

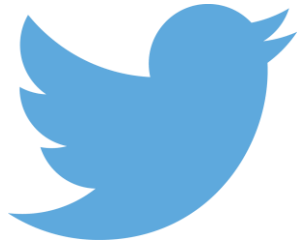
Mother Nature Accorded 'Living Being' Status; Having All Rights, Duties and Liabilities Of A Living Person

BY-

Adv. Chand Kubba



@chandkubba



@chandkubba



<https://t.me/chandkubbaofficial>



chandkubbaofficial@gmail.com





What is personhood?

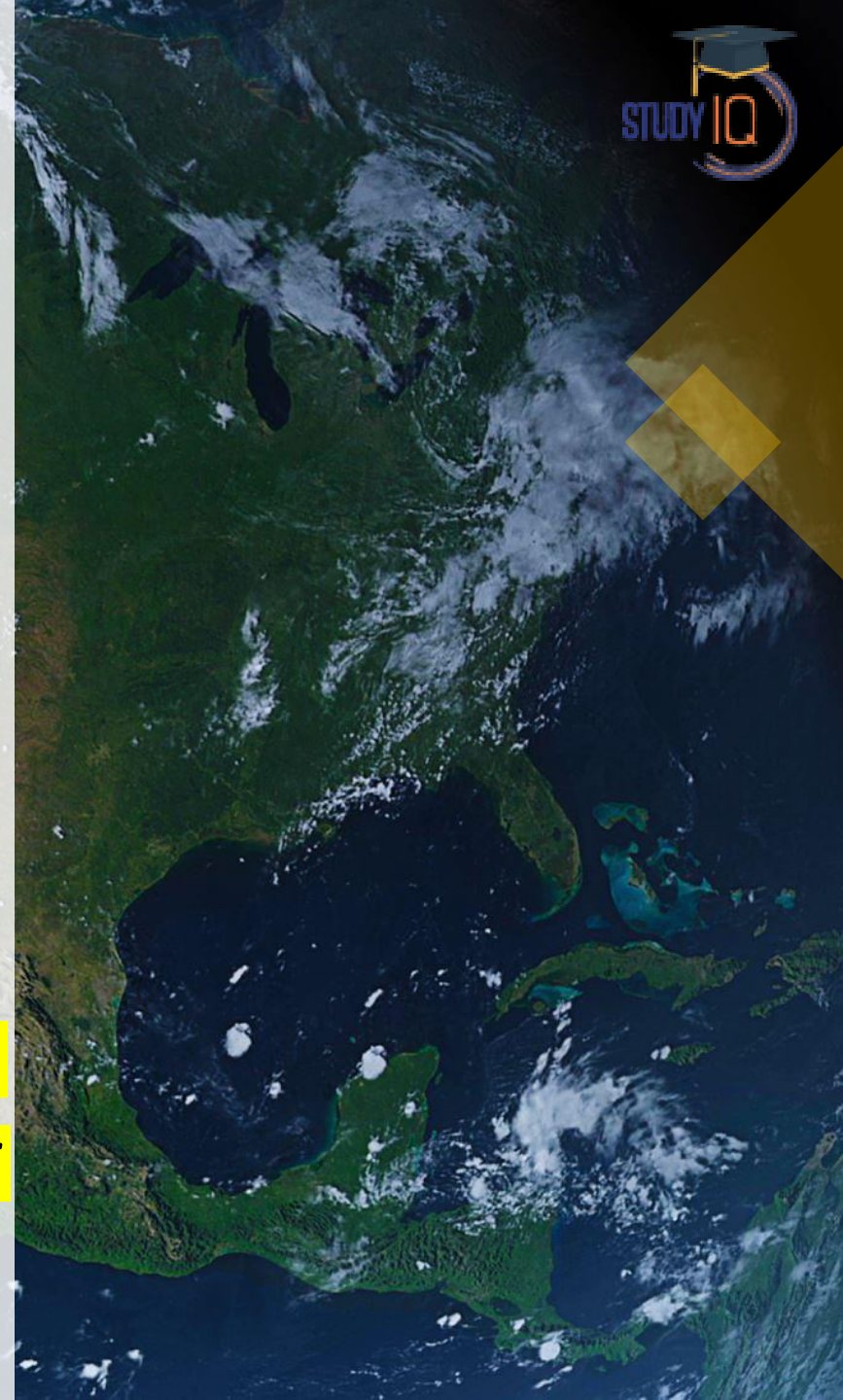
- A legal devise to create **artificial person** by **incorporation in law**.
- After Incorporation as Artificial Person, it **will have rights similar to a natural person**.
- It has the right to **sue or it can be sued**.

- Madras High Court recently invoked the "**parens patriae jurisdiction**" and declared "Mother Nature" as a "Living Being"
- **HC Declared Mother Nature as having a legal entity/ legal person / juristic person / artificial person having the status of a legal person, with all corresponding rights, duties and liabilities of a living person, in order to preserve and conserve them.**



- HC also observed that nature **shall have fundamental rights/ legal rights and constitutional rights for its survival, safety and sustenance, and resurgence** in order to maintain its status and also to promote its health and wellbeing.

- **Para 23- "The past generations have handed over the 'Mother Earth' to us in its pristine glory and we are morally bound to hand over the same Mother Earth to the next generation. It is right time to declare / confer juristic status to the "Mother Nature".**
- **Therefore This Court by invoking "parens patriae jurisdiction", (parent of the nation jurisdiction) is hereby declaring the "Mother Nature" as a "Living Being" having legal entity / legal person / juristic person / juridical person / moral person / artificial person having the status of a legal person, with all corresponding rights, duties and liabilities of a living person, in order to preserve and conserve them."**



Natural Environment – Part of basic Human Rights -

The **natural environment** is **part of basic human rights of “right to life itself”**. A report indicates 60 per cent of earth's ecosystems are experiencing terminal loss.

The **few remaining original forests** - our biodiversity treasury- **are being destroyed to make way for huge mines or dams or lucrative real estate projects**.

And **we attempt to pacify the destruction with the words like 'compensatory afforestation'** and it is **like giving sanction to kill all wild tigers and replace them by farming the same population in captivity, which is absolutely against “Nature”**.

Uttarakhand HC Judgement of 2017 invoked-

- As stated in a recent judgment dated 30.03.2017 rendered by **Uttaranchal High Court in Lalit Miglani vs State of Uttarakhand** And Others in Writ Petition (PIL) No.140 of 2015, the **“Nature's Rights Commission”** should be formed to protect the Nature.
- **“The rivers are not just water bodies and these are scientifically and biologically living. The rivers, forests, lakes, water bodies, air, glaciers, human life are unified and are indivisible whole. Mother Earth is grasping for breath. We must recognize and bestow the Constitutional legal rights to the 'Mother Earth'.”** Uttarakhand HC



- Since in the present case the petitioner being a Tehsildar issued patta to the Megamalai forest land for 2877.03.0 hectares of land in S.No.280 the petitioner ought to be punished.

Granting Personhood to Nature -

Movement for grant personhood to rivers started in early 1970s

early 1970s

In 2014, the legislature in New Zealand declared Urewara National Park as a legal person.

2014

The High Court of Uttarakhand declared river Yamuna and Ganga as legal persons in 2017.

2017

2008

In 2008, Ecuador and Bolivia declared nature as a legal person.

2017

In 2017, New Zealand became the first nation to declare Whanganui river as a legal person

Can Legislature Give Personhood to Rivers-

- The river as a subject is a part of –
- **Entry 17 of the State list subject to the overriding powers of Parliament under Entry 56 of the Union List in the Seventh Schedule to the Constitution.**
- However, there is **no specific provision or entry in the Constitution in any of the lists in Seventh Schedule for incorporation of river as a person.**
- **But Personhood can be granted to rivers by Parliament under residuary Entry 98 of the Union list read with Article 248 of the Constitution.**