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# THE EVOLVING CONCEPT OF LEGAL PERSONHOOD: THE RIGHTS OF RIVERS

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Ardhra Benny K, Army Institute of Law, Mohali

Tanvi, Army, Institute of Law, Mohali

## Introduction

Is it possible for a river to have rights? Is it possible for a river to be represented in a court? Can it sue or be sued? Can it claim compensation? The answer is yes. Several countries like New Zealand, Bangladesh, Columbia have already recognised rivers as the legal persons in the recent years. In India, the answer for this question is a little ambiguous. In 2017, a judgement was passed by the Uttarakhand High Court granting legal personhood to rivers Ganga and Yamuna. But this judgement was later stayed by the Supreme Court.<sup>1</sup> The prominent Rights of Nature movement also advocates that nature including rivers, forests and ecosystem should be granted legal personhood with enforceable rights.<sup>2</sup> In 2008, Ecuador became the first country to include rights to Nature in its constitution<sup>3</sup> and the same year, the Garma Declaration recognised water as an ecological entity with its inherent right to exist.<sup>4</sup>

## Legal Personhood

Personhood means the ability or status of being recognised in the society and legal personhood means being acknowledged as a “person” in the eyes of law. Legal personhood fundamentally concerns who or what counts as a subject rather than an object in law.<sup>5</sup> The key element of legal personhood is the ability to bear rights and duties.<sup>6</sup> Black’s Law Dictionary defines a legal person as an entity “given certain legal rights and duties of a human being; a being, real or imaginary, who for the purpose of legal reasoning is treated more or less as a human being.”<sup>7</sup>

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<sup>1</sup> Writ Petition (PIL) No. 126 of 2014.

<sup>2</sup> Chandrani Chakraborty, *THE LEGAL STATUS OF NON-HUMAN ENTITIES: RIVERS, FORESTS, AND THE RIGHTS OF NATURE MOVEMENT*, 22, ISSN, (2025), <https://thelawwaywithlawyers.com/the-legal-status-of-non-human-entities-rivers-forests-and-the-rights-of-nature-movement/>.

<sup>3</sup> Constitution of the Republic of Ecuador. art. 71.

<sup>4</sup> Garma International Indigenous Water Declaration (2008), p 2.

<sup>5</sup> Ngaire Naffine, *Who are Law's Persons? From Cheshire Cats to Responsible Subjects*, *Modern Law Review*, 346-367 (2003).

<sup>6</sup> Glanville William, *John Salmond on Jurisprudence* (Sweet and Maxwell limited 1947).

<sup>7</sup> Legal Person, *Black’s Law Dictionary* (9TH ED. 2009).

Natural Persons are individual human beings who possess certain legal rights and duties which arise from their inherent human status. This includes right to enter into contracts, sue and to be sued. In contrast, Legal persons refer to entities like corporations, non-profit organisations whose existence is created by law. While natural persons are accountable for their actions, legal persons act through their representatives.

The concept of extending Legal Personhood to natural entities was first introduced by Christopher D. Stone in his article "Should Trees Have Standing?". He supported his view by proposing that if corporation can act through directors and officers, incompetent persons through their guardians, then natural entities can also hold legal rights through human representatives.<sup>8</sup>

## Historical Background

### India

The idea of granting personhood to non-human entities is not a new concept in India. Indian legal and cultural traditions already recognize certain non-human beings capable of holding rights and duties through human representatives. This is evident from the recognition of Hindu deities<sup>9</sup> and animals as legal persons.<sup>10</sup> Therefore, the extension of legal personhood to rivers is just a continuation of this concept.

Since ancient times, Indian rivers have been considered as sacred and life sustaining. Vedic and Puranic texts portray them as divine beings, and rituals like *snan* (holy bathing) continue to carry deep religious significance.<sup>11</sup> Likewise, the Indigenous community of India (Adivasis) regard rivers as their living ancestors rather than mere natural resources. For instance, tribal groups residing along the Narmada River consider it as a mother figure.<sup>12</sup>

### New Zealand

In 2017, New Zealand enacted the Te Awa Tupua (Whanganui River Claims Settlement) Act,

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<sup>8</sup>Christopher D. Stone, *Should Trees Have Standing? Toward Legal Rights for Natural Objects*, Southern California Law Review, 450-501 (1972).

<sup>9</sup>Pramath Nath Mullick v. Pradyumna Kumar Mullick, (1925) 27 BOMLR 1064.

<sup>10</sup>Animal Welfare Board of India v. A. Nagaraja, (2014) 7 SCC 547.

<sup>11</sup>Vijaya Nagarajan, *Feeding a Thousand Souls: Women, Ritual and Ecology in India, An Exploration of the Kolam*, New York: Oxford University Press, 76-91 (2018).

<sup>12</sup>Amita Baviskar, *In the Belly of the River: Tribal Conflicts over Development in the Narmada Valley*, New Delhi: Oxford University Press, 78-96 (2004).

2017<sup>13</sup> as a part of the historic treaty of Waitangi settlement following the eight years of negotiation by Māori community (tribe) and the Crown. Through this act, the Whanganui River was granted the status of a legal person possessing rights and interests. The legislation acknowledged the cultural and spiritual connection of people with the river. Under the Act, two guardians are appointed to represent the river (one from the Crown and one from the Māori community).<sup>14</sup>

## Bangladesh

On February 03, 2019, The Supreme Court of Bangladesh in the case of *Human Rights and Peace for Bangladesh vs Government of Bangladesh and Others*, upheld the High Court's ruling that recognised the Turag River and all the rivers that flow within the territory of Bangladesh to be legal persons.<sup>15</sup> This decision was given considering the overall deteriorating state of the rivers flowing within Bangladesh. The High Court gave this judgement based on the public trust doctrine and considering Article 18A of Bangladesh's Constitution which obliges the state to protect the environment and biodiversity, and safeguard the natural resources for both present and future generations.<sup>16</sup> Further, the High Court Division designated the National River Conservation Commission (NRCC) as *loco parentis* (guardian) responsible for representing and safeguarding the rivers of Bangladesh. Similar approaches have been adopted by several countries, where rivers have been granted legal recognition. For instance, in 2016, Rio Atrato of Columbia was declared as legal person.<sup>17</sup> While in 2017, Australia's Yarra river in Victoria was similarly recognised.<sup>18</sup>

## Case Study

In *Mohammed. Salim v. State of Uttarakhand*,<sup>19</sup> the High Court declared the rivers Ganga and Yamuna, all their tributaries, streams, every natural water flowing with flow continuously or intermittently of these rivers, as legal persons/living entities. The court conferred on them the same legal status, rights, duties and liabilities as those of a living being.

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<sup>13</sup> Te Awa Tupua (Whanganui River Claims Settlement) Act, 2017 (NZ), s 14.

<sup>14</sup> Erin L. O'Donnell and Julia Talbot-Jones, *Creating Legal Rights for Rivers: Lessons from Australia, New Zealand, and India*, Ecology and Society, (2018).

<sup>15</sup> Writ Petition No. 10928 of 2019.

<sup>16</sup> PEOPLE'S REPUBLIC OF BANGLADESH CONST. art. 18A.

<sup>17</sup> Center for Social Justice Studies and others v Presidency of the Republic and others, T-622/16.

<sup>18</sup> Yarra River Protection (Wilip-gin Birrarung murrong) Act, 2017 (No. 49 of 2017).

<sup>19</sup> *Supra* note 1 at 1.

## Facts

In 2014, Mohammed Salim filed a petition in the High Court of Uttarakhand of India seeking protection for the Rivers Ganga and Yamuna from illegal mining and pollution. Responding to his plea, the court imposed a ban on the ongoing mining on the riverbed of both the rivers.

## JUDGEMENT

In March 2017, the court granted legal personhood to Ganga and Yamuna to ensure their protection and uphold their rights. The court also appointed a three-member committee comprising of Director of Namami Gange (Clean Ganga Mission), the Chief Secretary of Uttarakhand, and the Advocate General of Uttarakhand to act as persons in *loco parentis* (human face of the rivers) who are responsible for the health and well-being of rivers. This guardianship model was established because rivers cannot represent themselves and therefore require a human representative. Just ten days later, in a follow-up judgement of Lalit Miglani vs State of Uttarakhand and Others, (2015), the court extended this legal personhood to other surrounding natural entities like glaciers, lakes, air, forests, wetlands, waterfalls.<sup>20</sup>

The court justified its judgement on the following grounds:

- It noted that rivers considered goddesses in Hindu culture and are greatly respected. The court also drew parallels with Hindu deities who have previously been accorded legal personhood.
- Additionally, Article 48A and Art 51A (g) of the Indian Constitution, impose a duty on both citizens and state to safeguard the natural environment.<sup>21</sup>

## The Supreme Court Stay and Its Implications

Following the High Court's judgement, the Uttarakhand Government appealed to the Supreme Court. A bench comprising of Chief Justice J.S. Khehar and Justice D.Y. Chandrachud suspended the High Court's order citing several practical challenges in implementing it. These included:

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<sup>20</sup> Writ Petition (PIL) No. 140 of 2015.

<sup>21</sup> INDIA CONST. art. 48A, 51A (g).

- 1) The appointment of State officials as the guardian creates a conflict of interest as the state itself could engage in such activities detrimental to the rivers.
- 2) There were jurisdictional complications since the rivers flow beyond Uttarakhand. The State officials would lack authority beyond state borders, conflicting with the Centre's control over inter-state rivers under Entry 56 of the Union List.
- 3) Assigning personhood could result in impractical financial burden for natural calamities or river related events.
- 4) The judgement did not clearly define the scope of rights and liabilities of the rivers.
- 5) The Supreme Court held that the High Court exceeded its writ jurisdiction, as the original PIL addressed illegal mining rather than granting personhood. Thus, it should be treated as *obiter dicta*.
- 6) Conferring personhood only to Ganga and Yamuna leads to unequal treatment of other rivers, violating Article 14 of the Constitution.<sup>22</sup>

The Supreme Court is yet to deliver a final verdict, leaving the legal status of Indian rivers in limbo. This has created an ambiguity regarding the legal status of rivers in India.<sup>23</sup>

### **Recognition Of Legal Person Status of Rivers Bill, 2024**

In 2024, Satnam Singh Sandhu introduced the “*Recognition of Legal Person Status of Rivers Bill*,”<sup>24</sup> to confer legal personhood to river and entitling them with rights comparable to those of human beings under Article 21 of the Constitution.<sup>25</sup> Sandhu highlighted the urgent need to protect India's vast river network of over 400 rivers, noting that they have been neglected for long. He further explained that granting personhood to rivers would strengthen conservation efforts and promote sustainable water management.

The proposed legislation recommends extending legal protection to rivers exceeding 40 km in length and mandates the creation of a Rivers Protection Committee to oversee the sustainable

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<sup>22</sup> INDIA CONST. art. 14.

<sup>23</sup> Suji Cheriyan, Sacred Waters, *Legal Rights: Reconceptualizing Personhood for Indian Rivers in the Anthropocene*, 8, IJMHL, 2581-5369 (2025).

<sup>24</sup> Recognition of Legal Person Status of Rivers Bill, Bill No. LXXVI of 2024.

<sup>25</sup> INDIA CONST. art. 21.

management, and conservation of rivers across the country. The committee will comprise 13 members, including the Chairperson of the National Green Tribunal (NGT); Secretaries of the Ministries of Jal Shakti, Environment, Forests & Climate Change, and Ports, Shipping & Waterways; and one nominee each from the President and the Prime Minister of India. According to the bill, such committee must be constituted within 6 months of the Act's notification in the Official Gazette.

Although the bill is still pending before the parliament, certain judicial developments indicate a growing recognition of nature as a living entity. Indian courts have begun conceptualizing rivers as integrated ecological systems rather than merely water resources. The Madras High Court recognised "Mother nature" as a living being having the status of a legal person with all rights and liabilities.<sup>26</sup> Similarly, the Uttarakhand High court in *Narayan Dutt v. UOI*(2018) granted the entire animal kingdom status of legal persons affirming their corresponding rights.<sup>27</sup> Along similar lines, the Punjab and Haryana High Court by invoking *parens patriae* jurisdiction, declared the Sukhna lake as a legal person to ensure its survival and conservation, appointing all the citizens as *loco parentis* (guardians) to save Sukhna lake from extinction.<sup>28</sup>

## Conclusion

Rivers are not just sources of water but they are source of life to millions which supports life, livelihood and ecological balance. Despite their deep cultural and religious significance, rivers suffer severe pollution. Protecting them is essential as it is a way of showing our respect and responsibility towards nature. We should protect rivers not merely because they are sacred, but because they are vital for our survival. By granting them personhood, we acknowledge that they deserve protection. This protection shall be effective only if it is accompanied by proper laws, guardianship and strong coordination between states and communities. By safeguarding the natural entities like river, we ensure that our future generations also receive clean waters essential for life.

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<sup>26</sup> *Periyakaruppan v. The Principal Secretary & Anr*, WP. 18636 of 2013.

<sup>27</sup> *Writ Petition (PIL) No. 43 of 2014*.

<sup>28</sup> *CWP No. 18253 of 2009*.