
FROM SACRED WATERS TO LEGAL SUBJECTS: A DIFFERENTIAL JURISPRUDENTIAL ANALYSIS OF RIVER PERSONHOOD

Pushkar Singh, Gujarat National Law University, Gandhinagar.¹

ABSTRACT

This research paper examines the emerging jurisprudential discourse on recognising rivers as legal persons in response to escalating environmental degradation and the limitations of traditional anthropocentric legal frameworks. It explores the doctrinal foundations of legal personality, historically extended to non-human entities such as corporations and religious institutions, to analyse whether similar recognition can strengthen ecological protection and environmental governance. Through a comparative study of developments in jurisdictions such as Ecuador, New Zealand, Colombia and Bangladesh, alongside the Indian experience in *Mohd. Salim v State of Uttarakhand*, the paper highlights key challenges relating to guardianship, liability, selectivity and transboundary governance. The study demonstrates that while environmental personhood possesses significant normative potential to transform river protection, its effectiveness remains constrained by the absence of clear legislative frameworks, institutional mechanisms and sustainable development balance. It concludes that a coherent river rights framework integrating participatory governance, statutory clarity and ecological sustainability is essential for operationalising environmental personhood in India.

Keywords: River personhood, Environmental jurisprudence, Legal personality, Ecocentrism, Public trust doctrine, Guardianship, Sustainable governance, Polluter pays principle, Comparative environmental law, River rights framework.

¹ Gujarat National Law University, Gandhinagar.

1. Background and Conceptual Context

In recent decades, increasing river pollution, ecological degradation and climate induced environmental crises have exposed the limitations of traditional human centred legal frameworks.² Despite rivers sustaining socio economic life, biodiversity and cultural practices, legal systems have historically treated them merely as objects of ownership and regulation. This growing environmental vulnerability has stimulated jurisprudential debate on whether nature, particularly rivers, should be recognised as legal subjects with enforceable rights.³ The movement towards river personhood therefore reflects a broader shift from anthropocentric to ecocentric legal thought.

1.1 Meaning of Legal Personality in Jurisprudence

The concept of legal personality derives from the term *persona*, signifying a legally recognised status. In jurisprudence, it denotes the capacity of an entity to hold rights and bear duties. **Salmond** defines a person as “*any being whom the law regards as capable of rights and bound by legal duties*” emphasising that personality is a creation of law rather than merely a biological attribute.⁴

V. D. Mahajan similarly explains that a legal person may be real or fictitious, but is recognised by law as a subject of rights and obligations.⁵ Such personality is often attributed for legal convenience to regulate ownership, liability and legal relations. Indian statutory law reflects this wide understanding; provisions like Section 11 of the Indian Penal Code and Section 2(26) of the Bharatiya Nyaya Sanhita include companies,⁶ associations and bodies of persons within the meaning of “*person*.”

Accordingly, legal personality is determined by the capacity to sue and be sued, enter contracts and hold property. Although animals or deceased persons are not treated as full legal persons, certain legal protections exist regarding their interests. This doctrinal flexibility has enabled jurisprudence to extend personality beyond human beings, forming the theoretical basis for

² John Page & Alessandro Pelizzon, *Of Rivers, Law and Justice in the Anthropocene*, 190 *Geographical J.* e12442 (2024); U.N. Env't Programme, *Making Peace with Nature* 18–22 (2021).

³ Christopher D. Stone, *Should Trees Have Standing?*, 45 *S. Cal. L. Rev.* 450, 456–57 (1972).

⁴ John W. Salmond, *Jurisprudence* 299 (Glanville L. Williams ed., 12th ed. 1966).

⁵ V. D. Mahajan, *Jurisprudence and Legal Theory* 275 (EBC 5th ed. 2008).

⁶ Indian Penal Code, 1860, § 11, No. 45, Acts of Parliament, 1860 (India); Bharatiya Nyaya Sanhita, 2023, § 2(26), No. 45, Acts of Parliament, 2023 (India).

contemporary debates on recognising environmental entities such as rivers as legal subjects.

1.2 Extension of Legal Personality to Non-Human Entities

Legal personality has not remained confined to human beings. Law has extended this status to various non-human entities such as corporations, institutions, trusts and even religious idols in India wherever it was necessary to protect interests or regulate rights and liabilities. Such recognition is based on legal convenience and social necessity rather than physical existence.

This doctrinal flexibility has gradually influenced contemporary environmental debates, where scholars and courts have begun to consider whether natural entities like rivers may also be granted limited legal personality to enable stronger legal protection and representation before courts.⁷

1.3 Environmental Crisis and the Rise of Ecocentric Legal Thought

Growing environmental degradation has revealed the limits of *anthropocentric* legal approaches that treat rivers as mere property for human use. Unregulated urbanisation, industrial discharge and excessive diversion of water have severely damaged river ecosystems. For instance, recent reports highlight that the Yamuna in Delhi carries extremely high pollution loads due to untreated sewage and reduced natural flow, rendering significant stretches ecologically lifeless despite sustained legal and policy efforts.⁸

Such unsustainable utilisation underscores the need to move towards *ecocentric* legal thought, which recognises the intrinsic value of nature and emphasises collective responsibility for its protection.⁹ By promoting sustainable resource use, ecological balance and reduced environmental footprints, ecocentrism offers a more future-oriented framework for river governance and environmental justice.

⁷ Alexandre Lillo, Is Water Simply a Flow? Exploring an Alternative Mindset for Recognizing Water as a Legal Person, 19 Vt. J. Envtl. L. 164 (2018).

⁸ *Yamuna River Pollution Crisis*, THE HINDU (Mar. 2, 2026), <https://www.thehindu.com/infographics/2026-03-02/yamuna-river-pollution-crisis/index.html> (last visited Mar. 22, 2026).

⁹ John Page & Alessandro Pelizzon, Of Rivers, Law and Justice in the Anthropocene, 190 Geographical J. e12442 (2024).

2. Statement of the Problem

Increasing degradation of rivers reveals the limitations of existing environmental frameworks that largely prioritise human developmental needs over ecological sustainability. In the absence of strong rights-based protection, rivers are subjected to pollution, over-extraction and political neglect, even in culturally significant regions such as those associated with the Ganga, Yamuna and Narmada. Global developments recognising river personhood in jurisdictions like New Zealand, Ecuador and Bangladesh indicate a growing shift towards incorporating innovative ecological doctrines within legal systems to ensure long-term environmental protection.

However, the recognition of river rights also raises significant jurisprudential and practical concerns. Issues relating to selective conferment of personhood, enforcement of rights and duties of non-human entities, and balancing ecological protection with socio-economic interests create challenges for courts and policymakers. Addressing these tensions while ensuring sustainable governance and ecological balance forms the core problem examined in this study.

3. Research Gap

Existing literature on river personhood and the rights of nature has largely concentrated on comparative judicial developments and philosophical justifications for extending legal personality to rivers. However, it has not adequately addressed key doctrinal and practical gaps concerning the precise legal status, enforceable rights, corresponding duties, and potential liabilities of rivers once such personality is recognised.

Further, scholarship has insufficiently examined the implications of selective recognition of certain culturally or ecologically significant rivers, the absence of a coherent theoretical framework within the Indian environmental jurisprudential context, and the persistent tension between symbolic judicial recognition and effective institutional enforcement. These gaps indicate the need for a more systematic and integrative legal analysis aimed at developing a consistent and practically sustainable framework for operationalising river rights.

4. Objectives of the Study

This study analyses the evolving jurisprudential foundations and contemporary legal

developments relating to the recognition of rivers as legal persons within environmental law discourse. It aims to situate the concept of environmental personhood within broader theoretical debates on juristic personality, shifting from an anthropocentric understanding of law towards emerging ecocentric approaches. The research further intends to analyse comparative global experiences of granting legal rights to rivers and natural entities through constitutional provisions, legislative measures and judicial innovations.

In addition, the study seeks to critically evaluate the Indian legal position on river personhood in light of cultural traditions, environmental challenges and institutional limitations. By engaging with both doctrinal analysis and policy considerations, the paper aspires to contribute towards identifying a coherent normative and governance framework for recognising rights of nature in India.

The specific objectives of the study are as follows:

- To Examine the Jurisprudential Basis of Environmental Personhood
- To Analyse Comparative Legal Developments Relating to River Rights
- To Critically Evaluate Indian Judicial Approaches
- To Propose a Normative Framework for Sustainable Legal Recognition

5. Research Questions

1. Can Natural Entities Qualify as Legal Persons in Jurisprudential Theory?
2. Does Granting Personhood Enhance Environmental Protection?
3. What Legal and Practical Challenges Arise from Such Recognition?
4. Should River Personhood Be Universal or Context-Specific?

6. Hypothesis of the Study

This study proceeds on the assumption that recognising rivers as legal persons can potentially transform environmental governance by providing stronger normative and procedural tools for ecological protection. At the same time, the hypothesis suggests that such recognition remains limited in effectiveness due to doctrinal ambiguities, selective application, and uncertainties regarding implementation, institutional representation, and enforceability.

It is further assumed that until a coherent legal framework is evolved to integrate river personhood within existing regulatory structures, the concept is likely to operate as a developing and partly symbolic mechanism rather than a fully functional juridical model for sustainable resource protection.

7. Research Methodology

This study adopts a qualitative doctrinal research methodology to analyse the evolving concept of river personhood and environmental legal personality. It is primarily based on a review of academic journal articles, jurisprudential writings, and scholarly literature to understand the theoretical foundations and global developments relating to rights of nature.

The research further involves case law analysis and a comparative legal approach to examine judicial trends across jurisdictions, along with an examination of relevant statutes, constitutional provisions, and environmental regulatory frameworks. In addition, the study incorporates jurisprudential perspectives of legal thinkers and contemporary policy and news contexts to critically assess the practical feasibility and implementation challenges of recognising rivers as legal persons.

8. Scope and Limitations of the Study

8.1 Doctrinal Scope: Jurisprudence and Environmental Law Interface

The study examines the doctrinal evolution of legal personality within jurisprudence and analyses its interface with contemporary environmental law. It explores how traditional concepts of rights, duties, and legal subjectivity are being reconsidered to accommodate non-human entities such as rivers, thereby contributing to the development of ecological jurisprudence.

8.2 Comparative Scope: Global Developments in Rights of Nature

The research adopts a comparative perspective by analysing legislative and judicial developments relating to river personhood and rights of nature across different jurisdictions. It seeks to identify common trends, divergences, and contextual influences shaping the recognition and operationalisation of environmental legal personhood at the global level.

8.3 Practical Significance for Environmental Governance in India

The study evaluates the potential relevance of these evolving legal approaches for strengthening environmental governance in India. It considers how recognition of river rights may influence regulatory mechanisms, institutional accountability, and sustainable resource management, while also addressing implementation challenges within the Indian socio legal and constitutional framework.

8.4 Limitation of the Study

This study is primarily doctrinal and analytical in nature and is based on secondary sources such as judicial decisions, academic literature, statutory materials, and policy developments. It does not involve empirical field research or stakeholder-based data, which may limit assessment of ground level implementation challenges. Further, given the evolving nature of river personhood jurisprudence, the analysis is constrained by the absence of a uniform legal framework and limited long term practical outcomes across jurisdictions.

9. Theoretical Foundations of Juristic Personality and Nature's Rights

The recognition of environmental legal personhood is not merely a recent judicial innovation but is rooted in diverse jurisprudential theories that question the traditional human-centric structure of law. This section examines key theoretical perspectives that have shaped the evolution of nature's rights discourse and influenced contemporary debates on granting juristic personality to rivers and other ecological entities.

9.1 Christopher Stone and the Concept of Legal Standing for Natural Objects

Modern debates on environmental legal personhood draw significantly from Christopher Stone's influential 1972 article *Should Trees Have Standing?* in which he challenged the anthropocentric foundations of law and argued that natural objects such as rivers and forests should be capable of possessing legal standing through human guardians.¹⁰ Stone emphasised that legal personality is a juristic construct created by law for functional and social purposes, rather than a status limited only to human beings.

¹⁰ Christopher D. Stone, *Should Trees Have Standing?*, 45 S. Cal. L. Rev. 450, 452–57 (1972).

Classical jurisprudence, particularly the writings of Salmond, had already recognised that law can attribute personality to non-human entities like corporations and institutions to enable them to hold rights and duties.¹¹ Building upon this doctrinal flexibility, contemporary legal developments including the recognition of nature's rights in Ecuador, statutory personhood for the Whanganui River in New Zealand and judicial innovations concerning rivers in India and Colombia reflect a gradual shift towards ecocentric legal thought. Stone's theory thus provides the foundational justification for extending legal subjectivity to environmental entities while simultaneously raising complex questions relating to representation, enforceability and the practical consequences of such recognition.

9.2 Natural Law Perspectives on Environmental Protection

Natural law theory historically reflects environmental protection within the idea of an inherent moral order discoverable through reason. **Aristotle's** conception of natural justice and **Thomas Aquinas'** view that human law must reflect participation in eternal law provide an ethical basis for ecological stewardship, requiring humans to respect the teleological balance of nature as part of the common good.¹² **John Locke** similarly linked duties toward natural resources with the preservation of mankind and social stability in the state of nature.¹³ Contemporary natural law theorists such as **John Finnis** have further recognised the natural environment as a basic good essential for human flourishing and intergenerational justice.¹⁴

While modern rights of nature movements draw inspiration from such moral reasoning, classical natural law generally resists granting independent legal personhood to non-rational entities like rivers. Instead, it supports environmental protection through the imposition of rational human duties and collective responsibility. Thus, developments such as the recognition of river personhood in jurisdictions like New Zealand and India may be viewed as an extension of natural law inspired ecological concern, even though traditional theory continues to prioritise stewardship over the attribution of full juridical subjectivity to nature.

9.3 Positivist and Analytical Jurisprudential Responses

Positivist and analytical jurisprudence approach river legal personhood from a technical and

¹¹ John W. Salmond, *Jurisprudence* 299–301 (GLANVILLE L. WILLIAMS ed., 12th ed. 1966).

¹² Thomas Aquinas, *Summa Theologica* I-II, Q. 94, Art. 2.

¹³ John Locke, *Second Treatise of Government* §§ 25–31 (1690).

¹⁴ John Finnis, *Natural Law and Natural Rights* 85–90 (2d ed. 2011).

institutional perspective rather than a moral one. For **John Austin**, environmental protection becomes legally enforceable only when it is imposed through sovereign command in the form of statutes backed by sanctions.¹⁵ **Hans Kelsen** similarly views legal personality as a normative construct created by the legal system, where a “*person*” is simply a point of attribution for rights and duties.¹⁶ Thus, rivers may be recognised as juristic persons if the legal order formally assigns them such status.

H. L. A. Hart’s idea of the “*rule of recognition*” explains that legal validity depends on accepted sources of law within a system. If legislation or judicial precedent recognises river personhood, it becomes valid law regardless of philosophical debates.¹⁷ Analytical jurists often draw an analogy with corporate personality, where legal rights and responsibilities are exercised through human representatives. However, they also highlight practical challenges relating to agency, liability and institutional implementation. These concerns were visible in *Mohd. Salim v. State of Uttarakhand*,¹⁸ where the recognition of the Ganga and Yamuna as legal persons faced difficulties due to the absence of a clear statutory framework, leading Indian courts to rely more consistently on the Public Trust Doctrine, as seen in *M.C. Mehta v. Kamal Nath*,¹⁹ which places a legal duty on the State to protect natural resources without granting them full legal subjectivity.

9.4 Sociological and Ecological Jurisprudence

Sociological jurisprudence conceptualises river legal personhood as an instrument of social engineering, enabling law to balance competing social interests such as economic development, public health and environmental conservation.²⁰ In this functional view, recognising rivers as juristic persons strengthens institutional accountability and integrates ecological protection into the framework of social welfare and sustainable resource governance.

Ecological jurisprudence advances a more transformative critique by challenging anthropocentric legal structures and emphasising the intrinsic and relational value of natural systems. River personhood, therefore, is seen as a shift from a property-centric model of

¹⁵ John Austin, *The Province of Jurisprudence Determined* 18–21 (1832).

¹⁶ Hans Kelsen, *General Theory of Law and State* 93–94 (1945).

¹⁷ H. L. A. Hart, *The Concept of Law* 94–99 (2d ed. 1994).

¹⁸ *Mohd. Salim v. State of Uttarakhand*, W.P. (PIL) No. 126 of 2014 (Uttarakhand HC 2017).

¹⁹ *M.C. Mehta v. Kamal Nath*, (1997) 1 SCC 388.

²⁰ Roscoe Pound, *An Introduction to the Philosophy of Law* 47–52 (1922).

environmental regulation towards coexistence-oriented legal approaches. Nevertheless, concerns remain regarding effective representation, governance mechanisms and the practical enforceability of such rights.²¹

10. Evolution of Environmental Personhood in Global Legal Systems

The evolution of environmental personhood globally shows a shift from property-based approaches to recognising nature as a legal subject. Different constitutional, legislative, and judicial models illustrate emerging legal strategies to strengthen ecological protection.²²



10.1 Constitutional Recognition of Nature's Rights in Ecuador and Bolivia

Ecuador and Bolivia represent pioneering Global South models of environmental personhood where nature is recognised as a rights-bearing legal subject rather than merely a resource. These frameworks draw from indigenous philosophies such as **Sumak Kawsay** (*Buen Vivir*), meaning harmonious living between humans and ecosystems, and the idea of *Pachamama*, understood as Mother Earth as a life-sustaining entity.

Ecuador's 2008 Montecristi Constitution (Articles 71–74) grants nature the right to exist, maintain ecological processes, and be restored after environmental harm.²³ A major innovation is universal legal standing, which allows any individual or community to approach courts on

²¹ Alexandre Lillo, *Is Water Simply a Flow? Exploring an Alternative Mindset for Recognizing Water as a Legal Person*, 19 *Vt. J. Env'tl. L.* 164 (2018).

²² Mrinalini Shinde, *Legal Transplants as Seen in the Comparative Analysis of Judicial Decisions on the Environmental Personhood of Rivers*, 7 *RGNUL Student Res. Rev.* 85 (2021).

²³ ECUADOR CONST. arts. 71–74 (2008).

behalf of nature without proving personal injury. Courts have enforced these provisions in cases like the *Vilcabamba River (2011)* and *Los Cedros Forest (2021)* by applying the *precautionary principle*,²⁴ placing the burden on developers to prove that proposed activities will not cause ecological damage where scientific uncertainty exists.

Bolivia adopted a statutory approach through the Law of the Rights of Mother Earth (2010).²⁵ These laws recognise specific ecological rights including protection of life systems, biodiversity, water cycles, air quality, ecological equilibrium, restoration, and freedom from toxic pollution. To resolve the issue of representation, often termed the *guardian paradox*, Bolivia created the **Defensoría de la Madre Tierra**, a public body empowered to act as the legal guardian of environmental interests.

Together, these models illustrate a shift from traditional doctrines such as the public trust doctrine, where the State manages natural resources for public benefit, towards an ecological jurisprudential framework that treats nature itself as a participant in the legal order with enforceable rights.

10.2 Legislative Innovation: The Whanganui River Model in New Zealand

New Zealand's Te Awa Tupua (Whanganui River Claims Settlement) Act, 2017 provides a precise statutory model of environmental personhood.²⁶ The river is recognised as *Te Awa Tupua*, an indivisible living entity from mountains to sea, and is granted full legal personality with rights, duties, and liabilities similar to juristic persons such as corporations.

To resolve the issue that a river cannot act on its own, the Act establishes Te Pou Tupua, a dual guardianship body with one Crown and one Māori representative.²⁷ Guided by indigenous values (Tupua te Kawa) and supported by advisory institutions and a dedicated restoration fund, the model ensures collaborative governance and effective enforcement.

Compared to broader constitutional models or uncertain judicial recognitions like the Ganga–

²⁴ Provincial Court of Loja, *Wheeler v. Director de la Procuraduría General del Estado (Vilcabamba River Case)*, Judgment No. 11121-2011-0010 (2011).

²⁵ Ley de Derechos de la Madre Tierra, Law No. 071 (Bolivia 2010)

²⁶ Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (N.Z.).

²⁷ *Id.* §§ 18–20.

Yamuna personhood decision (2017),²⁸ the Whanganui framework demonstrates how clear legislation can operationalise river rights while addressing concerns of liability, representation, and sustainable management.

10.3 Judicial Recognition of Bio-Cultural Rights in Colombia

Colombia represents a significant judicial model of environmental personhood, where courts have linked ecosystem protection with the cultural survival of indigenous and Afro-descendant communities through the doctrine of bio-cultural rights. In *Judgment T-622 of 2016*, the Constitutional Court declared the Atrato River a legal subject (*entidad sujeto de derechos*) with enforceable rights to protection, conservation, maintenance, and restoration after extensive ecological harm caused by illegal mining.²⁹

The Court recognised that the river's degradation directly threatened the health, food security, and cultural identity of local communities, thereby framing environmental protection as a constitutional necessity. It established a *joint guardianship mechanism*, combining State representatives and community members, to implement restoration and monitoring measures.

Subsequent rulings, including recognition of the Amazon ecosystem as a rights-bearing entity, have expanded this approach, reflecting an ecocentric and intergenerational jurisprudence that treats rivers and forests as socio-ecological systems rather than mere resources.³⁰ This Colombian framework illustrates how judicial innovation can integrate environmental governance with cultural autonomy while moving beyond purely anthropocentric regulatory models.

10.4 Local Governance Approaches: The Magpie River in Canada

The recognition of legal personhood for the Magpie River (Muteshekau Shipu) in Quebec in 2021 represents a *bottom-up local governance model* of environmental protection. Through parallel resolutions by the Innu Council of Ekuanitshit and the Minganie Regional County Municipality,³¹ the river was declared a legal person to prevent hydro-electric dam projects and

²⁸ Mohd. Salim v. State of Uttarakhand, W.P. (PIL) No. 126 of 2014 (Uttarakhand HC 2017).

²⁹ Corte Constitucional [C.C.] [Constitutional Court], Nov. 10, 2016, Sentencia T-622/16 (Colom.).

³⁰ Corte Suprema de Justicia [C.S.J.] Apr. 5, 2018, STC4360-2018 (Colom.).

³¹ Innu Council of Ekuanitshit & Minganie RCM Resolution Recognizing Legal Personhood of the Magpie River (2021).

ecological degradation.

The resolutions granted the river 9 specific rights such as the right to flow freely, maintain biodiversity, remain free from pollution, regenerate after harm, and be represented in legal proceedings through community-based guardians.³² Although lacking the binding strength of national legislation, the Magpie model highlights how local participation, Indigenous stewardship, and decentralised decision-making can operationalise river personhood and strengthen grassroots ecological governance

10.5 Universal Recognition Model: Public Trust Doctrine in Bangladesh

Bangladesh represents the most expansive universal model of river recognition, where the High Court Division in the *Turag River judgment (2019)* declared all rivers, canals, and water bodies as living entities and juristic persons.³³ This decision responded to severe pollution, encroachments, and administrative failure in river protection. The Court recognised essential river rights such as the right to flow, ecological integrity, and freedom from illegal occupation, thereby extending environmental protection beyond isolated cases.

The judgment combines legal personhood with the Public Trust Doctrine,³⁴ treating the State not as owner but as a trustee responsible for safeguarding rivers for present and future generations. The National River Conservation Commission (NRCC) was appointed as the legal guardian empowered to identify and remove encroachers and ensure compliance through stringent sanctions.³⁵ While this model strengthens nationwide river governance and reflects the socio-ecological dependence of Bangladeshi society on river systems, it also raises practical challenges of large-scale implementation and complexities relating to transboundary river management.

11. River Personhood in India: Judicial Innovation and Constitutional Limitations

This section discusses how Indian environmental jurisprudence has increasingly experimented with innovative judicial approaches, including the recognition of river personhood, to address

³² Annick Thomassin et al., *The Magpie River Case*, 14 Sustainability 1025, 1028–30 (2022).

³³ *Human Rights & Peace for Bangladesh v. Bangladesh*, Writ Petition No. 13989 of 2016 (H.C.D. 2019).

³⁴ *Id.*

³⁵ *Id.*

ecological degradation and governance failures.

11.1 Mohd. Salim v State of Uttarakhand and the Recognition of River Personhood

The formal judicial recognition of river personhood in India began with *Mohd. Salim v. State of Uttarakhand (2017)*,³⁶ arising from a PIL concerning illegal encroachments, mining activities and delays in constituting the Ganga Management Board. Treating the ecological decline of the Ganga and Yamuna as an *extraordinary situation*, the Uttarakhand High Court adopted the jurisprudential device of legal fiction, drawing on precedents relating to corporations and Hindu idols to declare the rivers and their tributaries as juristic persons or living entities with corresponding rights and liabilities.

Recognising their ecological importance and cultural significance,³⁷ the Court exercised its *parens patriae jurisdiction* and appointed the Director of Namami Gange, the Chief Secretary and the Advocate General as *loco parentis* guardians to represent the rivers. By linking this recognition with constitutional environmental duties under Articles 48-A and 51A(g),³⁸ This marked a shift from traditional duty-based environmental protection towards an experimental rights-based judicial approach.

11.2 Doctrinal Basis: Parens Patriae and Legal Personality of Religious Idols

The doctrinal basis of river personhood in *Mohd. Salim v. State of Uttarakhand* lies in the combined use of *parens patriae* and the established legal personality of religious idols. The Court invoked *parens patriae* to act as guardian of ecological interests. Drawing from precedents like *Yogendra Nath Naskar* and later reaffirmed in the *Ayodhya* case,³⁹ the Court analogised rivers to Hindu idols, which are recognised as juristic persons to safeguard property and pious purposes through human managers. However, unlike religious idols whose personality safeguards property interests, river personhood seeks to secure ecological integrity and public environmental rights.

³⁶ Mohd. Salim v. State of Uttarakhand, W.P. (PIL) No. 126 of 2014 (Uttarakhand H.C. Mar. 20, 2017).

³⁷ Monishaa Suresh, Rivers, Rights, and Religion: Securing Legal Personhood for the Ganges River in India, 33 Tul. J. Int'l & Comp. L. 41 (2025).

³⁸ INDIA CONST. arts. 48A, 51A(g).

³⁹ Yogendra Nath Naskar v. CIT, AIR 1969 SC 1089; M. Siddiq (D) Thr. Lrs. v. Mahant Suresh Das, (2020) 1 SCC 1.

11.3 Constitutional Environmental Duties and Ecological Jurisprudence

In *Mohd. Salim v. State of Uttarakhand (2017)*,⁴⁰ the High Court relied on Articles 21, 48A and 51A(g) to justify granting legal personality to the Ganga and Yamuna.⁴¹ It held that pollution and degradation of rivers directly affect the right to life under Article 21, Earlier decisions such as *M.C. Mehta v. Union of India* and *Subhash Kumar v. State of Bihar* had already recognised the right to a clean environment and pollution-free water as integral to Article 21.⁴² The Court also developed principles of sustainable development and the precautionary principle in *Vellore Citizens Welfare Forum v. Union of India*,⁴³ strengthening India's regulatory environmental jurisprudence.

While Article 48A requires the State to actively protect and improve the environment and Article 51A(g) places a duty on citizens to safeguard rivers and other natural resources emphasising intergenerational environmental responsibility.⁴⁴

11.4 Supreme Court's Stay and Concerns of Legal Unsustainability

The declaration of river personhood in *Mohd. Salim v. State of Uttarakhand (2017)* was stayed by the Supreme Court on 7 July 2017 after the State challenged its practical enforceability.⁴⁵ The stay reflected concerns regarding the legal sustainability of the High Court's framework.

One key issue was **territorial jurisdiction**. The Ganga and Yamuna flow across multiple states beyond the Court's jurisdiction, while the guardians appointed by the Uttarakhand High Court had authority only within the state. The Court also raised the liability paradox of treating rivers as legal persons, questioning who would bear responsibility for natural events such as floods and whether the State could face unlimited financial claims. Further, appointing senior government officials as *loco parentis* created potential conflicts of interest, since the executive itself often approves activities affecting river ecology. Unlike legislatively detailed models such as New Zealand's Whanganui framework, the absence of statutory clarity on governance, liability and funding made the recognition difficult to operationalise.

⁴⁰ *Mohd. Salim v. State of Uttarakhand*, W.P. (PIL) No. 126 of 2014 (Uttarakhand H.C. Mar. 20, 2017).

⁴¹ INDIA CONST. arts. 21, 48A, 51A(g).

⁴² *M.C. Mehta v. Union of India*, (1987) 1 SCC 395; *Subhash Kumar v. State of Bihar*, (1991) 1 SCC 598.

⁴³ *Vellore Citizens' Welfare Forum v. Union of India*, (1996) 5 SCC 647.

⁴⁴ INDIA CONST. arts. 48A, 51A(g).

⁴⁵ *State of Uttarakhand v. Mohd. Salim*, SLP (C) Diary No. 016879 of 2017 (Sup. Ct. July 7, 2017).

12. Cultural Symbolism, Faith and Legal Recognition of Nature

This section examines how cultural belief systems, civilisational values and indigenous ecological ethics have influenced the legal imagination surrounding environmental personhood. It highlights the interaction between symbolic reverence for nature and the practical demands of enforceable environmental governance.

12.1 Rivers as Sacred Entities in Indian Civilisational Thought

Indian civilisational thought has historically regarded rivers as sacred, living entities rather than mere natural resources. Vedic hymns such as the *Nadi Stuti Sukta* in the *Rigveda* personify rivers like Ganga and Yamuna as divine maternal forces associated with purity, sustenance and spiritual liberation. Ritual practices including pilgrimage, sacred bathing and festivals such as the Kumbh Mela reflect the idea of rivers as *tirthas*, spaces mediating the material and spiritual worlds.⁴⁶

Philosophical traditions like the doctrine of *Pancha Bhoota* further emphasise the interconnectedness between human life and natural elements, particularly water. This cultural ontology forms an important background to modern judicial innovations such as *Mohd. Salim*, where legal recognition of rivers as living entities sought to align formal environmental governance with long-standing societal faith and ecological sensitivity.

12.2 Symbolism Versus Legal Realism in Environmental Governance

Environmental governance reflects a tension between symbolic recognition and legal enforceability. In *Mohd. Salim*, declaring the Ganga and Yamuna as living persons had an expressive impact by reshaping public perception and reinforcing constitutional environmental duties under Articles 48A and 51A(g).⁴⁷

However, legal realism highlights practical limits. The Supreme Court's stay noted interstate jurisdiction problems, unclear liability for natural disasters, lack of statutory backing and potential conflicts where state officials acted as both regulators and guardians. Realist

⁴⁶ Monishaa Suresh, Rivers, Rights, and Religion: Securing Legal Personhood for the Ganges River in India, 33 Tul. J. Int'l & Comp. L. 41 (2025).

⁴⁷ INDIA CONST. arts. 48A, 51A(g).

approaches also consider development needs such as dams, irrigation and infrastructure.

Effective governance in India requires blending symbolic ecological commitment with clear legal frameworks, institutional independence and financial mechanisms to ensure real environmental protection.

13. Legal and Practical Challenges of River Personhood

The idea of personhood to rivers seems attractive but, raises complex legal and administrative questions. Courts and legislatures must determine how non-human entities can meaningfully exercise rights, bear duties, and function within existing governance frameworks. These challenges shape the long-term viability of ecological jurisprudence.⁴⁸

13.1 Determination of Rights, Duties and Liabilities of Natural Entities

Recognising rivers as legal persons raises the core question of what concrete rights, duties and liabilities they possess. Since natural entities lack agency and assets, most jurisdictions grant a limited bundle of ecological rights such as the right to exist, flow, regenerate and remain free from pollution, enforced through human guardians.

Duties are generally passive and liabilities are restricted or shifted to polluters or negligent authorities to avoid impractical outcomes like suing rivers for floods. Comparative models show varying clarity. Ecuador constitutionally recognises nature's rights,⁴⁹ New Zealand's Whanganui Act defines rights and liability limits,⁵⁰ while India granted broad rights without an operational framework. Bangladesh extended legal status to all rivers under the Public Trust Doctrine,⁵¹ and Canada's Magpie River received specific localised rights.⁵²

Thus, defining enforceable rights with limited liabilities remains a central legal challenge in river personhood jurisprudence.

⁴⁸ Cristy Clark et al., Can You Hear the Rivers Sing? Legal Personhood, Ontology, and the Nitty-Gritty of Governance, 45 Ecology L.Q. 787 (2019).

⁴⁹ ECUADOR CONST. arts. 71–74 (2008).

⁵⁰ Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (N.Z.).

⁵¹ Human Rights & Peace for Bangladesh v. Bangladesh, Writ Petition No. 13989 of 2016 (H.C.D. 2019).

⁵² Annick Thomassin et al., The Magpie River Case, 14 Sustainability 1025, 1028–30 (2022).

13.2 Institutional Guardianship, Accountability and Natural Event Liability Concerns

Legal personhood, derived from the idea of *persona*, allows an entity to hold rights and duties through human representatives. Extending this fiction to rivers aims to strengthen environmental protection by enabling guardians to sue, seek restoration, and prevent ecological harm.

Since rivers lack agency, guardianship frameworks are essential. Guardians may include state officials, indigenous bodies, or independent boards. However, when government authorities act as guardians, conflicts of interest and weak accountability may arise, especially where the state itself authorises projects affecting rivers.

A key challenge is the *liability paradox* in natural events like floods. Classical law links rights with liability, but rivers have no intent or assets. Most models therefore adopt limited liability, treating floods as *Acts of God* and shifting responsibility only to negligent human actors. Statutes like New Zealand's Whanganui framework provide explicit immunity, while other systems use polluter-pays principle where a person, company, or authority that causes pollution or environmental damage must bear the cost of cleaning, restoring, and compensating for that damage.⁵³

13.3 Transboundary Governance and Federal Jurisdictional Complexities

River personhood faces major challenges where rivers flow across multiple states or national borders. A court or authority in one state cannot effectively enforce ecological rights against polluters located in another jurisdiction.

In India, this issue arose in *Mohd. Salim v. State of Uttarakhand (2017)*,⁵⁴ since rivers like Ganga and Yamuna pass through several states before entering Bangladesh. Without central legislation, interstate coordination, or international agreements, enforcement of river rights becomes legally weak and practically unworkable.

⁵³ Vellore Citizens' Welfare Forum v. Union of India, (1996) 5 SCC 647.

⁵⁴ Mohd. Salim v. State of Uttarakhand, W.P. (PIL) No. 126 of 2014 (Uttarakhand H.C. Mar. 20, 2017).

13.4 Selectivity Critique: Equality of Environmental Rights

The selectivity critique questions why legal personhood is granted only to “*charismatic ecosystems*” like the Ganga or Whanganui, while many equally degraded rivers and wetlands remain treated as property. This creates a two-tier protection regime, undermining analytical consistency in ecological jurisprudence.

In India, such selective recognition may conflict with the spirit of Article 14, since similarly situated ecosystems are excluded. In contrast, Bangladesh adopted a universal model, declaring all rivers legal entities to reflect ecological interconnectedness.

However, some scholars defend strategic selectivity as a pragmatic pilot, allowing limited state resources to focus on key ecosystems first. The debate thus reflects a tension between equality of environmental rights and governance practicality.

14. Towards a Coherent Framework for Environmental Personhood

For river personhood to be effective, symbolic recognition must evolve into a coherent legal and institutional framework. This requires legislative clarity, community participation and a balanced approach that aligns ecological protection with sustainable development.

14.1 Need for Legislative Recognition and Institutional Mechanisms

The experience of India shows that judicial recognition alone cannot sustain river personhood, making a comprehensive National River Rights Framework necessary for operational governance. A central statute can ensure **basin-wide jurisdiction** (Entry 56, Union List),⁵⁵ overcoming interstate fragmentation and enabling uniform ecological regulation.

Such a framework should provide clear institutional mechanisms including independent multi-stakeholder river guardian authorities (scientists, community representatives, legal experts) and scientific monitoring systems that translate ecological indicators like flow levels or pollution thresholds into legally enforceable triggers.⁵⁶ It must also establish non-lapsable restoration

⁵⁵ INDIA CONST. sched. VII, list I, entry 56.

⁵⁶ Erin L. O’Donnell & Julia Talbot-Jones, *Creating Legal Rights for Rivers: Lessons from Australia, New Zealand, and India*, 23 *Ecology & Soc’y* 7 (2018).

funds, giving rivers financial autonomy for conservation and repair.

By codifying principles like the public trust doctrine and polluter pays, legislative recognition can transform environmental personhood from aspirational rhetoric into a workable institutional framework for sustainable river protection.⁵⁷

14.2 Community Participation and Ecological Stewardship Models

River personhood becomes meaningful only when the river has a real “voice” in governance. This voice should emerge not merely from state officials but from basin communities whose lives, culture and livelihoods are directly linked with the river.⁵⁸ Global models reflect this shift. The Whanganui framework recognises joint State–indigenous guardianship, while Colombia’s Atrato model empowers local ethnic communities to represent the river using both scientific data and traditional ecological knowledge.

In India, participatory stewardship can be institutionalised through Panchayats, civil society river groups and expert representatives as statutory sub-guardians. Such bottom-up representation enables continuous monitoring, improves accountability and gives social legitimacy to environmental decision-making beyond technocratic control.

14.3 Development–Ecology Balance and Sustainable River Rights Framework

India needs a middle-path river rights model where ecological protection and development coexist. River personhood should ensure minimum ecological flows, no-go zones in fragile stretches, and mandatory river-health impact tests for dams, irrigation and urban projects rather than total prohibition.

A National River Rights law should create basin-level interstate authorities, provide statutory immunity to rivers for natural floods, and fix liability on negligent agencies or polluters.⁵⁹ Fines and environmental cesses must go into a dedicated river restoration fund, while independent boards with community and scientific representation oversee compliance.

⁵⁷ M.C. Mehta v. Kamal Nath, (1997) 1 SCC 388; Vellore Citizens’ Welfare Forum v. Union of India, (1996) 5 SCC 647.

⁵⁸ Cristy Clark et al., Can You Hear the Rivers Sing? Legal Personhood, Ontology, and the Nitty-Gritty of Governance, 45 Ecology L.Q. 787 (2019).

⁵⁹ Vellore Citizens’ Welfare Forum v. Union of India, (1996) 5 SCC 647.

Such a regulated framework advances **SDG 6** (clean water), **SDG 13** (climate resilience), and **SDG 15** (ecosystem protection) by combining ecological safeguards with sustainable economic use.⁶⁰

15. Conclusion: Rethinking River Personhood

Environmental degradation and persistent river pollution have exposed the limits of anthropocentric legal frameworks that treat rivers primarily as objects of regulation. Contemporary jurisprudence increasingly explores the recognition of rivers as legal persons to strengthen ecological protection through rights-based approaches. Comparative global developments demonstrate evolving institutional models of environmental personhood, while India's judicial experiment reflects both symbolic progress and practical challenges relating to governance, jurisdiction and liability.

The study suggests that river personhood can contribute meaningfully to sustainable environmental governance only when supported by clear legislative frameworks, accountable guardianship mechanisms and basin-level coordination. A balanced approach integrating ecological protection with developmental needs is therefore essential to transform environmental personhood from a normative aspiration into an operational legal framework.

⁶⁰ U.N. Gen. Assembly, Transforming Our World: The 2030 Agenda for Sustainable Development, U.N. Doc. A/RES/70/1 (2015).

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