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RIGHTS OF NATURE **HISTORY OF EVOLUTION OF RIGHTS OF** **NATURE AND ITS STATUS IN THE 21ST** **CENTURY**

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Abstract

The concept of rights of nature without exception refers to the recognition of nature as an entity and presenting their legal status by conferring on them legal rights. Earth in its original form consisted of natural things such as the sun, land, sea soil, etc. and living beings such as animals, humans, plants, trees etc. Basically, the history of evolution of law is directly related to human civilization, the rights that are deemed basic for every human creature is human rights among all other rights, likewise, to other natural things in the earth it is termed as “rights of nature”. The root of rights of nature lies between the legal philosophy behind the evolution of human rights, it emanated from the philosophical belief that as human rights are deemed to be arisen from humanity’s existence in the earth, the rights of nature also arisen from the nature’s own existence on the earth. This paper attempts to detail about the historical aspect of evolution of rights of nature, the jurisprudential philosophy behind the recognition of rights of nature, conferment of legal status, and rights to nature and its status in these modern days. This paper focuses on the historical events and the corresponding environmental issues that sparked the recognition of rights of nature by being a reason that necessitated the need for rights of nature.

Research Methodology:

This research paper is out of a doctrinal study, so it attempted to figure out the historical events that gave birth to the concept of “rights of nature” and demonstrates the position of recognition to nature’s rights and its causes.

Research Objectives:

- ◆ This paper elucidates the emergence of rights of nature as it is in its evolutionary stage being recognized by seven countries in the world.
- ◆ It examines the various perspectives behind affording legal rights to nature.
- ◆ It attempts to demonstrate the need that necessitated legal status for nature to overcome the problems of environmental issues and overexploitation of nature and to ensure sustainable life on earth.

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Introduction:

In the present scenario, with respect to the legal rights of nature, a number of countries have recognized them. Earth being approximately some 4.54 billion years old, the underpinning of nature's rights is claimed to be the same as human rights by reasoning that humans' own survival is directly dependent on the health of the ecosystem. It is argued that if the mere existence of humans can afford rights to them, then, it is logically sufficient to afford rights to nature by considering its existence. The elements that gave rise to the rights of nature include several philosophical legal concepts, efforts of individuals by doctrines, and most importantly the environmental issues that seek an answer from the legal system are those which ultimately surface the way for legal recognition of nature by providing them rights considering them as a legal entity.

History Of Events That Sparked And Promoted The Rights Of Nature

- ◆ In the year of 1972, the article named “should trees have standing” in southern California by professor Christopher stone on legal rights of nature. It established the right-less state of nature under the prevailing system of law in those days. It launched a worldwide debate concerned with the fundamental basic nature of legal rights which reached the ears of the U.S. supreme court.
- ◆ Wilderness and the American Mind, by Roderick Nash which was initially published in 1967 but originally published in 1973 spelled out wilderness as the absence of humans and their influences which allows nature to be in its original form undisturbed by man, the exact opposite of urban environment. It examined the transformation of attitudes of Americans in the direction of wilderness from hostility to identification of the necessity of creation and protection of wilderness as places where a man can be a visitor but not a resident.
- ◆ In 1989, professor Roderick Nash published a book called “The Rights of Nature”. The book was about the history of environmental ethics, the history of contemporary philosophy, as well as the religious beliefs toward nature, was charted in his book. Rod Nash also took part in the Free Winter Speaker Series by Aspen Centre for Environmental Studies on 19th Jan 2012 on the topic meaning of wilderness and the rights of nature.
- ◆ In 2001, the book called “The Origin, Differentiation, and Role of Rights” by Thomas Berry, narrated the possession of inherent rights by all members of the earth community. He pointed out that the “origination of rights” is from the “origination of existence”. He said the determinant of existence determines the rights as well. He defined rights as the due given to every being on earth. He also pointed out that the universe is composed of subjects that are meant to have communed with each other but not to be exploited, so he claims as “subjects” each component of the universe is eligible to hold rights. he establishes that there are three basic rights that every living and non-living component of the earth community has, the right to habitat, the right to be and also in the ever-renewing processes of the earth community the right to fulfill its

role. He claims that planet earth is one single community where its components are bound together with the interdependent relationships among them.

- ◆ In the year of 2003, the book was named “Wild Law: A Manifesto for Earth Justice” by Cormac Cullinan. In proposing for recognition of the legal status of natural communities and ecosystems, he added spiritual and moral elements to the historic discussion on the rights of nature begun by Christopher Stone and Roderick Nash. Wild law as explained by Cullinan refers to that human law that is consistent with earth jurisprudence, it regulates human behavior for maintaining the integrity in the functioning of the whole earth community in long term than concentrating on the interests of any species at a particular time. Since then, wild law was one of the most talkable topics.
- ◆ In the year of 2005, the Navajo Nation Tribal Council of the United States drew upon its former codification of non-colonial customary and traditional laws when it banned the mining of uranium.
- ◆ In 2006, Tamaqua, Pennsylvania, U.S., being the very first place in the world that recognized the rights of nature in law, imposed a ban on dumping of toxic sewage sludge as it deemed it to be a violation of nature’s rights. since then, a number of communities belonging in ten states of U.S. enacted laws for the rights of nature.
- ◆ In 2008, the first country that inserted rights of nature in its constitution was Ecuador, in 2011 it also held a decision in the Vilcabamba river case upholding the constitutional provisions favoring rights of nature which was the first rights of the nature court decision.

In the same year, the rights of local ecosystems were also recognized by the people of Barnstead and Nottingham, New Hampshire. Barnstead, to their former right to water ordinance, passed an amendment with regard to rights of nature in 2006 and the residents of Nottingham stopped the corporate water privatization system using their own laws.

- ◆ One of the big movements with respect to rights of nature by the UN General assembly in the year 2009 was the proclamation of “International Mother Earth Day”.
- ◆ In 2010 Bolivia conducted the “Worlds People’s Conference on Climate Change and Rights of Mother Earth”. In that conference, the event of the universal declaration on the rights of mother earth was issued which was even placed before U.N. for consideration.

The Law of rights of mother earth was passed by Bolivia’s legislative assembly.

In September 2010, Ecuador formed Global Alliance for Rights of Nature to ensure that humans do not use nature for exploitative purposes but to honor the interrelation of all life and earth and promote an environmentally sustainable future. 26 visionaries from six continents took part in it by gathering themselves in Patate, Ecuador.

Later in 2014, the first rights of nature tribunal were sponsored in Ecuador by the Global Alliance for Rights of Nature.

Pittsburgh also enacted local law recognizing the rights of nature and imposed bans on the extraction of combustible gas. The measure was supported by various strong communities in favor of the measure and by a unanimous vote of the city council.

- ◆ A campaign that was launched in Nepal in the year of 2011 with the object of bringing in advancement to rights of nature has brought in the impact to the extent of considering about rights of nature constitutional amendment.
- ◆ A campaign in India for recognizing the right of the Ganga river was conducted by Ganga Action Parivar and Global Interfaith WASH Alliance- India in the year 2012. The slogan of the campaign was “Ganga’s rights are our rights “. It finally won by having the national Ganga river rights act drafted. But long before all these a campaign was launched by Rajiv Gandhi in the year 1986 known as the clean Ganga campaign and launched a program called the Ganga action plan to reduce pollution on the river.

In the same year Broadview Heights, Ohio adopted an ordinance recognizing the rights of the local ecosystem as a result of which fossil fuel infrastructure and waste were banned.

Also, in 2012 IUCN (International Union for Conservation of Nature) whose main objective is to safeguard nature adopted a policy for the purpose of incorporating the rights of nature in its decision-making processes.

- ◆ A campaign was launched exclusively in the way of encouraging the European citizen’s initiative for the rights of nature in 2013. It made citizens present proposals to the government of the European Union for consideration.

The ordinance passed by mora county, New Mexico banned corporate hydrocarbon extraction.

- ◆ In 2014 Colorado proposed a state constitutional amendment in favor of the rights of nature.

An international gathering was sponsored by the global alliance for the rights of nature which as a result held the rights of nature tribunal in Ecuador

- ◆ In 2015, the Riksdag of Sweden considered creating a commission for the preparation of a proposal on how to incorporate rights of nature into Swedish law.
- ◆ In 2016, after the adoption of rights of nature by the Green Party of England and Wales, similar steps were taken in Scotland also by the Greens

A document known as the grizzly treaty was signed by more than 200 U.S. and Canadian tribal nations which recognized the right of the Grizzly bear to live in a healthy ecosystem.

The ho-chuck, which was the first tribal nation in the U.S. which took votes for rights of nature to effect the constitutional amendment.

- ◆ In 2017, the rulings issued by the high court of Jharkhand, India afforded rights to Ganga and Yamuna.

The panko nation of Oklahoma also took on customary law in 2017 for recognizing the rights of nature.

- ◆ In 2018 the hon'ble high court of Jharkhand recognized the rights of the entire animal kingdom.

Rights of natural law were enacted by the municipality of Paudalho, Pernambuco, Brazil.

- ◆ National lawyers guild in the united states regarded human rights and rights of the ecosystem as more sacred than any other property interests and so amended the organization's constitution to include rights of nature in 2019. The first law in U.S. affording rights to a specific ecosystem took place, Toledo, Ohio residents acquired the Lake Erie bill of rights.

In the year 2019, Uganda also enacted the national environmental act which enshrines nature with the right to exist, maintain, regenerate its vital cycles, etc.

In the parliament of Western Australia, the rights of nature and future generations bill was introduced.

A law recognizing the rights of nature was passed by the municipality of Florianopolis.

- ◆ several events took place in the year 2020 including, successful enforcement of local rights of nature law in grant township, Indiana County, Pennsylvania.

The rights of the specific ecosystem in defense of the Lake Erie bill of rights were argued in federal court for the first time in the history of the U.S.

Citizenship was afforded to pollinators, trees, and native plants by Curridabat of Costa Rica.

In Spain, a campaign was launched to implement rights for Mar Menor.

Rights of nature were decided to be integrated with the municipal planning and operation by the Blue Mountain Council of New South Wales, Australia.

The Colombian court declared lake Tota as an entity with legal rights

- ◆ In 2021 the state of Oaxaca, Mexico took an initiative to recognize the rights of rivers and other water sources and for the right of every individual in the state to live in harmony with nature.

A movement was made in Canada to recognize the rights of Magpie river.

LEGAL RECOGNITION OF RIGHTS OF NATURE IN 21st CENTURY

Several countries have recognized a number of ecosystems around the world as living entities and have also granted them legal personhood, and were also provided with codified laws to conserve and protect them, few gave them rights after realizing the environmental problems that necessitated the need for affording rights to nature.

The following countries have legally recognized the rights of nature,

1. ECUADOR

Rights of nature under the laws of Ecuador are under article-71 of its re-drafted constitution.

In Ecuador nature is termed “Panchama”. In 1978 Galapagos Island of Ecuador was declared as one of the 12 original UNESCO world heritage sites. The Galapagos Island being one of the 12 original UNESCO world heritage sites, Ecuador became a famous point in 2008 and created history by including “rights of nature” in its constitution.

Article -71 of Ecuador enshrined the following rights to nature (i.e. Pachamama)

- Right to exist
- Right to maintenance and regeneration of its cycles, structures, functions, and evolutionary processes.

In 2011 Richard Frederick Wheeler and Eleanor Geer Huddle filed a suit in Ecuador on behalf of the Vilcabamba River which suffered debris buildup due to a road-widening project. The lawsuit was instituted against the provincial government of Loja, a city located in southern Ecuador, it was when the new constitutional decree was put to test there.

The global alliance for rights of nature congratulated Richard Frederick Wheeler and Eleanor Geer Huddle for the first successful case of rights of nature in Ecuador. They both demanded the observance of the rights of nature. The case was to protect the Vilcabamba river which was subjected to the dumping of large quantities of rocks and excavation material in the river in the course of the Vilcabamba - Quinara road widening project which ultimately violated the nature’s rights by increasing river flow and provoking risk of disaster at the time of growth of river that would probably take place during winter rains, causing floods. This case had set a landmark in the history of rights of nature

2. NEW ZEALAND.

In the year 2017, the Whanganui River of New Zealand was granted the legal rights of a human being. The indigenous Maori of New Zealand has since so long been fighting for its rights and considered the river Whanganui as being endowed with spirit.

Now the 2017 “Te Awa Tupua” (whanganui river claims settlement) act demonstrates it as an “invisible living whole consisting of all its physical and metaphysical elements” that includes not just the waters but its subsoil, riverbed, flora, and even the airspace overhead.

The river is now recognized as inalienable from Maori and legally made represented by two, one the government and the other indigenous who are also responsible for its health and wellbeing.

Though the story of river Whanganui is being widely discussed there are also other success stories of rights of nature that includes Te Urewera National Park on the east coast of the north island for its ancient and enduring nature and Mount Taranaki on the west coast of the north island acquired its rights in 2014 and 2018 respectively

3. COLOMBIA.

The Atrato River near the Panama border of Colombia was granted personhood in the eyes of law in the year 2017 for which the decision of the court played a major role in the win for the river and its ecosystem. However, Colombia did not stop with this, it also recognized legal rights to amazon's ecosystem which was made possible by 25 citizens by the way of their lawsuits. After that, even the la Plata and Cauca rivers have also gained legal status.

4. AUSTRALIA

The Yarra River in Victoria, Australia was declared as a living entity in September 2017. The court's decision not just upholds nature's rights but also advanced the aboriginal population of Yarra river valley, those peoples also had a hand in getting rights to the river through the yarra river protection (Wilip-Gin Birrarung) act. Wilip-Gin Birrarung simply translates to "keep the Yarra alive".

Unlike Whanganui, in the case of Yarra, it was not just given legal rights and assigned a legal guardian but was recognized as a legal entity and summons for implementation of plans for its maintenance, and even a 12-person council was established to advocate for the river.

5. UNITED STATES

Tamaqua in Pennsylvania was the first in the world to recognize nature's rights. Dozens of communities have made codified laws for nature in the united states. Tamaqua borough was taken as a start, and so in 2010 around 250 residents of west Pittsburgh voted in favor of the environment's right to be free from pollution. Followed by the white earth band of Ojibwe which strived for the rights of Manoomin or wild rice, which included protection from contamination and pollution, the right to clean water, etc.

Not all attempts to claim nature's rights are successful, there's a pending lawsuit with respect to the rights of Lake Erie filed by the people of Toledo, Ohio, the right demanded were objected to by the farmer on the ground that it is neither constitutional nor legally sustainable.

6. BANGLADESH

In 2019, the supreme court proclaimed the river Turag and all other rivers in Bangladesh to be alive and granted legal rights which even faced criticisms for uplifting eviction as a solution to the human-encroachment problem. While many countries are recognizing the rights of nature,

what makes Bangladesh, being a “land of rivers”, stand out is that it had granted rights to all rivers was the comment made by Ben price, the national director for CELDF (Community Environmental Legal Defense Fund).

7. INDIA.

Soon after New Zealand's decision in the Whanganui rivers issue, the sacred Ganges And Yamuna rivers were afforded legal rights by the high court of the mountainous state of Uttarkhand in deciding the issue with respect to causing pollution in the name of performing holy rituals in the rivers.

Conclusion:

In the early 2000s recognition rights of nature was remarkable. As of 2021, in 17 countries nature's rights laws are prevailing in the form of treaties, constitutional laws, judicial decisions, national laws, sub-national laws, and local laws.

Though several laws were enacted and nature was afforded rights, rather than preventing environmental destruction, the laws are setting a limit on the extent of exploiting natural resources.

The issue like overfishing, deforestation and global warming is far more advanced than in earlier days. Several countries have extended their legal body to include the right to a healthy environment as a human right.

Even today the major environmental issues like pollution, global warming, improper waste disposal, ocean acidification, loss of biodiversity, deforestation, ozone layer depletion, acid rain, etc. are largely prevalent all over the globe due to the disturbance caused to nature and its resources by man in the name of usage of nature.

Since the human population is directly dependent on nature for its survival, the trouble caused to nature will directly have an impact on the human life, by making small changes to man's everyday lifestyle without affecting nature's rights sustainable life on earth can be attained, reducing the environmental crisis as well.

As humans are afforded the right to life, liberty, and free existence without disturbance by others, we must also realize and recognize the life and rights of other living and non-living components on earth. We must realize the fact that life of man on earth is not possible without the ecosystem, so, equal importance and rights must be given to all living and non-living components on earth.

