accounts are not satisfying. The three accounts are Henry Sidgwick's utilitarian views, the cosmopolitan idea that resources belong to everyone globally, and contemporary conceptions that regard the territory and resources within it as belonging to either the state or the people.

Next, it discusses the principles that would justify ownership claims by the state and the landowner. However, it creates a tension by discussing the reasonable grounds that would disqualify the state and the landowner. It then bridges the tension by working out the requirements of justice. Here, it argues that justice will require meeting the reasonable claims of the landowner and of the state and simultaneously rewarding the risk-taking investor.

Finally, I relates the requirements of justice to Africa where the community (not the individual) claims rights to resources on account of its ownership of land. I argue that my theoretical conception, even though it is driven by liberal ideas that are anchored on individual rights, respects the community's claims to its land, just as it respects the state as having jurisdictional rights to its territory. My theoretical conception, therefore, does not assign rights exclusively to the community or the state, in Africa.