



Can Rivers Claim the Right to Health and Wellbeing?

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Agenda

- Introduction & Background
- Introduction of Nature's Right
- Recognizing Rights of River - Case Studies
- Concern of Granting them Legal personhood.
- Universal Declaration of Rights of Rivers.
- Right to Health.
- Conclusion.

Introduction and Background

- Freshwater resources are limited and stressed. Climate change is exacerbating both water scarcity and water-related hazards.
- Water governance mechanisms – Are they working?
- The governance of the resources in the past has not been effective, which is why in the recent past, humankind has started exploring new means of water governance, and one such approach is Nature's Right.

What is Nature's Right?

- In the 1970s, an American academic, Christopher D. Stone, proposed granting **environmental personhood** to natural entities, much like granting legal status to artificial persons in law, such as corporations.
- As per Stone's recommendation, this entails three primary rights:
 - **1.** to sue and be sued (legal standing),
 - **2.** to enter contracts,
 - **3.** to take legal action to protect themselves.

Recognizing
Rights of
rivers.

In 2017, New Zealand

Legal Personhood was granted to the Whanganui River.

In 2017, Australia

Legislative recognition: Yarra River Protection (Wilip-gin Birrarung murron) Act 2017.

South America

In 2008, Ecuador

Constitutional Amendment, Pachamama (Mother Earth) was recognized as a legal entity.

In 2016, Colombia

Constitutional Court recognized the megadiverse Atrato River Basin to be a right holder.

| Country | Type of Legislation | Who's responsibility? |
|-------------|-----------------------------|-----------------------|
| New Zealand | Treaty | Legal Guardian |
| Australia | Sub-national/Provincial Act | Legal Guardian |
| Ecuador | Constitutional Law | Citizen(s) |
| Bolivia | Constitutional Law | Legal Guardian |
| Cola | Judicial Decision | Legal Guardian |
| Bangladesh | Judicial Decision | Legal Guardian |
| India | Judicial Decision | Legal Guardian |
| Uganda | National Law | Citizen(s) |
| USA | Local Law | Citizen(s) |
| Canada | Local Law | Legal Guardian |

Concern

- As Erin O'Donnell says, "Once you start reframing rivers as being equal to humans, the damage they cause us enters the narrative, too." That's the risk with legal personhood," says O'Donnell. "Instead of building a collective understanding and desire for a better environment, you split communities and end up with an adversarial outcome.

Right to Health

- **Right** - The right to health refers to the right to the enjoyment of a variety of goods, facilities, services and conditions necessary for its realization. This is why it is more accurate to describe it as the right to the highest attainable standard of physical and mental health, rather than an unconditional right to be healthy.
- **Obligation** - States must make every possible effort, within available resources, to realize the right to health and to take steps in that direction without delay.

Right to Health for River?

- Legal Recognition – Nature/River
- Type of Right Guaranteed – Right to Health
- What does it mean for a River – The legal right to health gives the river a legal standing to challenge in case of non-fulfilment.
- How? – vis human agency/legal guardian/institutional or legislative channels.

Universal Declaration of the Rights of Rivers

- All rivers shall possess, at minimum, the following fundamental rights:
- (1) the right to flow,
- (2) the right perform essential functions within its ecosystem,
- (3) the right to be free from pollution,
- (4) the right to feed and be fed by sustainable aquifers,
- (5) the right to native biodiversity,
- (6) the right to regeneration and restoration, and
- (7) the right to maintain lateral and longitudinal connectivity.

Conclusion

- The Right to Health for a river will empower river to fight for its protection and conservation using the means developed by the rights of nature discourse in various jurisdictions.
- However, limiting the issue of adversarial outcomes.
- This can additionally act as one of the tools to strengthen climate change litigation.
- Future Awaits efficient water governance via Right to Health for a River.



Thank You.

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