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RIVER PERSONHOOD AND ENVIRONMENTAL JUSTICE: ADDRESSING JURISDICTIONAL CHALLENGES

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ABSTRACT

The global water crisis is worsening due to pollution, overuse, and climate change. Industrial activities have severely damaged many rivers, making them unsafe for both humans and wildlife. This article aims to explore the concept of granting legal personhood to rivers as a way to strengthen their protection. By recognizing rivers as legal entities with rights, governments can enforce stricter pollution laws, hold industries accountable, and promote sustainable conservation efforts. Various countries have already implemented this approach—New Zealand granted legal personhood to the Whanganui River, while Colombia did the same for the Atrato River. In India, courts attempted to recognize the Ganges and Yamuna as legal persons, but enforcement challenges arose. A major obstacle to effective implementation is jurisdiction, as rivers often cross multiple states or national borders, creating legal uncertainties about responsibility and enforcement. This article aims to analyze these challenges and propose solutions such as stronger environmental laws, dedicated river guardians, and international cooperation. Recognizing rivers as legal persons has the potential to transform water conservation efforts, ensuring cleaner water sources, protecting biodiversity, and addressing the global water crisis.

KEYWORDS: *River Personhood, Environmental Law, Water Conservation, Jurisdictional Challenges, Legal Rights of Nature*

INTRODUCTION

The global water crisis is one of the most pressing environmental challenges of the 21st century, driven by industrial pollution, over-extraction, and climate change. Freshwater sources, including rivers, are being depleted and contaminated at an alarming rate due to unchecked industrial activities such as chemical dumping, dam construction, and excessive water withdrawals for agriculture and manufacturing. Large-scale industries often prioritize profit over sustainability, leading to severe ecological damage that renders rivers unfit for human consumption and aquatic life. The lack of stringent legal frameworks to regulate industrial exploitation has worsened the situation, allowing corporations to degrade vital water bodies without significant consequences. In contrast, many indigenous communities have long revered rivers as sacred entities, treating them as living beings rather than mere resources, like the Maori (indigenous people of New Zealand). They consider the Whanganui River an ancestor, while Hindu traditions in India view the Ganges as a goddess. These perspectives emphasize the intrinsic value of rivers, promoting their protection and conservation. By adopting a legal framework that aligns with these indigenous traditions and recognizes rivers as persons with enforceable rights, modern legal systems can create stronger mechanisms for water body protection, ultimately addressing the worsening water crisis.

This paper aims to explore the necessity of granting personhood status to rivers as a legal tool to combat the global water crisis. By recognizing rivers as legal entities, governments can impose strict regulations on industries, hold polluters accountable, and implement sustainable conservation efforts. However, despite the potential benefits of this approach, jurisdictional conflicts remain a major barrier to effective enforcement. Since many rivers flow across multiple states and international borders, legal uncertainties arise regarding which authorities are responsible for their protection. This research attempts to examine how river personhood can serve as a solution to the water crisis while analysing the jurisdictional challenges that hinder its effective implementation.

ENVIRONMENTAL AND ECOLOGICAL BENEFITS OF RIVER

PERSONHOOD

Granting legal personhood to rivers has profound environmental and ecological benefits, ensuring stronger protections against pollution, over-extraction, and habitat destruction. By recognizing rivers as legal entities with rights, personhood shifts the focus from mere resource management to active conservation. This legal recognition allows rivers to "speak" through

appointed guardians or representatives, enabling legal action against industries and activities that cause environmental harm. This actually has strengthened water body protection, ensuring that decisions regarding the river prioritize ecological well-being. Personhood also fosters long-term ecological sustainability by promoting restoration efforts and stricter water governance policies. In jurisdictions where rivers have legal rights, there is greater accountability for pollution control and habitat preservation, reducing harmful practices such as industrial dumping and excessive damming. Additionally, recognizing rivers as living entities aligns with indigenous and eco-centric perspectives, reinforcing the need for sustainable coexistence with nature. This approach not only improves water quality and biodiversity but also enhances climate resilience by maintaining natural water cycles. Ultimately, granting legal personhood to rivers transforms water bodies from exploited resources into protected ecosystems, ensuring their health for future generations.

PERSONHOOD STATUS OF RIVERS ACROSS VARIOUS JURISDICTIONS

The recognition of rivers as legal persons has gained attention across various jurisdictions as a response to growing environmental concerns, particularly water pollution, habitat destruction, and the depletion of freshwater resources. The most notable legal recognition of river personhood occurred in New Zealand with the Te Awa Tupua (Whanganui River Claims Settlement) Act, 2017. This Act granted the Whanganui River the status of a legal person, meaning it could hold rights and duties like a human entity. The legislation was heavily influenced by Māori beliefs, which see the river as an ancestor, deserving of protection and respect. To operationalize its legal status, two guardians, collectively known as Te Pou Tupua, were appointed to represent the river's interests, ensuring that all actions concerning it align with its well-being. This landmark case set a precedent for recognizing rivers as entities with enforceable legal rights, shifting away from the traditional view of natural resources as mere commodities for human exploitation. Following New Zealand's example, Colombia's Constitutional Court recognized the Atrato River as a legal entity in *Centro de Estudios para la Justicia Social v. Presidency of Colombia*, 2016. This ruling was aimed at protecting the river from illegal mining and pollution, which had severely impacted its ecosystem. The court appointed state and community representatives as guardians, reinforcing the idea that local communities play a crucial role in environmental stewardship. These cases demonstrate a shift toward a legal framework that acknowledges the intrinsic value of rivers, rather than viewing

them solely through an economic or utilitarian lens.

In addition to these legal recognitions, Ecuador became the first country in the world to incorporate the rights of nature into its constitution through its Constitution of 2008. Articles 71–74 of the Ecuadorian Constitution recognize that nature, including rivers, has the right to exist, maintain its cycles, and regenerate. This constitutional provision allows individuals and communities to take legal action on behalf of nature without needing to prove direct human harm. This innovative approach diverges from traditional environmental law, which typically requires a direct impact on humans before legal standing is granted. The Ecuadorian model has been cited in various environmental lawsuits, including cases where rivers have been represented in court to demand stronger conservation measures. Similarly, Bolivia's Law of the Rights of Mother Earth, 2010, extends legal personhood to all natural entities, including rivers, recognizing their right to life, health, and protection from contamination. However, while these legal frameworks provide strong theoretical protection for rivers, their implementation has faced challenges due to economic pressures and weak enforcement mechanisms. Nevertheless, they mark an important shift toward recognizing nature's legal rights, setting the foundation for future legal developments in environmental governance.

Other jurisdictions have explored river personhood through legislative and community-driven initiatives. In the United States, the Lake Erie Bill of Rights (LEBOR) was a local initiative passed in Toledo, Ohio, which attempted to grant legal standing to Lake Erie to protect it from industrial pollution and agricultural runoff. However, the law was quickly challenged in court and struck down, highlighting the difficulties of implementing such radical legal concepts within existing legal frameworks. Despite this setback, the case demonstrated growing public interest in recognizing the rights of natural bodies. Australia has taken a different approach, using statutory bodies to protect rivers. The Victorian Environmental Water Holder (VEWH) is an independent body that holds and manages water rights for environmental purposes, ensuring that rivers and wetlands receive adequate water to maintain their ecological health. While this model does not grant legal personhood to rivers, it functions similarly by ensuring that environmental interests are actively represented in water management decisions. These diverse approaches across different jurisdictions indicate a growing recognition that legal frameworks must evolve to address the urgent need for river conservation. While challenges remain, including enforcement and political resistance, the movement toward recognizing rivers as legal persons represents a significant step in rethinking environmental law to prioritize

ecosystem protection over economic exploitation.

PERSONHOOD STATUS OF RIVERS WITHIN INDIA

The recognition of rivers as legal persons in India marks a significant shift in environmental law, aimed at strengthening the protection of vital water bodies. India, home to several major rivers that hold ecological, cultural, and religious significance, has long struggled with pollution, encroachment, and over-extraction of water resources. The concept of river personhood gained attention in 2017 when the Uttarakhand High Court, in *Mohd. Salim v. State of Uttarakhand*, declared the Ganges and Yamuna rivers as living entities with the rights, duties, and liabilities of a legal person. This ruling was inspired by New Zealand's recognition of the Whanganui River's legal personhood, but it also reflected Hindu religious traditions, where the Ganges is revered as a goddess. The court appointed the Chief Secretary and the Advocate General of Uttarakhand as the legal guardians of these rivers, responsible for protecting their health and maintaining their purity. However, the ruling was later stayed by the Supreme Court of India, citing concerns about enforcement complexities, jurisdictional conflicts, and the practicality of treating a river as a legal person.

Despite the Supreme Court's intervention, the idea of granting legal personhood to rivers continues to be debated in India, with several legal precedents reinforcing the notion. In *Lalit Miglani v. State of Uttarakhand* (2017), the Uttarakhand High Court extended legal personhood beyond rivers, recognizing the Himalayan glaciers, including Gangotri and Yamunotri, as living entities. Although there is no specific statute in India granting personhood to rivers, various environmental laws, such as the Water (Prevention and Control of Pollution) Act, 1974, Environment Protection Act, 1986, and National Green Tribunal Act, 2010, provide indirect legal safeguards. These legal developments highlight a growing awareness that rivers need stronger protections, and while challenges remain in enforcement, the concept of river personhood in India continues to evolve as an important legal and environmental issue.

JURISDICTIONAL CHALLENGES IN ENFORCING RIVER PERSONHOOD

One of the most significant obstacles in implementing river personhood is the issue of jurisdiction, particularly in cases where rivers traverse multiple administrative regions, states, or even international borders. The recognition of a river as a legal person often lacks a clear

enforcement mechanism, as different jurisdictions may have conflicting laws, priorities, and regulatory bodies overseeing the same river. Transboundary rivers such as the Ganges, which flows through both India and Bangladesh, or the Mekong, which runs through multiple Southeast Asian nations, present complex governance challenges. While one jurisdiction may grant legal personhood to a river, another may not recognize such a status, leading to inconsistencies in enforcement and legal uncertainty over which entity has the authority to protect the river's rights. This conflict between legal systems weakens the ability to hold polluters accountable, regulate water use, and implement conservation measures effectively. Within national borders, jurisdictional conflicts also arise between central, state, and local governments. In federal systems like India and the United States, water resources are often governed by multiple authorities, making it difficult to assign a single legal framework to a river recognized as a person. For example, when the Uttarakhand High Court granted legal personhood to the Ganges and Yamuna rivers in *Mohd. Salim v. State of Uttarakhand* (2017), the decision faced immediate challenges regarding enforcement, as these rivers flow across several Indian states with differing regulatory frameworks. Without clear legislative backing at the national level, such judicial pronouncements risk being unenforceable. Additionally, conflicts between environmental regulations and property laws further complicate enforcement. If a river is recognized as a legal person, its rights may clash with pre-existing water use rights, industrial permits, and land ownership claims. Addressing these jurisdictional challenges requires harmonizing legal frameworks across regions, establishing centralized governing bodies, and ensuring international cooperation for transboundary river management. Without resolving these jurisdictional ambiguities, the legal recognition of rivers as persons may remain a symbolic gesture rather than an enforceable tool for environmental protection.

ROLE OF LEGISLATURE AND JUDICIARY IN ADDRESSING ENFORCEMENT CHALLENGES IN RIVER PERSONHOOD

The legislature plays a fundamental role in resolving jurisdictional challenges related to river personhood by enacting statutes that establish clear governance structures and enforcement mechanisms. When a river flows across multiple states or national borders, conflicting legal provisions and administrative controls can weaken enforcement. To address this, legislatures must create centralized river management bodies or intergovernmental authorities who shall be responsible for overseeing the implementation of river personhood. Let's say, a national statute can provide a uniform legal status for rivers, ensuring that all states follow consistent policies

regarding water use, pollution control, and conservation. Additionally, for transboundary rivers, international treaties and agreements can help standardize the recognition of river rights, promoting cross-border cooperation in enforcement. These legislative measures are essential to prevent jurisdictional conflicts and ensure that legal personhood translates into practical environmental protection rather than a symbolic designation.

The judiciary also plays a crucial role in resolving jurisdictional conflicts by interpreting laws, adjudicating disputes, and ensuring compliance with river personhood protections. Courts can clarify the extent of a river's legal rights, resolve conflicts between states, and mandate coordinated governance mechanisms. Judicial intervention is particularly important in cases where legislative gaps exist, as courts can direct authorities to implement cooperative measures for river management. For example, in cases where different states or countries have conflicting interests over a shared river, courts can enforce legal obligations to protect the river's ecological integrity. Additionally, the judiciary can hold state agencies and private entities accountable for violations of river personhood rights, ensuring that enforcement remains effective. Through legislative clarity and judicial oversight, the enforcement of river personhood can overcome jurisdictional challenges, allowing for a more harmonized and effective approach to environmental conservation.

CONCLUSION AND RECOMMENDATIONS

The recognition of river personhood represents a transformative legal approach to environmental conservation, acknowledging rivers as living entities with rights. This shift moves beyond viewing rivers as mere resources, emphasizing their ecological and cultural significance. While successful models like New Zealand's Whanganui River and Colombia's Atrato River demonstrate the potential of this legal framework, challenges persist, particularly in enforcement and governance. Many jurisdictions, including India, face hurdles such as jurisdictional disputes, bureaucratic inefficiencies, and unclear enforcement mechanisms. Without strong legal mandates, dedicated guardians, and financial support, river personhood risks becoming a symbolic gesture rather than an effective conservation tool. Integrating this concept into existing environmental laws and policies, defining clear enforcement strategies, and ensuring indigenous and community participation are essential for meaningful implementation.

To strengthen river personhood as a legal mechanism, governments must enact clear legislation

outlining the rights and governance structures for legally recognized rivers. Appointing river guardians with legal authority, securing dedicated funding, and harmonizing river personhood with existing environmental laws will enhance its impact. Judicial oversight through environmental tribunals, transboundary cooperation for shared rivers, and active community involvement will further bolster enforcement. Additionally, raising public awareness through legal literacy campaigns and fostering international collaborations can create a robust framework for river protection. With these measures, river personhood can transition from a theoretical concept to a powerful tool for environmental justice, ensuring the preservation of water bodies for future generations while promoting sustainable development.

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