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Avinash Kumar

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"LEGAL PERSONHOOD OF NATURE: A NEW PARADIGM IN INDIAN ENVIRONMENTAL JURISPRUDENCE"

AUTHORED BY - FARDEEN KHAN
Research Scholar, Aligarh Muslim University

CO-AUTHOR - MOHD. SAIFULLAH KHAN
LLM Student, Aligarh Muslim University

Abstract

The legal personhood of nature is a radical development in Indian environmental jurisprudence where the natural elements that are rivers, forests, and animals have been given a status of a legal person, being entitled to rights and duties that are enforceable. This new paradigm shift questions the mainstream anthropocentric legal frame to propose an ecocentrism approach, based on constitutional principles and indigenous ecology ethics. Judicial rulings, particularly that of the Uttarakhand High Court, which granted a status akin to human persons to the Ganga and Yamuna rivers, have brought to the fore the pro-active role of the Indian judiciary in ensuring environmental justice. Yet, despite these advancements, there is a large gap in research on how to actually implement, legally validate, and sustain declarations in the long run. Questions about service, accountability, and the intersection between human rights and non-human rights go unanswered without such statutory support. And the absence of legislative expression has provoked questions about the potential enforceability and standardization of rights for nature. This article offers a critical scrutiny of the jurisprudential underpinnings and the implications of the recognition of NPH in India, contrasts it with global precedents, and suggests modalities of institutions for implementation. The discussion is framed in the context of a broader environmental constitutionalism debate about how legal subjectivity might be re-conceptualised in response to the ecological crisis. From this perspective, the article highlights the importance of a legal framework that acknowledges nature not only as an object but also as a right-holder subject of law, which should therefore be granted legal dignity and protection.

Keywords: Legal personhood, Environmental jurisprudence, Rights of nature, Indian judiciary, Eco-centric law.

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1. Introduction

In times of accelerating devastation of the natural environment, the inadequacies of traditional environmental law have been laid bare.[1] The dominant legal systems of the past, mostly anthropocentric in nature, have generally treated nature as a thing, property and economic resource, lacking value and legal personality.[2] This lacuna in the jurisprudential system has been a catalyst for the evolving model of an ecocentric legal structure, where nature is treated not as an object but as subject of law.[3] In this respect, the principle of the legal personality of nature, with its conception of conferring on natural elements, such as rivers, forests, and wildlife, juridical personality, constitutes a paradigm-shifting breakthrough. This doctrine allows for such non-human elements to be granted standing and legal protections, so as to allow their standing up in court themselves, allowing for the protection of the environment to be more easily enforced. In the Indian constitutional context, one can infer this principle from article 48A that obligates the State to protect and improve the environment[4], and expanding the scope of article 21 by the judiciary by evolving it to mean a right to a healthy environment being subsumed in it under the right to life. In India the judicial system has, however, creatively as well as activistic (since it actively interprets the Indian constitution) interpreted that nature has a legal personhood in a few cases such as *Mohd. Salim v. State of Uttarakhand*[5], where the rivers Ganga and Yamuna were granted the status of legal persons. But, even if it has been judicially accepted, its lack of a positive statutory rule, uncertainty as to whether or not a lawyer or a guardian ad litem is necessary, and the difficulties of the "practical" work of implementation content and enforceability involve significant doctrinal and procedural gaps.[6] This article aims to enquire into and rigorously scrutinize the development, ambit and potential of the legal personhood of nature in the context of the Indian legal order. The main aims are as follows: to map the evolution of this doctrine in India; to analyse the operational difficulties and legal uncertainties; and to review legal solutions in other jurisdictions, such as in Ecuador, New Zealand, and Colombia, with a view to offering a consistent legal model. The inquiry is driven by the following central research questions: What is the jurisprudential justification for granting legal personhood to nature? How do the Indian judiciary have interpreted and used

[1] Philippe Sands and Jacqueline Peel, *Principles of International Environmental Law* 21 (Cambridge University Press, 4th edn. 2018).
[2] Christopher D. Stone, "Should Trees Have Standing? Toward Legal Rights for Natural Objects" 45(2) *Southern California Law Review* 450 (1972).
[3] David R. Boyd, *The Rights of Nature: A Legal Revolution That Could Save the World* 35 (ECW Press, 2017).
[4] The Constitution of India, art. 48A.
[5] 2017 SCC OnLine Utt 367
[6] Lavanya Rajamani, "Legal Personhood for the Environment in India: A Constitutional Analysis" 61(2) *Journal of the Indian Law Institute* 223 (2019).

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this concept? What does recognise them legal procedures and moral implications entail? Applying a largely doctrinal method of analysis, building its argument around critiques of judicial decisions, constitutional interpretation, the wording of statutes, and comparative jurisprudence in environmental law, this study seeks to fashion a broadly textured understanding of this new paradigm in Indian environmental jurisprudence.

2. Theoretical Foundations of Legal Personhood

Legal personhood is a fundamental legal doctrine in some countries, such as the United States, that determines the nature of companies and other entities in law, allowing them to sue or be sued, and to own property.[7] The law has traditionally classified legal entities as either natural persons (humans, individuals, individual persons, or natural persons) or artificial persons (corporations, etc.). So, legal personhood is not a human being but a legal fiction that can be used in the service of normative ends — accountability, representation, or rule of law protections. This form of legal personhood for parts of the natural world, such as rivers, forests, mountains, and animals, goes back philosophically and legally.[8] Jurisprudentially, the concept finds an echo in the natural law theorists, who suggest that law should reflect the moral order and justice. In this context, nature is regarded as having intrinsic worth, apart from the contribution it makes to human life.[9] In opposition to the anthropocentric paradigm, which places humans at the center of legal interest, the legal personhood of nature concept adheres to an ecocentric approach that promotes the idea of nature as a rights-holder, with its own dignity and interests of its own.

There is a precedent to be found for this change in theory and practice. The legal fiction of personification, which has historically been relied upon in corporate law for the purpose of imputing legal status to artificial, juridical persons, provides a useful analogue for imputing similar status to the non-human contents of an environment. Academics such as Christopher D. Stone, in his influential book Should Trees Have Standing? Suggest, however, that giving nature legal personhood is not just logically coherent but morally necessary given the increased ecological calamities that are unfolding. This type of recognition could enable environmental interests to be represented directly in judicial forums without the need to view those interests through the lens of human injury.

[7] Felix S. Cohen, "Transcendental Nonsense and the Functional Approach" 35 *Columbia Law Review* 809 (1935).
[8] Christopher D. Stone, *Should Trees Have Standing? – Toward Legal Rights for Natural Objects* 3 (Oxford University Press, 1974).
[9] Holmes Rolston III, "Value in Nature and the Nature of Value" 29(2) *Philosophy and Geography* 6 (1994).

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Indian civilization has its well-articulated theoretical foundation for this doctrine, which accords with the country´s indigenous and religious traditions that value nature as holy and sentient.[10] In dozens of tribal communities throughout India, rivers, forests, and wildlife are considered living ancestors, thereby seeing the need to worship and protect them.[11] "When Christians kiss the cross, they kiss iron, in acknowledgment of the wood of which the cross was made; as was commonly noted by early Christians. Similarly, we honour the angels and apostles by proper kisses." Similarly, in Hindu cosmology, the Ganga and the Yamuna are worshipped as goddesses. Indeed, these cultural narratives understand and affirm the moral agency of nature and dovetail neatly with a contemporary legal case for personhood, legitimising its standing in Indian law.

The implications of a theoretical construct of nature as legal personhood are founded on the axis between moral philosophy, comparative jurisprudence, religious heritage, and the structure of the law as it stands. This terminological device constitutes a strong normative foundation for the recognition of nature as not just an object of protection, but also as a right holder, whose rights need to be legally acknowledged, and can be directly represented in judicial processes.

3. Judicial Sanction of Corporate Personality in India

It is the Indian judiciary that has been charting new paths in environmental jurisprudence, by, among other things, conferring legal personality on natural objects.[12] In the absence of direct statutes, Indian courts have resorted to constitutional interpretation, public interest litigation (PIL), and principles of equity to ascribe rights to nature, upgrading it from a passive object of the law to an active subject of the law. This was soon followed by another High Court decision in *Lalit Miglani v. State of Uttarakhand & Others*[13], 2017 in which the same High Court recognized legal personhood of the entire ecosystem in the state, being glaciers, rivers, forests, meadows, air, etc., and asserted that these natural entities had legal rights that were equivalent to rights of human beings. The Court stressed that this recognition was necessary to enable the enforcement of the constitutional obligation under Article 48A and to secure the fundamental right to life under Article 21, fecundated with the right to a clean and healthy environment, as interpreted by the Supreme Court itself. Another leading decision that fuelled the direction was

[10] Ruchi Pant, "Environmental Ethics in India: The Traditional and the Contemporary" 18(1) *Indian Journal of Ethics* 23 (2016).
[11] Nanditha Krishna, *Sacred Animals of India* 45 (Penguin Books India, 2010).
[12] P. Leelakrishnan, *Environmental Law in India* 235 (4th edn, LexisNexis 2019).
[13] 2017 SCC OnLine Utt 367.

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that in *Animal Welfare Board of India v. A. Nagaraja*[14] (2014), where the Supreme Court held that animals had the right to live with dignity and freedom from avoidable pain. Although they did not speak directly on legal personhood, the judgement did pave the way for the case of extending consideration of constitutional morality and ethical concern to non-human entities, a concept that underpins the wider ecocentric construction.

Yet despite these progressive elocutions, natural legal personification is ultimately an issue of jurisprudence and is not statutorily enshrined. The degree to which this status is legally binding is unclear: without set laws to define rights, define the roles of guardians, provide redress mechanisms, and for oversight, there remains an opportunity for their rights to be ignored and abused. Further legal changes have also uncovered contradictions. Fo, e.g., the Supreme Court suspended the Uttarakhand High Court order on river personhood in 2017 on the ground of administrative impracticability, thereby raising a question mark over the sustainability and coherence of rights created by the judiciary but not provided for by legislation. However, these decisions are a watershed in the environmental jurisprudence of India. They provide evidence of judicial readiness to move beyond typical legal frameworks and accept eco-centric values that regard nature as having its own value.[15] They set a judicial precedent that can influence future legislative action and deepen the public conversation about the moral and legal standing of the natural world.

4. Comparative Law Aspects of The Legal Personality of Nature

The worldwide proliferation of the legal personhood of nature concept reflects increasing realization that environmental protection paradigms must be reformulated to afford nature independent legal status. Though India's jurisprudential interventions here are laudable, jurisdictions as diverse as could have been taken to the level of their respective pieces of legislation, which could also serve as good comparatives that are not only comparative but give lessons on the potentialities and pitfalls of institutionalizing rights of nature in national legal systems.[16]

[14] (2014) 7 SCC 547.
[15] *Supra* note 3 at 66.
[16] Erin O'Donnell, "At the Intersection of the Sacred and the Legal: Rights for Nature in India" 13(1) *Australasian Journal of Environmental Management* 54 (2019).

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One of the pioneering and widely debated cases is that of Ecuador, which in 2008 became the first country in the world to constitutionally enshrine "Rights of Nature" (Derech's de la Naturalize). Articles 71–74 of the Ecuadorian Constitution declare that nature, or Pacha Mama, "has the right to exist, persist, maintain and regenerate its vital cycles" and individuals and communities may bring action to ensure the enforcement of these rights by judicial and administrative authorities. It has been the Constitutional Court of Ecuador that has ushered these rights into action most prominently in the *Los Cedros case*[17] (2021), where the court suspended mining activities in a protected forest because nature has constitutional rights. The Ecuadorian model is notable because it shifts nature from the periphery of judicial protection to the nexus of rights-bearing subject, and because it enshrines at the constitutional level these protections, which could provide continued legal and practical guarantees.[18]

There have also been positive developments in Colombia with regard to "environmental personhood" by means of case law. In *Centro de Studios para la Justicia Social v. Presidencia de la República*[19] (2016), the constitutional court declared the Río Arato a rights-bearing entity that is deserving of protection, conservation, and restoration. The court established a "guardianship commission" with state and community members, recognizing the relation of environmental health to the rights of marginalized peoples. Colombian jurisprudence has developed this doctrine even further, granting personhood to the Amazon rainforest and demonstrating how constitutional rights can be used to underlie environmental custodianship and intergenerational justice.

Institutional arrangements in these comparative experiences are similar in that:

i. they add to a jurisprudence turned towards eco-centricity;
ii. they institutionalize mechanisms of juridical guardianship; and
iii. they acknowledge the intrinsic value of ecosystems beyond their instrumental value to human beings.

In contrast to Indian judicial opinions, which are bereft of statutory foundation and still susceptible to executive or superior judiciary's nullification, the Ecuadorian and New Zealand models would have the advantage of being qualified by clear statutory frameworks so as to maximize legal certainty, administrative workability, and public legitimacy.

[17] Judgment No. 1149-19-JP/21, Constitutional Court of Ecuador, Decided 1 Dec 2021.
[18] Cormac Cullinan, *Wild Law: A Manifesto for Earth Justice* 124 (2nd edn, Green Books 2011).
[19] Judgment T-622/16, Constitutional Court of Colombia, 10 Nov 2016.

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Such global examples are instructive for India. The inclusion of indigenous ecological worldviews in formal law, the eventual statutory clarification of guardianship roles, and the constitutionalising or authorization of nature's rights are all innovations that would improve India's fragmented regime of environmental personhood. Comparative analysis, therefore, highlights the case for India's codified rights-based environmental regime, which is more than a judicial venture in upholding nature in perpetuity through democratic experimentations and legal pluralism.[20]

5. Cognitive Dissonance in the Indian Context: Limitations of a Political Approach

Notwithstanding the progressive advances achieved in the Indian jurisprudence for the legal personhood of nature, there are significant conceptual, procedural as well and institutional challenges to uphold and operationalize this doctrine. These limitations raise the question of the sustainability of the doctrine for India and demonstrate the difficulties of importing a rights-based model to the environmental arena without sufficient legislative backing.[21]

The difficulty stems from a lack of statutory codification, which leaves the judicial holdings of legal personhood susceptible to variance, overruling, or non-adherence. Unlike Ecuador or New Zealand, where such rights and duties are an express creation of legislation, India's acknowledgment of environmental personhood is based entirely on court decisions. This confusion calls into question the nature and content of these rights, the mechanisms to enforce them, and the remedies for their breach. Without such a statutory guide, courts and government institutions are without direction as to how to give effect to these principles in their day-to-day administration.

The other big concern is around guardianship and representation. Although the courts have created a number of public officials as guardians of rivers and ecosystems, the nature of these guardians and their duties is not clear. This has generated uncertainty as to the extent of the fiduciary duties they owe, the ways in which their accountability is to be assured, and their freedom from the influence of the state. In addition, the dual functions of state players as

[20] S. Atapattu, "Rights of Nature and the Global South: A Shift in Environmental Governance?" 20 *Oxford University Commonwealth Law Journal* 26 (2020).
[21] Kanchi Kohli and Manju Menon, "Nature's Personhood and India's Environmental Constitution" 56(13) *Economic and Political Weekly* 12 (2021).

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protectors of the environment and agents of development introduce a potential conflict of interest, making such oversight less credible and effective. The Indian federal system adds another layer of enforcement complexity. Because rivers and forests such as the Amazon traverse various states, and there is no coordinated legislative definition, personhood recognized in one state is not recognized in others, leading to a fragmentation of jurisdiction.[22] A lack of institutional capacity in the form of personnel, environmental courts, and monitoring mechanisms also importantly constrains the capacity of the state to enforce nature's rights. There are also ethical and philosophical scruples. Critics maintain that extending rights to nonhuman entities may make the legal conception of personhood seem frivolous or trigger a monstrous avalanche of potential litigation, especially in the competition between human well-being and environmental preservation.[23] Complicating matters is that the legal duties are imposed on inanimate objects or that guardians may abuse their powers. While these objections are not fatal ones, they require close attention to the theory and practical safeguards.

Finally, there is the Specter of judicial activism. Although judicial creativity has entered the space left vacant by the legislature, the lack of parliamentary debate and public consultation in the making of environmental rights is likely to be politically and democratically costly.[24] The courts, however well-meaning, are one group that may lack the capacity to envision the institutional architecture needed for long-term ecological governance, the judicial emancipation of nature as a legal person in India is pathbreaking; however, shackled with the absence of codified norms, disintegrated institution building, and administrative clarity, its effectiveness remains subject to question.[25] In order to convert this aspirational doctrine into a binding and lasting legal reality, however, it will be necessary to overcome these limitations by means of legislative initiative, stakeholder involvement, and intergovernmental cooperation.

6. Recommendations and Way Forward

For the doctrine of legal personhood of nature to be given a robust and transformative life in India, a radical reform strategy that bridges the divide between judicial creation and legislative

[22] *Supra* note 6 at 293.
[23] Christopher D. Stone, *Should Trees Have Standing? Law, Morality, and the Environment* 17–32 (3rd edn, Oxford University Press 2010).
[24] Upendra Baxi, "The Avatars of Judicial Activism: Explorations in the Geography of (In)justice" in S.K. Verma and Kusum (eds), *Fifty Years of the Supreme Court of India: Its Grasp and Reach* 156 (Oxford University Press 2000).
[25] R. Rajagopal, "India's Environmental Jurisprudence: From Public Interest Litigation to Rights of Nature?" 10(1) *Indian Journal of Constitutional Law* 41 (2021).

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enactment and engages with the structural and philosophical limitations identified above is indispensable. The future of environmental personhood in India must be based on legal certainty, institutional transparency, and ecological justice.

The priority is statutory enactment. Parliament needs to pass a special law that outlines the rights of nature and describes the rules of procedures to follow in implementing these rights, and creates structures at the level of the state and local authorities for guardianship and representation. Such a law must be guided by ecological considerations, comparative legal examples, and India's robust environmental law developed under Articles 21 and 48A of the Constitution. A codified architecture would ensure consistency between jurisdictions, reduce uncertainty, and facilitate administrative consistency in granting legal standing to nature.[26]

Second, the law must stipulate the establishment of autonomous and answerable guardianship institutions at the central, state, and district levels. Such entities should be multi-stakeholder (involving the environmental specialists, community representatives, lawyers, government st, etc.). Their tasks, powers, and responsibilities should be set out clearly, and accountability mechanisms provided for regular monitoring, public scrutiny, and judicial review. This would make guardians independent of the executive and work in the nature, rather than just as long arms of the executive's interest.

Third, capacity-building measures are vital. Special training courses for judges, lawyers, administrators, and law enforcement services could be developed in order to provide them with the instruments they need to properly interpret and use the rights of nature doctrine.

Fourth, public and community participation must be given top priority. The framework for legal personhood should not be defined top-down. Legal personhood should not be framed top-down, but rather akin to experiences with indigenous, tribal, and rural communities historically in harmony with nature. Decentralized government, in the form of Gram Sabhas under the Forest Rights Act, provides an opportunity to promote local protection and participate in grassroots environmental democracy.[27]

[26] A. Chapron et al., "Transforming Protection into Action: Legal Ecocentrism in Comparative Perspective" 363 *Science* 1392 (2019).
[27] The Forest Rights Act, 2006, ss. 3(1)(m), 5(1)(g).

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Fifth, India should learn from comparative international experiences to enhance its legal framework. For instance, the Ecuadorian model of constitutional nature rights, New Zealand's indigenous communities co-governing with their governments, and Colombia's incorporation of nature protection within human rights statutes are good templates that can be translated to the Indian scenario. It would not only help India to avoid the mistakes made in other places (e.g., the lack of legal clarity regarding guardianship, etc., or over-burdened judicial forums), it would also enable India to take steps towards the implementation n best practices which are prevalent elsewhere.

Finally, a more general change of perspective in environmental philosophy is needed. Change needs to be accompanied by educational projects, university studies, and boundaries that will lead to a greater ecological awareness in our society. Considering nature as a subject of rights is a legal, but also a moral and cultural, obligation.

In fine, the doctrine of legal personhood of nature has transformational potential for environmental governance in India. But the prospects of the right would stand or fall on whether such sporadic judicial affirmations could be turned into a more robust, institutionalized, and enforceable legal regime — and this would depend on action in the other branches of government. India must, through lawmaking, institution-building, and public engagement, chart a course for a more just, inclusive, and ecologically sensible legal order.

7. Conclusion

By recognizing the legal personality of nature, the shift that has occurred in India's environmental jurisprudence is one from an anthropocentric outlook to a more eco-centric and rights-based approach to environmental governance. The above transformation was set in motion by judicial innovations, especially by the Uttarakhand High Court and the SC, looking at the inherent worth of rivers, forests, and ecosystems as living entities with legal rights. These advances are, however, er restricted by their absence of a statutory presence, procedural vagueness, and institutional variation. Comparable experiences on environmental personhood in countries such as Ecuador, New Zealand, and Colombia reveal that the path to successful implementation of environmental personhood demands clarity in legislation, strong guardianship models, active involvement of communities, and interfacing with indigenous systems of knowledge. These examples have invaluable lessons for India in this balancing act between constitutional obligation regarding the environment and its practical underpinning for

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the protection of nature. In the Indian jurisdiction, the sustainability of this doctrine lies in developing judicial principles into a detailed legislation that not only provides for the enumeration of rights of nature but also outlines the duties that are enforceable, independent institutions, and procedural safeguards. Consolidating environmental institutions, enabling local communities, promoting intergovernmental coordination, and public awareness are likewise important to maximize the potential of the doctrine. In the end, granting nature personhood is not just a legal change, but a reiteration of India's rich ecological legacy and constitutional values. By situating environmental protection in the idiom of rights, India can establish a legal system that is fairer and more robust— one that civilises the protection of life, human and non-human alike, and secures an environmentally sustainable world for the present and future generations.