

**“Legal Personality to Rivers: An In-Depth Analysis”**

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**Abstract of the paper:**

Whenever an innovation is sought in an existing paradigm of law or jurisprudence, there will be widespread skepticism and questions regarding the same. Conferring legal personality to rivers is no exception. The paper shall look at the instances of conferring legal personality to rivers across the world, particularly the Te Awa Tupua (Whanganui River Claims Settlement) Act, 2017 of New Zealand. It shall also analyse the 2 judicial pronouncements of Mohd. Salim v State of Uttarakhand and Lalit Miglani v State of Uttarakhand where legal personality was conferred to the rivers Ganga, Yamuna and all their tributaries. In furtherance, there shall be a jurisprudential analysis of conferring legal personality to rivers and deals with questions such as why legal personality to rivers is needed, what shall be the status of various dams, multi-purpose projects when a river shall be conferred with legal personality and whether conferring legal personality to rivers also mean that the flora and fauna shall also be conferred with the same. In conclusion, there shall be suggestions regarding conferring legal personality to rivers.

Keywords: Personality, Rivers, Whanganui, Uttarakhand

**Introduction**

Whenever an innovation is sought in an existing paradigm of law or jurisprudence, there will be widespread skepticism and questions regarding the same. Conferring legal personality to rivers is no exception.

Though the idea of conferring legal personality to rivers in particular is new, there have been instances of recognizing rights of nature. The Constitution of Ecuador, in Chapter 7 comprising of Articles 71 to 74, enumerate the rights of nature such as has the right to integral respect for its existence<sup>1</sup>, right to be restored<sup>2</sup> etc. The Te Awa Tupua (Whanganui River Claims Settlement)

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<sup>1</sup> ECUADOR CONSTITUTION OF 2008 § 71.

<sup>2</sup> ECUADOR CONSTITUTION OF 2008 § 72.

Act, 2017 of New Zealand that confers legal personality to the river Whanganui is the first comprehensive legislation across the globe in conferring legal personality to rivers and dealing with it in a very detailed manner. Bolivia has enacted the law of Mother Earth, recognizing nature's legal rights, specifically the right to life, biodiversity, regeneration, air, water, balance, and restoration. Several towns in the United States (US) have made by-laws that recognise the rights of nature. For instance, the Grant Township, a community in western Pennsylvania adopted a Community Bill of Rights Ordinance recognising that the rivers, streams, and aquifers possess the right to flourish and naturally evolve.

This does not mean that a river shall be granted the same rights as a person, such as civil political rights. It shall be granted basic rights of to sue and be sued, to be party to and enforce contracts and to avail the remedies for its own benefit and not the benefit of any human beings.

When one speaks of conferring legal personality to rivers, there are various questions and doubts. These shall be addressed in the coming paragraphs.

### **1. Why legal personality to rivers?**

This is the first question that would arise in anyone's mind when one puts forth the topic of conferring legal personality to rivers. One may question the purpose it would serve when there are various devices at present to safeguard the interests of rivers. Currently, there are various principles such as precautionary principle, polluter pays principle, sustainable development, public trust doctrine etc., and there are various laws and policies in place such as the Environment Protection Act, 1986, the Water (Prevention and Control of Pollution) Act, 1974, National River Conservation Plan etc. However, despite all these principles, laws and policies in place, river pollution and the harm done to the river is going unabated and only increasing day by day. Mr. Rajendra Singh, renowned Water Conservationist, also known as the 'Waterman of India', on observing the pollution of rivers in India said that today's rivers resemble *nullahs*.<sup>3</sup> A report by the Central Pollution Control Board (CPCB) indicates that between 2009 and 2015, out of the total rivers monitored by the Board, the number of polluted rivers increased from 121 to 279. Over the same period, polluted river stretches have jumped from 150 to 309.

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<sup>3</sup> Rahi Gaikwad, "Today's rivers resemble nullahs: Rajendra Singh", THE HINDU, March 7, 2016.

Maharashtra(49) leads the tally with the most number of polluted stretches, followed by Assam(28), Madhya Pradesh(21), Gujarat(20), West Bengal(17), Karnataka(15), Kerala(13), Uttar Pradesh(13), Manipur and Odisha(12 each), Meghalaya(10) and Jammu and Kashmir(9).<sup>4</sup>

Even though human rights occupy centre stage and deal with human conflict, loss of rivers in a country like India where a major part of the population is dependent on, threatens human survival itself. Conferring legal personality to rivers means that the rivers shall also have rights. We must understand that the fundamental human rights such as Right to clean and safe drinking water, right to health, right to environment and right to a life of dignity are the rights which Indian citizens possess as the Supreme Court has read these into Article 21 of the Constitution on which human survival in India depends are rivers' rights. Right to clean and safe drinking water, right to health, right to environment and right to a life of dignity are the rights which Indian citizens possess as the Supreme Court has read these into Article 21 of the Constitution. Thus, it is imperative that the rivers' rights are safeguarded. Therefore, conferring legal personality which ensures rivers' rights is gaining traction across the globe and also in our nation. This is clearly evident by the two judgments of Uttarakhand High Court in Mohd. Salim v State of Uttarakhand<sup>5</sup> and Lalit Miglani v State of Uttarakhand.<sup>6</sup> In the aforementioned cases, the Uttarakhand High Court has conferred legal personality to the rivers and streams of River Ganga and Yamuna and has bestowed with it the rights, duties and liabilities of a living person.

There are certain advantages in conferring legal personality to rivers. Christopher D Stone in his famous article, "Should Trees have Legal Standing? – Towards Legal Rights for Natural Objects" has propounded various advantages. The first major advantage is that cases, if any, shall be brought in the name of the river itself. Secondly, the damages and compensation awarded in such cases will be directly spent to the benefit of the river and from the perspective of the river. The damages and compensation awarded shall not be given to any human being, but to the river. This can constitute the fund of the river and several requirements such as the money

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<sup>4</sup> Central Pollution Control Board, *Polluted River Stretches in India*  
<http://cpcb.nic.in/openpdffile.php?id=TGF0ZXN0RmlsZS9MYXRlc3RfNjZfRmluYWxQb2xsdXRlZFN0cmV0Y2hlcY5wZGY=>

<sup>5</sup> *Mohd. Salim v State of Uttarakhand*, Writ Petition (PIL) No.126 of 2014

<sup>6</sup> *Lalit Miglani v State of Uttarakhand*, Writ Petition (PIL) No.140 of 2015

incurred in engaging in litigation etc can be effectively met. In furtherance, the compensation can be used to make the river wholesome again, thereby rejuvenating the river. Thirdly, when the lower riparian people are fragmented and they do not have enough money power or muscle power to file a case regarding the same, then the body so appointed shall do the same and thereby preserving the river.

In an efficiency hungry world, when there are various multipurpose projects intended to be built on the river such as dams, hydroelectric projects, canals etc., then the river shall also have a say in it. The river can also participate in such process and enter into contracts for the same. When there is a violation of the contracts, then the river can sue the opposite party. The river, through its representatives, shall also be a party in any legislation or a court case involving the river, whereby the representatives shall act in the best interests of the river and ensure that the same is productive. The river, through its representatives, can bring to the notice of the Courts or the Legislature, various issues which would have not been sufficiently addressed but which are of paramount importance from the river's perspective.

In addition to this, when the representatives so appointed to act on behalf of the river are those who have been active in the protection of the river from various issues and know about the river and the problems closely associated with it, then such representatives shall act in the best interests of the river. The same is followed in New Zealand where the Iwi(native inhabitants), who had a 140 year legal battle which is the longest running litigation to recognize Whanganui River as a legal person, is appointed as one of the members to represent and act on behalf of the river. As these representatives have the will to protect the rivers and also the expertise in doing so, they shall not abstain from performing their duty and shall act in the best interests of the river. In furtherance, such a setup shall ensure that the representatives can ask for the governmental agencies to cooperate with them and this shall happen in a manner without much friction and hindrance, as the representatives shall also be performing a state function. If the representatives so appointed shall be people who are interested in conserving and preserving the river genuinely, then the fees or emoluments needed to be paid to them shall also not be exorbitant as they are not interested in profit making. This ensures that not much of the fund is

spent on the allowances and emoluments to the representatives and this shall not become a burden on the state exchequer.

When the rivers are sufficiently protected and when they are cleansed, then this means that the water contained in the river shall be clean and safe. This also ensures that there shall be no suits filed by lower riparian right holders and thus reducing the complexity and number of cases being filed before the various courts, thereby reducing the burden of the courts too.

**2. Whether the judicial pronouncements in the cases of Mohd. Salim v State of Uttarakhand and Lalit Miglani v State of Uttarakhand provide a comprehensive and sound approach in giving legal personality to rivers?**

*Mohd. Salim v State of Uttarakhand*<sup>7</sup>:

Though this judgment might seem to make deep ecologists happy, a reading of the judgment will turn out to be a mediocre discourse to a lawyer. The Uttarakhand High Court, through this judgment, declared rivers Ganga and Yamuna as juristic/legal persons/living entities having the status of a legal person with all corresponding rights, duties and liabilities of a living person in order to preserve and conserve river Ganga and Yamuna. Though the intention of the judges is right in reaching the particular decision, the consequences of this judgment does not seem right. Being a High Court, whose jurisdiction is confined only to the State of Uttarakhand, the Court overreaches and goes beyond its jurisdiction. The Court has appointed the Advocate General, Chief Secretary of Uttarakhand and Director of NAMAMI Gange project as the human face of it, *vide in loco parentis*. This has significant shortcomings as the the aforesaid dignitaries are regional in nature and an issue of jurisdiction arises. For example, can the Advocate General of Uttarakhand represent the river in Bihar or West Bengal where it flows? What about the international ramifications as the river flows into Bangladesh? These are the questions that the Court has dodged without providing a satisfactory answer, nay an attempt to answer either.

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<sup>7</sup> *supra* note 5

An appeal against this judgment was filed in the Supreme Court and the Court stayed the operation of the judgment. It is curious to see the manner in which the Supreme Court shall embark in this regard.

*Lalit Miglani v State of Uttarakhand and others:*<sup>8</sup>

Though the judgment might seem “revolutionary” or “game changing” on the face of it, it suffers from serious defects when one reads it and there is an immense need for its instant reconsideration in order to nullify the infirmities and shortcomings in the judgment.

In this case, it is again given that the river shall be a legal person with all the rights, duties and liabilities of a living person. Does this mean that whenever the river floods and results in the loss of life and limb, that the river shall be liable? A logical consequence of this seems to be that the body of representatives acting on behalf of it shall be sent to jail as they are acting in a guardian capacity to the river.

In furtherance, both the above mentioned judgments are an act of judicial overreach and are also transgressing the doctrine of separation of powers.

Thus, one can come to the conclusion that the aforementioned judgments were a product of haste rather than reason.

**3. If a river is declared as a legal person, can it be said to have rights and duties? If so, what are the possible rights and duties?**

To answer this question, one needs to view and analyse it jurisprudentially.

Now, when one argues that rivers should have legal rights, questions arise as to what are the characteristics of those legal rights. The first characteristic is, who is the owner of the right or subject of the right or the person entitled to the right. Here, the river is the subject of the right.

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<sup>8</sup> *supra* note 6

In furtherance, there should be a subject of the duty. Here, the right to be protected can be availed against the society at large. Thus, persons in general can be termed as bound by the correlative duty.

Thirdly, there should be a content of the right and this in the case of rivers would mean abstention from polluting the river or encroaching on the river etc. Fourthly, there should be object of the right. In this case, the object of the right is the river as well. This means that the river has a right on the water contained in it, the soil underneath its bed etc., and no one shall deprive the river of those things without its consent.

Fifthly, the legal right should have a title. With respect to rivers, it can be construed as the statute, judicial pronouncements or the Constitution itself which confers legal right to the rivers.

In the Indian scenario, a judicial decision rendered by the High Court of Uttarakhand conferred title to the rivers Ganga and Yamuna, including all their tributaries and streams in 2 decisions, namely *Mohd. Salim v State of Uttarakhand*<sup>9</sup> and *Lalit Miglani v State of Uttarakhand*.<sup>10</sup> However, in the New Zealand context, the same is conferred through a thoroughly drafted and well thought out legislation called as *Te Awa Tupua (Whanganui River Claims Settlement) Act, 2017*. Chapter 7 of the Constitution of Ecuador expressly confers rights to nature, which includes rivers by virtue of Articles 71 to 74.

Before delving into the intricacies of legal rights which are ascribed to rivers, it is of paramount importance for one to understand the classification of rights, duties and liberties and no-right and the correlation between them under the Hohfeldian scheme.

The concept of positive and negative rights can be ascribed to rivers. The river shall have a right against the society at large not to be polluted, encroached upon etc., whereas it shall have a right against the body representing it to protect it from the same. Such a right, in this case, for example applies to a guardian appointed to act in the best interests of the river and a failure with respect to the same, shall warrant legal action against the guardian so appointed. Such a warrant ensures

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<sup>9</sup> *supra* note 5

<sup>10</sup> *supra* note 6

that the right possessed by the river is not an imperfect one, but a perfect one and can be enforced unequivocally, without any doubt or impediment.

A river shall have a right in *rem* and this right shall be the right not to be polluted and not to be encroached upon and defaced. It shall have a right in *personam* against the guardian or body appointed for the protection of the river from all sorts of pollution, encroachment and harm etc.

However, this does not warrant a blanket ban on certain people who want to protect the river and act in its best interest. In the present context, liberty should be viewed through the Hohfeldian lens. This is their liberty and there shall be no impediment or interference in this regard from the law. There is no duty either on the citizens to do so. This shall ensure that various NGOs, nonprofit organisations and environmental organisations shall file a case on the same.

Parallels can be drawn in this regard to derivative suits by shareholders on behalf of the company when the directors of a company or whoever is in charge of the company is silent when there is a fraud or has himself committed a fraud.

As right to clean and healthy environment and right to clean and safe drinking water is read into Article 21 and thus a fundamental right, polluted river and usage of its water warrants the violation of the same and therefore the body appointed on behalf the river when it is conferred with legal personality can be sued as it is failing in its duty of protecting, preserving, conserving and acting in the best interests of the river. In such a situation when the body so appointed is failing in its duty, then the members may be personally liable for their actions.

Rivers can be the holder of rights as demonstrated in the preceding paragraphs. However, can river have duties?

A duty can be both moral and legal. The duty to protect, preserve and conserve rivers is a moral duty on the society at large. This is because rivers have been the cradles of civilization across the world and tend to our necessities. We are dependent on rivers for various instances, besides drinking and irrigation. In our nation, rivers are of immense importance as they are the major source of fresh water. Thus, it is imperative to protect, preserve and conserve rivers for the same reasons in the moral sense.

However, for not performing moral duties does not warrant a legal sanction. Thus, in this regard it is of immense importance to give this moral duty of protecting, conserving and preserving rivers a binding effect. This is done under the Indian constitution through Article 51A(g) which reads as follows: “to protect and improve the natural environment including forests, lakes, river and wildlife, and to have compassion for living creatures;”

However, the outcome is not significant in this regard. According to Hohfeld<sup>11</sup>, there should be a right with someone in order to vest in someone else a corresponding duty and rivers do not expressly have a right to be protected, preserved and conserved from any sort of exploitation.

In furtherance, a duty is of two types—positive and negative. Positive duty implies that an act needs to be performed and a negative duty implies that the person who is bound by the duty should abstain from doing an act. When the person bound by the duty acts in contravention to the duty, then that shall be construed as a breach of duty and shall be punished for the same. However, this legal recognition of the duty does not necessarily mean that the right shall legally enforce the performance of it or punishes the disregard of it by the persons bound by the duty.<sup>12</sup>

For an interest to become subject of a legal right, it must not merely obtain a legal protection, but also a legal recognition. At present, the interests of rivers are to some extent protected by the law, inasmuch as polluting them or encroaching them or defacing them attracts fines and penal sanction. However, this does not mean the rivers possess rights. The duty of humanity so enforced is not to be understood by the law as a duty towards rivers, but merely as a duty in respect of them. There is no *vinculum juris* between humans and rivers, for there is no bond of obligation between humans and rivers.

Let us examine what are the kind of duties that river might be bound with.

One can say that the river shall have the duty of providing water to human beings for various purposes such as drinking, domestic purposes etc. The river can fulfil this duty as long as there is sufficient water in it, which depends on sufficient rainfall as in the case of peninsular rivers. In

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<sup>11</sup> PJ FITZGERALD, SALMOND ON JURISPRUDENCE, 219( Sweet and Maxwell South Asian Edition, 12<sup>th</sup> edition)

<sup>12</sup> *Id.*

reality, rivers cannot determine the amount of rain it shall receive. It is dependent on various factors. In the recent years, there is a decrease in rainfall and the major cause for this is due to the pollution caused by human beings, reduction in the number of trees etc., largely due to human conduct and developmental activities. Thus, human beings should stop this widespread act of felling trees in order to meet their developmental needs so that the river gets its share of rainfall and provides water for human beings, thereby fulfilling its duty, the feasibility of which is questionable.

The river may be bound with another duty of providing enough fish for the people having riparian rights. This can be possible too. However, this issue suffers from the same infirmities akin to the issue dealt with in the preceding paragraph. For the river to provide enough fish to the fishermen situated, there should be no deterioration of the quality of the water contained in the river which might kill the aquatic and other life forms in it. This can be ensured when there shall be no pollution of the river, which is mainly due to human conduct and development whereby industrial waste, untreated/partially treated sewage etc., are let into the river. However, it is too far-fetched.

The river can be said to be bound with the duty not to flood and cause harm to life and limb of a person. However, when the river breaches the same, then it shall be liable for the harm caused. Compensation to the victims can be borne out of the fund of the river in such a case.

As observed, rivers can hold duties, the performance or non performance of which are subject to external factors.

However, as inferred from above, even though a river cannot hold a duty conclusively, the same cannot stand in the way for granting legal personhood to rivers. Parallels to this can be drawn from granting legal personhood to unborn children. They do not have any sort of duty, but they are granted legal personhood, thereby legal personality.

#### **4. Whether giving legal personality to rivers also include the flora and fauna in it?**

The question of whether giving legal personality to rivers also include the flora and fauna in it is an important question to be addressed in this behalf. Without addressing the same, legal

personality to rivers bewilders people and incorporates in itself unwanted ambiguity. Thus addressing the same is of immense importance.

Under the existing scheme and system of law in India, flora and fauna are not legal persons. Let alone legal personality, they do not have well defined rights. To avoid confusion and to incorporate clarity regarding the same, the status of flora and fauna shall be addressed and analysed separately, beginning with flora, followed by fauna.

Before delving into this, it is imperative to see what constitutes flora in this aspect. Flora here means the plants in the river bed and those alongside in the catchment area. Now that the distinction is done, let us first examine the case of plants in the river bed. Under the prevailing law in India, the plants in the river bed do not have any rights or legal personality.

When a river is being conferred legal personality, it shall include its bed as well. Thus, as the plants and other types of flora are situated on the bed, there is a conflict here and it needs to be addressed. One may look into the definition of “bed” provided under Te Awa Tupua (Whanganui River Claims Settlement) Act, 2017<sup>13</sup>. The definition of bed herein includes the plants attached to the soil as well. If such a definition is followed, it would mean that the plants on the bed shall be legal persons too.

Before delving into the crux whether fauna in the river bed shall have legal rights too, it is necessary to define what comes under the ambit of fauna. Here, fauna refers to as the aquatic life such as fish, crocodiles, snakes, frogs etc. These come under animals in general and thus it is imperative to know about the current position of animals.

Under the current legal system in India, animals are not conferred with any legal personality. They are only considered as objects of rights rather than subjects of rights. Cruelty to animals is considered a criminal offence. The Prevention of Cruelty to Animals Act, 1960 and rules made thereunder are an extension of the same principle. However, this must not be wrongly construed that the animals have rights and this duty of humanity so enforced should not be construed as a

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<sup>13</sup> Te Awa Tupua (Whanganui River Claims Settlement) Act, 2017(New Zealand) § 7

duty as a duty *towards* the beast, but merely as a duty in *respect* of them.<sup>14</sup> However, there are certain judicial pronouncements which deviate from the same and have recognized the rights to animals. The most notable in this regard is the Uttarakhand High Court Judgment in Narayan Dutt Bhatt v Union of India and Ors.<sup>15</sup> where the division bench comprising of Justices Rajiv Sharma and Lokpal Singh, declares as follows: “The entire animal kingdom including avian and aquatic are declared as legal entities having a distinct persona with corresponding rights, duties and liabilities of a living person. All the citizens throughout the State of Uttarakhand are hereby declared persons in loco parentis as the human face for the welfare/protection of animals.” However, this judgment is of little significance as this is a High Court judgment and thus only has a persuasive value outside the State of Uttarakhand. In furtherance, the wisdom of the High Court in propounding such a drastic step can be questioned in light of judicial overreach, but need not be delved into right now. Nonetheless, this is a landmark judgment in this regard.

Another notable judgment in this regard is Animal Welfare Board of India vs. A. Nagaraja & others<sup>16</sup> where it is held that every species has a right to life and security, subject to the law of the land, which includes depriving its life, out of human necessity and that Article 21 of the Constitution, while safeguarding the rights of humans, protects life and the word “life” has been given an expanded definition and any disturbance from the basic environment which includes all forms of life, including animal life, which are necessary for human life, within the meaning of Article 21 of the Constitution.

Thus, as can be inferred from above, animals do not have a legal personality and thereby no rights in the absolute sense which means that their rights are subject to human beings’ necessity and rights. However, when the definition of the river is being defined, it must be specified by the legislature whether aquatic life and other life forms are included or not.

However, Whanganui Act, under Section 16<sup>17</sup> says that it shall not create, limit, transfer, extinguish or otherwise affects any rights to, or interests in, wildlife, fish, aquatic life, seaweeds,

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<sup>14</sup> PJ FITZGERALD , SALMOND ON JURISPRUDENCE, 219( Sweet and Maxwell South Asian Edition, 12<sup>th</sup> edition)

<sup>15</sup> *supra* note 5

<sup>16</sup> 2014 (7) SCC 547

<sup>17</sup> Te Awa Tupua (Whanganui River Claims Settlement) Act, 2017(New Zealand) § 16

or plants unless expressly provided for in the Act. If such a method is followed, then it shall preserve status quo and thus not lead to chaos and confusion overnight as there are lot of fishermen and other stakeholders in this regard who are dependent on rivers for multifarious purposes such as water, fish etc.

**5. What shall be the status of constructing dams or any other projects on rivers?**

When a river is conferred with legal personality, there shall be a body constituted for the purpose of representing the river in various platforms where the river's interest is involved and shall act in best interests of the river. As the river is a legal personality, it can now enter into contracts, treaties and various other instruments that a legal person is entitled to. Thus, when a proposal for a dam is in consideration, then the river shall have a voice too, wherein a body shall represent the river and put forth the rivers' best interests so that the ecology and the flow of the river is not affected. In *Mohd. Salim v State of Uttarakhand*<sup>18</sup> and *Lalit Miglani v State of Uttarakhand*<sup>19</sup>, the Uttarakhand High Court has said that the rivers shall have the status of a legal person; however they shall have the rights, duties and liabilities of a living person.<sup>20</sup> This means that when a dam is being constructed on the river, then Article 21 of the river is being violated. Thus, this would mean that constructing a dam is harming its bed, thereby violating its body and the sanctity attributed to the same therein. However, if one looks at the Whanganui Act, one shall find intelligible answers to all these questions without much ambiguity. Section 16 of the Act retains the existing interests in the water of the river and thereby preserving status quo. Section 19 of the Act that talks about the function of Te Pou Tupua, which is the body acting on behalf of the river. Te Pou Tupua has been vested with the duty of participating in any statutory process affecting Te Awa Tupua (legal personality of the river) in which Te Pou Tupua would be entitled to participate under any legislation.

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<sup>18</sup> *supra* note 5

<sup>19</sup> *supra* note 6

<sup>20</sup> *Id.*

**6. Concluding remarks:**

As mentioned earlier, legal personality to rivers is a major innovation sought and is a big shift from the status quo. Such a shift warrants chaos and confusion. Thus, it is imperative that the same should be implemented in phases. It is not needed to confer legal personality to all the rivers in India at once.

For example, one river can initially be chosen for conferring legal personality. Then a body of representatives shall be appointed for the same and these shall be organizations or activists striving for the betterment of the river. It is also necessary that there shall be no retrospective effect to the legal personality to rivers. This ensures that the present interests in the rivers, for example, interests in water of the river in the form of dams, interests in the aquatic life of the river by fishermen etc., shall be preserved and they shall not be deprived overnight of their interests. However, once the legal personality is conferred, then the rights of the river shall also taken into account, thereby increasing the harmony between the river and human beings dependent on it.

Granting legal personality to rivers shall not be ultimate solution. In Ecuador, the river Vilcabamba's natural course had been altered due to the expansion of the road taken up by the Provincial authority at Loja. Though the Court had upheld the right of the river in light of the rights of nature enshrined in the Constitution, implementation has been a major concern. The mistake of appointing the state as a body for acting on behalf of the river shall bring back the evils sought to be eliminated. Bolivia and Ecuador suffer with the same vices, thus negating the objective sought with such a change. Certain organizations which have voiced concerns over the plight of the river in the past should be made the body acting on behalf of the river. Such an appointment shall not be permanent in nature. It shall be for a fixed term and these shall be appointed by the State with suggestions and opinions from the general public through a mechanism such as sending proposals to the Government online. Such organizations/individuals display commitment over the same and shall act in the best interests of the river.

There should parallel changes effectuated in the law when a river is conferred legal personality. This shall ensure a smooth transition and thereby a successful functioning. Te Awa Tupua

(Whanganui River Claims Settlement) Act, 2017 in New Zealand succeeds on many counts with respect to the same. The legal personality of the river Whanganui is recognized by various other statutes and they are so amended in a manner to accommodate the same. It is years of deliberation and discussion that has resulted in the legislation and a similar step should be followed in India. An overnight change in the form a judicial pronouncement shall not yield any results and shall be a dead letter in law without any substantial effect. The stage should be built up to such a change. Thus, it is imperative to follow the New Zealand model in this regard.