

RIGHTS OF NATURE AND BEYOND

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WHY RIGHTS OF NATURE?

- The ecological crises are demanding us to fundamentally rethink our dominant systems
- Current laws and policies are used as means to sanction env. Destruction
- Signalling a shift from the extractive, colonial, and property-oriented mindset
- Rooting itself in indigenous and nature-dependent communities' cosmologies and worldviews – Lepchas, Iwi, Sioux Tribe, and many others (reciprocity, interdependence, relational, pluriversal)
- That humans are part of rest of nature. Nature is alive and thriving. Healthy, interconnected web of life on Earth.

CRISES OF RIVERS IN INDIA AND SOUTH ASIA

- Pollution
- Damming/diversions
- River interlinking projects
- Sand mining
- Privatisation of rivers
- Riverine conflicts between neighbouring countries – Kali River, Teesta
- Climate change, encroachments
- Underlying Inequalities



JUDGMENTS



- In 2017, the Uttarakhand High Court (UHC) ruled that the Indian rivers Ganga and Yamuna, the Gangotri and Yamunotri glaciers, as well as other related natural elements are ‘legal persons’ with all corresponding rights, duties and liabilities of a living person.
- Currently at Stay



- Subsequently, in 2018, the same high court ruled that the entire animal kingdom has rights equivalent to that of a living person.
- Last year, March 2020, the Punjab and Haryana High Court passed an order declaring the Sukhna Lake in Chandigarh city as a living entity, also with rights equivalent to that of a person.

PROCESS IN NEIGHBOURING COUNTRIES

- On 3rd Feb, 2019, the Turag River which flows through Dhaka was accorded the ‘legal person’ status by the High Court. The verdict was later made applicable to all the rivers. Directives on how to protect rivers were given to government.
- Similar attempts and efforts in Nepal and Pakistan

QUESTIONS AND OPPORTUNITIES

- What is a river? what all constitutes a river?
- What does it mean for a river, and its associated natural elements, to have rights?
- Is the legal personhood the right tool? What others exist?
- How would such rights be implemented? \
- What implications do these decisions have for not just the rivers and those living in/on/along them, but for the relationship between humans and the rest of nature?
- What will be implementation process for cross-boundary/ trans-boundary rivers (nationally and internationally)

DELIBERATIONS FROM ROR DIALOGUE IN SOUTH ASIA.

What is a River?



It includes aquatic flora and fauna, the biodiversity in its catchment areas, forests, its tributaries, groundwater, the rocks and soil in its bed and banks, and the human communities immediately dependent on it.

RIGHTS?

Intrinsic to rivers

- Right to flow (unhindered), meander, and to flood in its floodplains. Also include the soil and groundwater flow.
- Right of the river should include the rights of all that determine the health of the river. The parameters that determine the health of river need to be clearly defined. Hence, the species in the river, basin, catchment areas, and forests near the river etc.
- The river has a right to *behna, khelna and khelana* (flow, to play and to feed)
- The Universal Declaration of Rights of Rivers lists 6 rights

IMPLEMENTATION

- To have a democratic system of custodianship that would serve the purpose of safeguarding the interest of the rivers to a much greater extent. The system should consist of consultative processes at various levels and involve multiple set of actors.
- Custodianship or guardianship could be a body of local communities related to the river, relevant government agencies, and civil society, with a multi-scale or nested institutional framework to enable participation across the entire stretch of river.

QUESTIONING THE FUNDAMENTALS

- . Development-growth model
- . Political Governance
- . Legal framework
- . Going beyond rights

WHAT 'S AHEAD?

- Awareness , campaigning, advocacy and petitioning the Supreme Court
- Discussion of the potential legal and policy strategies that could be pursued to further the rights of rivers in India and at a broader South Asian level
- Using international law (CBD, Convention on Migratory Species, Ramsar Convention, etc) to argue for legal rights of rivers, which could supersede national law that is in contravention or where there is doubt.
- Relationship of customary/traditional law with any such law on rights of rivers need to studied more.
- Need of doing groundwork for rights :through education, cultural/religious, media and other such modes.
- Reimagining the governance from ecological point of view- eco-regions or bio-regions

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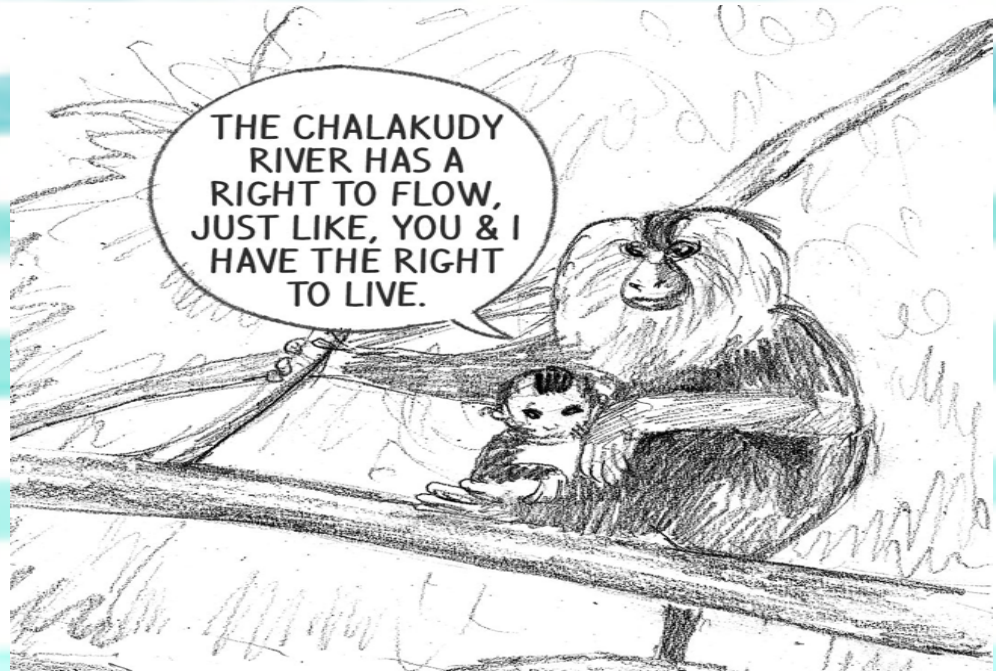
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THANK YOU

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