

A Community Guide to River Protections: Rights of Rivers.

December 2021

About International Rivers

International Rivers protects rivers and defends the rights of communities that depend on them. We seek a world where healthy rivers and the rights of local river communities are valued and protected. We envision a world where water and energy needs are met without degrading nature or increasing poverty, and where people have the right to participate in decisions that affect their lives.

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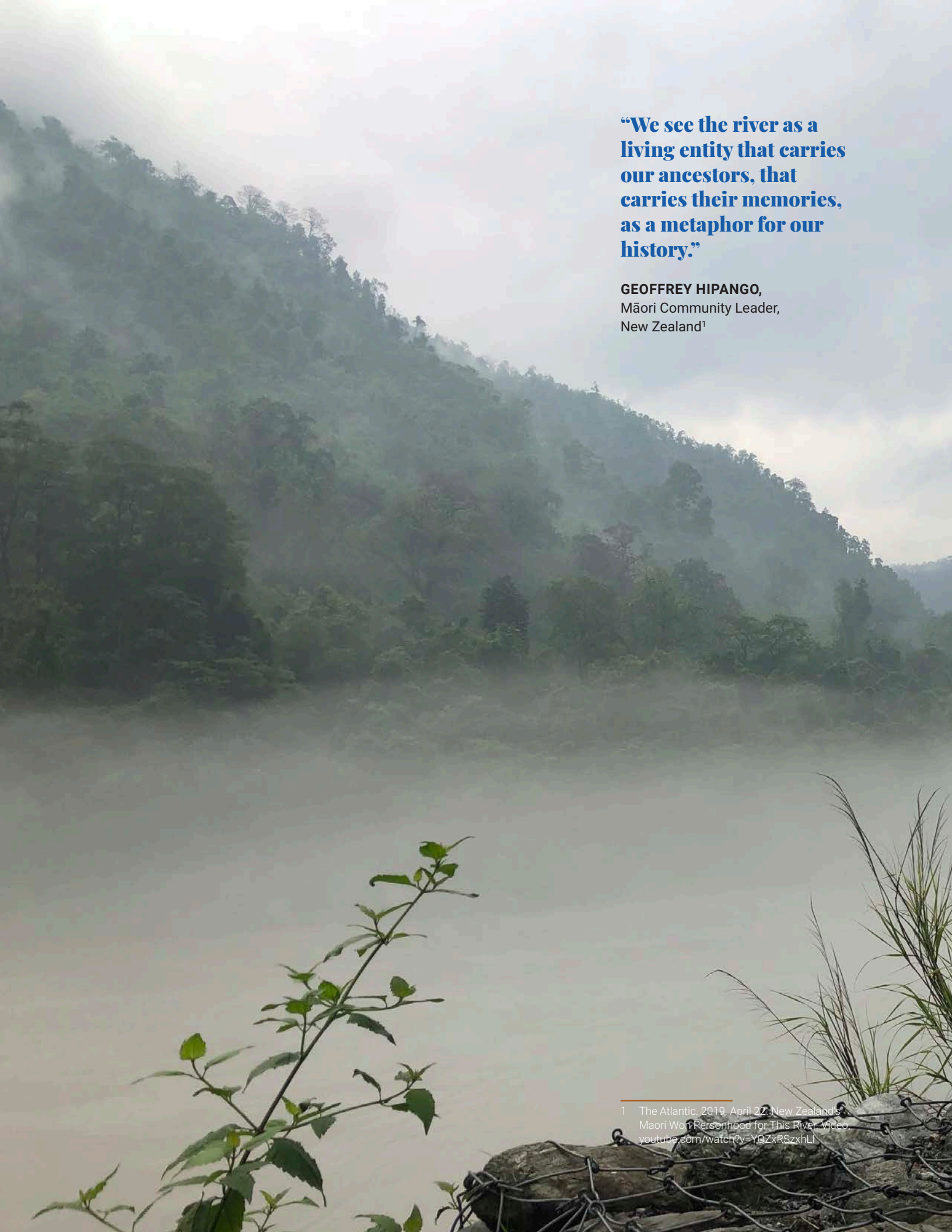
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“We see the river as a living entity that carries our ancestors, that carries their memories, as a metaphor for our history.”

GEOFFREY HIPANGO,
Māori Community Leader,
New Zealand¹

¹ The Atlantic, 2019, April 22, New Zealand's Maori Won Personhood for This River. Video, [youtube.com/watch?v=YQZxRSzxhLI](https://www.youtube.com/watch?v=YQZxRSzxhLI)

HEALTHY RIVERS ARE ESSENTIAL TO LIFE ON EARTH. BY MAINTAINING THE EARTH'S NATURAL WATER CYCLES, THE FLOW OF RIVERS SUPPORTS THE WONDERFUL DIVERSITY OF SPECIES ON OUR PLANET. RIVERS FEED WETLANDS WITH WATER, DELIVER LIFE-GIVING NUTRIENTS TO THE OCEANS, AND CARRY SEDIMENTS TO RIVER DELTAS THAT ARE FULL OF LIFE.

The Earth's rivers are dying, however. At a rate faster than ever before, humans are building large dams for electricity and irrigation, diverting river water to farms and cities, and pumping ground water to use for drinking, farming, and industry. Many of the world's rivers have now run completely dry. Our remaining rivers are suffocating as runoff from farms and waste and sewage from factories and towns cut off the oxygen they need to survive. Half of all wetlands have been destroyed over the last century, and the world's aquatic ecosystems- including oceans, lakes, and rivers- have lost half of their biodiversity since the mid-1970s. A recent United Nations study warns that up to a million animal and plant species now face extinction, many in just a few decades.²

It is not too late to make a difference. We can stop the destruction of our rivers and the life they support by reconsidering our most basic goals and values, and by changing the way we as individuals and societies interact with nature. Rights of Nature is an idea that offers us a solution by recognizing that nature is not mere human property, but instead possesses basic rights.

By adopting a Rights of Nature approach, we can transform our legal system so that it defends the well being of nature. Changing our laws to give nature legal standing will allow nature's rights to be directly defended in a court of law. As part of Rights of Nature, the Rights of Rivers movement declares that all rivers are living entities and entitled to fundamental rights.

Following is a summary of the ideas included in the Universal Declaration of the Rights of Rivers.³ This new declaration is a guide for citizens, lawyers, policy makers, and community leaders to make Rights of Rivers a reality.

2 <https://www.un.org/sustainabledevelopment/blog/2019/05/nature-decline-unprecedented-report/>

3 <https://www.internationalrivers.org/resources/reports-and-publications/rights-of-river-report/>

Is Rights of Rivers a New Idea?

People around the world, including Indigenous Peoples and other communities of all spiritual faiths, have long held through their traditions, religions, customs, and laws that nature, and rivers in particular, are living beings with their own rights.

Recognizing the rights of rivers is a way of bridging our current legal system with long-practiced Indigenous laws. While Indigenous laws are as diverse as Indigenous cultures, they share an understanding that humans and rivers are part of an extended family that shares ancestry and origins. This view teaches us to behave respectfully and responsibly within the natural world, similar to the way that we are expected to behave as members of our own extended families.

“We treat the river as a brother or a sister, a father or a mother. It has rights, as do you and I... When you're dealing with a sick river, you feel sick yourself, because that river is you and you are that river.”

GERRARD ALBERT,
Chair of the Governance Body for the Whanganui Tribes, New Zealand⁴

The Rights of Rivers movement is grounded in the recognition that people and rivers share a deep relationship, and it creates guidelines for how we can act in a way that respects this relationship.

4 <https://www.nationalgeographic.com/culture/graphics/maori-river-in-new-zealand-is-a-legal-person>



What is Wrong with our Current Legal System?

Even if all of the laws that we have now were used exactly as they were intended, our rivers- and life on our planet- would still be in trouble. That is because our legal system is fundamentally flawed. Nature and humans are interconnected. But our laws are based on the assumption that we can isolate and control elements of the natural world as we choose. Under the current legal system, rivers are seen not as whole, living entities, but are divided into parts such as water, riverbeds, banks, tributaries, and catchment areas. Each of these parts can be privately owned and exploited for economic gain.

Treating nature as mere human property rather than a life-giving entity with its own rights has led to its destruction. This began happening in many parts of the world when settlers moved into indigenous lands, bringing new laws based on individual freedoms that over-

looked our collective responsibilities to the natural world.

Rights of Rivers addresses this problem by acknowledging that humans and other natural entities are members of the same ecosystem, and thus deserve the same protection under law.⁵ Adapting this new way of viewing our rivers allows us to harmonize our legal system with the natural laws of the earth rather than trying to force the earth to operate within our human-created laws. This will ensure that current and future generations of humans and other species have enough clean water and other natural resources to meet their basic needs.

⁵ This idea is called bio-cultural rights

How are Rivers Granted Rights under Law?

Rivers gain their rights under the law when a judge grants them legal personhood. In Western legal thought, the living beings that are part of our natural environment do not automatically have rights. To have rights under our legal system, a living being must be declared a “legal person,” or a “legal subject.” Granting rivers legal personhood means recognizing that all rivers are living entities with rights that must be upheld in a court of law.

Another way to say this is that we are making rivers subjects rather than objects under the law. Unlike an object, a legal subject is able to hold rights. Historically, only a human being could be a legal subject. But the Rights of Nature movement is changing this. Once a river is recognized as a legal person and a subject of legal rights, the court is then able to begin thinking about what specific rights that river now holds.

What Rights do Rivers Have?

As the Rights of Rivers movement gathers strength, lawyers, judges, citizens, and their governments around the world are learning from one another, and many countries have begun passing laws to protect rivers' rights. These rights are grounded in different cultural, spiritual and legal ideas but all guarantee the same basic rights.

The Right to Flow

The right to flow can be compared to a human being's right to breathe. If we cannot breathe, our systems shut down. As a river flows, it takes in oxygen necessary for a healthy river life. Fish, seaweed, shellfish, and many other species thrive in a healthy river system. A river's flow must be strong enough to maintain the health of the entire river ecosystem. Rivers – not people – must own the water that flows within them.



The Right to Perform Essential Functions within its Ecosystem

A river does the important work of bringing nutrients to surrounding areas through seasonal flooding and by moving and depositing rich sediment. Rivers also replenish our groundwater, and provide places for native flora and fauna to grow and thrive. A river must be free to do this important work.

The Right to be Free from Pollution

Chemicals, nutrients, and heavy metals from farms, factories, mines, and cities pollute our rivers, and plastic is blown in by the wind or washed into rivers via storm drains and sewers. These pollutants cause algae to grow quickly. When the algae die and decay, this uses up a river's oxygen. Without enough oxygen in the water, fish and other life forms suffocate. Water pollution can cause an entire river ecosystem to collapse.

The Right to Feed and be Fed by Sustainable Aquifers

An aquifer is a body of rock or sediment that holds groundwater. Groundwater moves freely underground and is naturally replenished by rain and snowfall, streams and rivers. When humans remove too much groundwater for drinking and irrigation, aquifers can collapse, forever reducing their ability to store water and feed our rivers.

The Right to Native Biodiversity

Native biodiversity refers to species that occur naturally in a specific river basin. Native plants, fish, and animals evolved along with the river over millions of years and are perfectly adapted to living in that particular environment. Native biodiversity is harmed when humans stock rivers with non-native fish, and when non-native species enter rivers through shipping canals and global trade routes. This destroys the balance of nature and threatens native species.

The Right to Regeneration and Restoration

A river that has been harmed has the right to have its health restored. A river regains its health when its natural flow and the movement of its sediment are restored. This can also include restoring the natural state of a river's banks and floodplains. Restoring the natural conditions of a river makes the river system and the species dependent upon it healthy and resilient.

How far does a river's rights extend?

The rights of a river include its entire system, from the mountain glaciers that feed the river, to its mainstream, tributaries, and streams. This extends to the surrounding river catchments, watersheds, floodplains, basins, and wetlands. It also includes all the species living within the river system such as plants, fish, and shellfish. As many of the world's major rivers run through a number of countries, securing a river's rights requires the cooperation of all the governments involved.



What Approaches are Communities Using to Secure Rights for Their Rivers?

Communities are taking a number of different approaches to protect the rights of their rivers. In some cases, Rights of Nature are grounded in Indigenous laws and treaty rights. These can include customary laws, meaning legal systems and obligations that have arisen from practice over time, rather than from formal written laws.

In other places, citizens have successfully secured Rights of Nature as constitutional rights, guaranteed by their country's constitution. Rights of Nature can also be written into national laws, or passed directly by presidents or prime ministers as executive actions

(also called executive orders). In cases when a national government fails to take action, citizens have advocated for local laws or ordinances to secure legal protection for their rivers. This can include establishing special independent authorities, tribunals, or councils to investigate and address cases where the rights of rivers are being violated. These special bodies play an important role in setting standards for river protection and ensuring that everyone involved is held accountable.

Legal Guardianship

If a river's rights have been violated, that river has the right to access justice through the legal system of the country or countries through which it flows. How does a river show a judge that it has suffered harm? To do this, rivers have been appointed legal guardians to

represent them in court.

River guardians are Indigenous people and river users from communities that traditionally depend upon the river. Legal guardians can also include both Indigenous and non-Indigenous scientists, lawyers, lawmakers, and other people with specialized knowledge. A river guardians' job is to act in the river's best interests, speaking on behalf of the river to make sure that its rights are fully recognized. River guardians work together with their governments to promote and protect the environmental, social, cultural, and economic health and well being of the river, and to make sure that the interests of both citizens and the river are served.⁶

⁶ <https://www.tandfonline.com/doi/full/10.1080/02508060.2019.1643525>

“The people closest to the river will be those watching over it from now on. The Innu of Ekuanitshit have always been the protectors of the Nitassinan [ancestral territory] and will continue to be so through the recognition of the rights of the Muteshekau-shipu River.”

JEAN-CHARLES PIÉTACHO,
Chief of the Innu Council of Ekuanitshit,
Quebec, Canada⁷

Human Rights Law

In some countries, Rights of Nature have been secured by including them as part of the international human rights framework. This is a natural step, as international human rights law already encompasses the right to a healthy environment and Indigenous peoples rights, two important concepts in the Rights of Nature movement. Incorporating Rights of Nature into human rights law has led to the development of important new legal concepts such as environmental human rights and biocultural rights, which recognize that humans and other natural entities are members of the same ecosystem, and thus deserve the same protection under law.

Strategic Litigation

Many communities are using strategic litigation to apply the law in new ways to protect rivers. Litigation refers to the process of taking legal action, and strategic means that this process is carefully planned to serve a particular, long-term purpose such as securing legal rights for rivers. Strategic litigation aims to bring about broad changes to a society and its legal system beyond the scope of one specific case. Through strategic litigation, people can use their legal systems to address injustices and highlight weaknesses and gaps in the law. The goal is to change laws, policies, and practices to respect, protect, and fulfill the rights of nature. Strategic litigation is also about raising public awareness of injustice. Educational materials about the case can help explain its importance to other citizens and encourage discussion around the importance of rights for rivers. In this way, strategic litigation can bring about lasting political and social change. Although some of these approaches may be non-binding, meaning that they are not enforceable by law, they can still be effective in changing social values and building movements. People around the world are organizing and taking action to bring about change, learning and sharing new approaches in the global movement to protect the rights of rivers. Recognizing and proclaiming these rights is helping to transform social and cultural values through both moral and political force.



⁷ <https://cpaws.org/for-the-first-time-a-river-is-granted-official-rights-and-legal-personhood-in-canada/>

What Countries Have Granted Rivers Rights?

A growing number of citizens are working with their governments around the world to stop the destruction of rivers by recognizing and enforcing rivers' rights. This has been accomplished through a number of ways, including legal cases, negotiations, the adaption of Rights of Nature into national constitutions, and the inclusion of the Rights of Rivers in Indigenous bylaws. Here are some stories highlighting this process.

Colombia

In Colombia, a 2016 Constitutional Court ruling⁸ found that the heavy pollution of the Atrato River from centuries of mining didn't just violate the rights of the many Indigenous and Afro-American communities that depend upon it, but the rights of the river itself. The court recognized and appointed leaders of these communities as river guardians. The judge in this case used the new term 'biocultural rights' to emphasize the connection between the rights of the river and the rights of the people

who depend on it. This groundbreaking decision has opened a pathway for similar laws to be adopted throughout Colombia.

North America

In 2020, the Nez Perce Tribe General Council recognized the Snake River as a living entity that has rights, including the right to exist, flourish, evolve, flow, and regenerate, and a right to restoration. The Snake River and all the species it supports, particularly salmon, have long been central to the stories, legends, ceremonies and identity of the Nez Perce people. Although salmon once spawned by the millions in the Snake River, water pollution, water diversion projects and dams have threatened their existence. Salmon declines have impacted the entire web of life, from eagles and bears to orcas and humans. By recognizing the rights of the river, the Nez Perce tribe is harmonizing its own legal system with its longstanding belief that the Snake River is alive, with the goal of ensuring that the Nez Perce people thrive in harmony with a healthy Snake River.⁹

New Zealand

In New Zealand, the Indigenous Māori people succeeded in gaining recognition of the sacred Whanganui River as "a legal person." For more than a century, the Māori had challenged the colonial government of New Zealand to reduce its negative impacts on the river. In granting the river legal personhood, the court recognized the Māori's vision of their river as an "indivisible and living whole, comprising the Whanganui River from the mountains to the sea, and incorporating all its physical and metaphysical elements."¹⁰ The River is now represented by legal guardians who recognize it as a spiritual and physical entity that supports and sustains life within the Whanganui River and the health and well being of the communities of the River.



8 <http://files.harmonywithnatureun.org/uploads/upload838.pdf>

9 <http://files.harmonywithnatureun.org/uploads/upload980.pdf>

10 <https://www.thethirdpole.net/en/climate/opinion-time-to-recognise-and-respect-rivers-legal-rights/>



South Asia

In India, the High Court of Uttarakhand recognized the legal personhood of the Ganga and Yamuna rivers and their “physical and spiritual sustenance to all of us for time immemorial.” The judgment noted that rivers are scientifically and biologically living beings that have the right not to be polluted. They have the right to exist, persist, maintain, sustain and regenerate their own vital ecosystems. The court said that polluting and damaging the rivers was legally the same as causing injury to a person.¹¹ Although India’s Supreme Court later overruled the judgment, it was an important start to securing the rights of rivers under the law.

In 2019, the Supreme Court of Bangladesh upheld the decision to declare all rivers in the country living entities with rights as legal persons. The Court declared, “Water is certainly the most

pressing environmental subject of the next century,” and called for waterways to be protected “whatever the price.”¹² The decision protects rivers against harm from both private and public (government) entities. The Court appointed a new governmental agency, the National River Conservation Commission (NRCC), as the legal guardian of the country’s rivers. Bangladesh is home to the world’s largest delta, and water from 57 rivers flows through the country. The goal of the law is to protect these rivers- many of which are heavily polluted- so that the Bangladeshi people may continue to rely on them for drinking water, fishing, and agriculture.

What Duties do Governments Have?

Once a government recognizes the rights of a river, the Universal Declaration on the Rights of Rivers lays out the concrete steps that it must take to ensure that those rights are put into place and respected. As a first step, the government must make funds available and hire people to assess the damage that has been done to the river. Once it’s understood what work needs to be done to restore the river’s health, that work must begin as soon as possible. This can include cleaning up pollution and taking down dams and other diversions that have blocked the river’s flow so that it can run freely again. This may also mean restoring the river’s catchment areas so that water and silt can once again flow naturally into the river.

A government must do all of this work in a collaborative way, involving the river guardians and the Indigenous people

11 Lalit Miglani v State of Uttarakhand and Others 2017

12 <https://www.initiativesrivers.org/actualites/rights-for-all-the-rivers-and-watercourses-of-bangladesh/>

and community members who depend upon the river. New dams or other projects that divert water or change the river's flow must only be built if no other options can be found. If unavoidable, these projects must make use of the best technology available to preserve the river's health. In the longer term, governments must work with citizens and experts to find ways to meet the country's needs without changing the natural flow of rivers.

For governments to do a good job, judges' decisions around the rights of rivers must be clear. In securing the rights of rivers, governments must also respect the rights of the communities that depend on those rivers, and give community members the opportunity to participate in decisions around their rivers. Where rivers cross through different countries, the governments of those countries must find new ways of working together to protect the river, and to punish those who violate the river's rights. This will be challenging, especially for countries that do not have a good history of working together.

Another big challenge is that the world's economic system is still designed to reward those who exploit rivers. In addition to improving our legal system, we will have to rethink our economic system. We must change our economic system so that it rewards those whose actions lead to healthy and resilient rivers. To do this, we will have to work together as a global community to build better understanding around these issues and organize to find solutions.

What Can I Do to Support the Rights of Rivers Movement?

Communities across the world are working together to become part of the Rights of Rivers movement and secure legal rights for their rivers. You can follow their progress by clicking on this [map](#). Each of these movements was started by groups of citizens just like you who met to discuss their concerns around their rivers. They began by

raising awareness- first within their communities, and then throughout their countries- about the harms their rivers were facing and the potential to protect rivers by securing their legal rights. They connected with lawyers, politicians, scientists, and other specialists who shared their concerns to prepare the evidence they needed to bring their cases to court. At the same time, they worked with journalists, artists, and public figures to find creative ways to raise awareness within their societies of the solutions offered by the Rights of Rivers movement.

In organizing a campaign to secure the rights of rivers, it's important to remember that the Rights of Rivers movement is also an Indigenous rights movement. Indigenous people and river users are working with their elders to bring back traditional knowledge and language around rivers and the lives that depend upon them. Organizing events to bring people together to share and celebrate this knowledge, and to build understanding and promote legal solutions is a big part of the Rights of Rivers movement. People who are not traditional river users or Indigenous people, but who love rivers just the same can find out what initiatives Indigenous people and river users are taking, and ask how to best support those efforts.

If you would like help to build understanding of the Rights of Rivers in your community, you can get in touch with [International Rivers](#), or the [Earth Law Center](#) for support and information. No matter where you are in the world, we can help you to adjust the Declaration on the Rights of Rivers to fit your unique legal and cultural systems.

You can also join the international movement to protect the world's rivers by signing the Universal Declaration on the Rights of Rivers at this [link](#). You may sign as an individual, or talk to the people in your community about signing as a group. By doing this, you will join the growing number of citizens, community groups, and organizations around the world that are urging their local, state, and national governments to endorse

the declaration and protect the rights of rivers under their country's laws. Eventually, we hope that the United Nations will also sign onto the declaration, and that it will be adopted globally.

The law was written by people like you and me, so there's nothing to stop us from making the changes needed to put the earth at the center of the law. We are already working with dozens of countries around the world, and will continue this work until every river in the world enjoys its full rights.

“We are owned by the river. We do not own the river. The river owns us.”

GERRARD ALBERT,
Chair of the governance body for the Whanganui tribes, New Zealand¹³

Resources

The Rights of Rivers Report
<https://www.internationalrivers.org/resources/reports-and-publications/rights-of-river-report/>

Rights of Rivers: Stories of Sovereignty and Guardianship in the Fight to Give Rivers Legal Rights:
<https://www.youtube.com/watch?v=EsluKgJRIUo>

Rights of Nature Law and Policy:
<http://www.harmonywithnatureun.org/rightsOfNature/>

New Zealand's Whanganui River is a Legal Person. How will it Use its Voice?
<https://www.nationalgeographic.com/culture/graphics/maori-river-in-new-zealand-is-a-legal-person>

¹³ <https://www.nationalgeographic.com/culture/graphics/maori-river-in-new-zealand-is-a-legal-person>

