
GRANTING PERSONHOOD TO NATURE: A CONSTITUTIONAL AND SDG-ORIENTED COMPARATIVE STUDY OF LEGAL INNOVATIONS IN INDIA, ECUADOR, AND NEW ZEALAND

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ABSTRACT

The recognition of the rights of nature by granting them the status of personhood and attributing them with legal rights just like humans, stands as an attempt made by the humans to reshape their relationship with the nature. This paper deals with this concept by studying the through the lens of the Indian Constitution under Article 21, the doctrines attributed to it and the evolution of the concept through judicial activism. A special focus is given to the Uttarakhand High Courts judgements in which it granted the rivers Ganga and Yamuna and the ecosystem the status of environmental personhood. A comparative analysis is drawn by studying the initiatives taken by Ecuador in which it recognised the rights of nature through constitution and New Zealand's recognition of river Whanganui. It also examines how recognition of environmental personhood can help achieve Sustainable Development Goals, Especially, Goals 13, 14 and 15. This paper argues that though recognition of environmental personhood can help provide a transformative framework to govern the ecosystem, it may still risk remaining as just symbolic, unless it is backed by clear legislation, institutional framework, guardianship and political will. For India a way forward is to adopt a hybridised constitutional innovation with a clear statute, providing not just rights in rhetoric but those which are enforceable.

Keywords: Environmental Personhood, Rights of Nature, Sustainable Development Goals, Public Trust Doctrine, Anthropocentrism.

INTRODUCTION

As legal systems worldwide wrestle with climate change, biodiversity collapse, and aggravating water crises, the question commonly but simply formulated by legal systems all over the world is, can law continue to treat nature as property, or can it be made so to rivers, forests and ecosystems as to acknowledge the rights of nature? The concept that nature objects are able to possess legal personality is not merely a piece of rhetoric but the protection moves beyond a humanist protection to that of recognising that ecosystems have value and require protectable and defensible needs.

This intellectual movement has long intellectual origins. The concept of modern environmental personhood, was initially a cry to widen the legal circle of concern: whether law had previously granted rights to groups, and prevented things, it could likewise provide the same to nature.¹ As a matter of fact the idea has been practically implemented in various jurisdictions, whereby statutes and negotiated settlements have transformed theory into practise. Some countries have even gone to an extent of entrenching the rights of nature within their constitutional texts.

India implies a special constitutional juncture. Though its Constitution does not give nature a legal personality, the extensive protection of life in Article 21, the imperative to safeguard and enhance the environment in Article 48A and the citizen obligation in Article 51A(g): this provision introduces a constitutional environment in which legal innovation is not shy of ambitions. These provisions have been long interpreted by Indian courts to imply ecological protection, leading to such doctrines as absolute liability and the public trust, which hold natural resources to be shared resources and requiring special protection. In 2017 that judicial creativity reached its zenith when the Uttarakhand High Court gave the Ganga and Yamuna rivers legal personality as living beings and, shortly after that, to glaciers, forests, lakes, and meadows.² The Supreme Court has halted their orders but their symbolic strength and the boldness of their doctrine has given rise to a debate over how India can become a person, whether by court, law or constitutional amendment.

Competitive experience gives encouragement as well as guidance. In the world, the 2008 constitutional acknowledgment of Pachamama, the rights of the Earth Mother introduced in the 2008 constitution of Ecuador, was the first ecological personhood constitutionally

¹ Christopher D. Stone, *Should Trees Have Standing? Toward Legal Rights for Natural Objects*, 45 S. CAL. L. REV. 450 (1972).

² Mohd. Salim v. State of Uttarakhand, W.P. (PIL) No. 126 of 2014 (Uttarakhand H.C. Mar. 20, 2017) (India); Lalit Miglani v. State of Uttarakhand, W.P. (PIL) No. 140 of 2015 (Uttarakhand H.C. Mar. 30, 2017) (India).

enumerated and based on the Indigenous cosmologies of Earth, in which humans are seen as components of the Earth rather than its rulers.³ Another path is the negotiated statutory one, such as the example of Te Awa Tupua (Whanganui River Claims Settlement) Act 2017. The principles of this Act are cultural legitimacy and it is backed by the institutional guardianship model which guarantees representation but clarity on operations.⁴ These alternative ways of considering personhood more depict how the legal personhood, which is expressed by constitutional proclamation and statutory guardianship, is as real as the moral case on which it is based. According to the literature, personhood is not panacea or unalloyed good. It is dangerous to re-write anthropocentric categories since they are only recognised when put into the context of human interest.⁵ Other theorists cite the issue of political-economic nature: where extractive interests run, constitutional/judicial declarations are merely aspirational unless they are sort of institutionalised and of political will.⁶

The purpose of the study is pragmatic and prescriptive: to find out whether environmental personhood can be developed into a sustainable legal institution that enhances constitutional promises and can improve sustainability, or it will continue to be an idealistic theory that is easily subject to backsliding by political leaders. In order to do so, the paper is informed by doctrinal analytical attention to Indian constitutional law, reflective examination of the Uttarakhand judgments and their aftermath, and comparative experience that can be made in Ecuador and New Zealand, by integrating both empirical and normative assertions in such a way that the argument remains within the domain of legal practise and within the domain of theory.

There are three objectives that this paper tries to address. First, to examine how environmental personhood interacts with constitutional principles including Fundamental rights and directive principles. Second, to evaluate how Ecuador's model and New Zealand's framework interact with India's legal system and to identify the challenges. Third, to analyse the extent to which environmental personhood contributes to achieving SDG goals 13, 14 and 15, highlighting both its limitations and promises. This paper aims to answer the following questions: How does

³ Oriol Bueno, "Pachamama over People and Profit: A Case for Indigenous Ecologies in Bilingia," ARCADIA (2018).

⁴ Devon Ward, *The Art of Environmental Personhood and the Possibility of Environmental Statehood*, 32 ARTNOEDS 1 (2023).

⁵ Joshua Reeves & John Peters, *Responding to Anthropocentrism with Anthropocentrism: The Biopolitics of Environmental Personhood* (2021).

⁶ Rawnak Miraj Ul Azam, Syeda Afroza Zerin & Fahim Faisal Khan Alabi, *The Rights of Nature Movement: Legal, Cultural, and Policy Challenges in Implementing Eco-Centric Laws*, 5 J. Env'tl. L. & Pol'y 4 (2025).

environmental personhood align with, or challenge, India's constitutional principles? To what extent can the models of environmental personhood in Ecuador and New Zealand be adapted within India's constitutional and institutional context, and what challenges might such transplantation face? How far does environmental personhood contribute to achieving key Sustainable Development Goals especially SDG 13 (climate action), SDG 14 (life below water), and SDG 15 (life on land)?

LITERATURE REVIEW

According to Stone (1972), natural objects should have legal status, and nature as a rights-holder, which is the basic argument of his classic essay. He compared this change in the trend to the expansion of rights of women, children and corporations of the past that seemed unthinkable in the past. Stone provided the intellectual basis of the global rights-of-nature movement by changing the environmental law into ecocentric acknowledgment of rights in place of a human-centred approach to harm (anthropocentric approach). His concepts are still a part of constitutional and statutory progress, and the courts of different countries are still referring to his work as the key to the discussions about environmental personhood.⁷

Collins and Esterling (2019), examine the legal status of a river, the Whanganui River as understood in New Zealand. They situate the Act in the Maori cosmology where the river is an ancestral living entity with the community identity. Their analysis depicts merging indigenous values with state law within the guardianship institutions and demonstrates that personhood thrives where it is based on cultural legitimacy and structures that are long term. The model combines law and tradition in an attempt to provide an effective way of governing the environment, and also emphasizes the need to institutionalize indigenous worldviews.⁸

Bueno (2018), analyses the history of the first Constitution that instituted rights of Pachamama (Mother Earth) in Ecuador in 2008. Using the Andean cosmology, he demonstrates how the Constitution transformed human-nature relationships. However, he draws areas of contradictions between the ecocentric ideals and extractive production like oil and mining. His work warns that constitutional rights that have no political will can be symbolic gestures. The model in Ecuador is acclaimed yet weak in the face of neoliberal forces, which points to the

⁷ Christopher D. Stone, *Should Trees Have Standing? Toward Legal Rights for Natural Objects*, 45 S. CAL. L. REV. 450 (1972).

⁸ Toni Collins & Shea Esterling, *Fluid Personality: Indigenous Rights and the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 in Aotearoa New Zealand*, 20 MELB. J. INT'L L. 1 (2019).

conflicts in law, economy, and indigenous hopes.⁹

Ward (2023), re-initiates the concept of personhood as something beyond mere recognition, he approaches personhood as a design issue of governance. He argues that ecosystems might need -structures not only rights-equivalent but staffs such as institutions between states theorists might need to consider- is needed to support ecological claims. Ward states that the use of symbolism cannot be used to guarantee environmental futures. His approach to ecological justice, as he connects the ecological issue with politics, art and law is thus able to expand the debate on personhood as well as provide connections with questions of sovereignty and power.¹⁰

Butler (2021) places environmental personhood in the framework of legal fictions, like the personality of corporations. She claims that such fictions are instruments, not metaphysical facts, which depend on the enforcement by institutions. Personhood is threatened to be hollow when there is no guardianship and accountability. Her examination demonstrates opportunities of legal creativity to empower and restrict ecological protection, between theory and practice and why legal fictions are important. One of the jurisprudential pillars of the debate on personhood is provided by Butler.¹¹

Azam, Zerine, and Alabi (2025) review international initiatives to make rights of nature a reality on the continents. They emphasize that enforcement is related to cultural fit, political commitment and institutional design. Without these components, the concept of personhood will be rhetoric and not transformational. Their article exposes the disconnects between high statements and ecological performance, warns against imposing legal model transplantations without modification, and cautions against personhood being an ecological panacea.¹²

Ghosh and Jha (2020) discusses the case of judicial rulings in the Uttarakhand High Court. They say that bold statements have resulted into confusion on enforceability and jurisdiction. Devoid of statutory clarity, judicial creativity is no more than an eyewash. Their analysis puts personhood among the constitutional principles of directive and rights doctrines in India, and the fragile state between the activism and restraint. Their criticism is still at the heart of the

⁹ Oriol Bueno, *Pachamama over People and Profit: A Case for Indigenous Ecologies*, Arcadia (2018).

¹⁰ Devon Ward, *The Art of Environmental Personhood and the Possibility of Environmental Statehood*, 32 *Artnodes* 1 (2023).

¹¹ Eleanor Butler, *Legal Fictions and the Personhood of Nature*, 38 *Pace Env'tl. L. Rev.* 79 (2021).

¹² Rawnak Miraj Ul Azam, Syeda Afroza Zerine & Fahim Faisal Khan Alabi, *The Rights of Nature Movement: Legal, Cultural, and Policy Challenges in Implementing Eco-Centric Laws*, 5 *J. Env'tl. L. & Pol'y* 4 (2025).

Indian personhood discourse.¹³

Spitz and Penalver (2021) express a doubt on whether personhood is the most efficient means of protecting nature. They argue that property law has ecological virtues including stewardship and long-term responsibility. Their view adds rights to the range of tools of environmental governance. They warn about excess investment in imagery of personhood at the lien of functionalists. Through comparative strategy, they allow pluralism in environmental law and undermine the control of the rights paradigm.¹⁴

Jolly and Menon (2021) discuss the Indian implications of the legal personhood of rivers and glaciers. According to them, legal ambiguities occur when there are legislative ambiguities in the legal interpretation of the judiciary. Without the statutory design, the issue of liability, guardianship and enforcement is clouded. Their writing has been a warning about the risks of judicial overstep in environmental law. When they demand legislative frameworks, they make a bridge between constitutional creativity and governments, by being a moderating voice in the personhood debate in India.¹⁵

Reeves and Peters (2021) criticize the nature of environmental personhood as a repetition of human categories. According to law, by granting rights using human structures, it runs a risk of strengthening anthropocentrism. Nevertheless, they admit its rhetorical force in the change of discourse. In their analysis, a paradox is seen in their appeal to anthropocentric tools to interest in human dominance. The article encourages people to be careful about blind celebration of personhood and that legal innovation is accompanied by profound philosophical problems.¹⁶

1. THE FOUNDATIONS OF THE CONCEPT

This concept of personhood is not new, when social needs demanded it non-human entities like idols, ships, municipalities, municipalities, estates have been recognised as legal persons in the

¹³ Shibani Ghosh & Anirudh Jha, *Environmental Personhood in India: Eyewash or Answer?*, Indian J. Env'tl. L. (2021).

¹⁴ Laura Spitz & Eduardo M. Peñalver, *Nature's Personhood and Property's Virtues*, 45 FORDHAM INT'L L.J. 315 (2021).

¹⁵ Stellina Jolly & K.S. Roshan Menon, *Of Ebbs and Flows: Understanding the Legal Consequences of Granting Personhood to Natural Entities in India*, 10 TRANSNAT'L ENVTL. L. 467 (2021).

¹⁶ Joshua Reeves & John Peters, *Responding to Anthropocentrism with Anthropocentrism: The Biopolitics of Environmental Personhood*, Phil. & Tech. (2021).

past and were granted protection and representation.¹⁷

The modern conversation on environmental personhood was first started by Christopher Stone in his essay, *Should Trees Have Standing?*¹⁸ In it, he raised the question of why natural objects should not be represented in court through guardians, as corporations and ships are and developed the idea of environmental personhood as the next logical step in the law's history of extending rights to previously excluded groups like women, children, enslaved people, and others.¹⁹

Subsequent scholarships show that legal personhood is a fiction, but fictions are used for different things.²⁰ Corporate personhood brings about economic utility and environmental personhood brings about ecological necessity.²¹ This makes such a distinction unique to Environmental personhood because the rationale behind it is not about facilitating human transactions but recognising nature's intrinsic value.²²

Nevertheless, the use of "personhood" as a metaphor to the nature can sometimes create tension because this means that nature is protected only when it is treated like human, which shows the anthropocentric mindset.²³ This is a key paradox that points to a central problem that must be addressed - that law relies on conceptual fictions to help protect ecosystems, but these fictions can re-impose the very categories of humans that they seek to transcend.²⁴

Comparative experience reveals relations between jurisprudence foundations and cultural traditions. The constitution of Ecuador acknowledges that Pachamama is a legal right safeguarded by the constitution not just as a legal innovation but as a response to Indigenous cosmologies of ecological community and interdependence about human beings.²⁵ The New Zealand's Act is based on the indigenous belief where they treat the river as their ancestors respecting this belief the river was recognised by law and appointed guardians to act on behalf of it.²⁶ Colombia also recognised its natural resources like Atrato river and Amazon rainforest

¹⁷ Shreya Jha & Shibani Ghosh, *Rights of Nature and Legal Personhood for Rivers in India*, 11 NUJS L. Rev. 3 (2018).

¹⁸ *Supra note 1 at 1*.

¹⁹ *Ibid.*

²⁰ *Granting Rights to Nature*, 6 Int'l J. Legal Sci. & Innovation 50 (2024).

²¹ *Ibid.*

²² Eleanor Butler, *Legal Fictions and the Personhood of Nature*, 38 Pace Env'tl. L. Rev. 79 (2021).

²³ Joshua Reeves & John Peters, *Responding to Anthropocentrism with Anthropocentrism: The Biopolitics of Environmental Personhood* (2021).

²⁴ *Ibid.*

²⁵ *Supra note 3 at 2*.

²⁶ *Supra note 4 at 2*.

and granted it legal personhood. The recognition was based on the human rights like life, health and clean environment. This sets an example that for human rights to be protected it is also necessary to protect environment because caring for environment is equal to caring for nature.²⁷

Taken together, these developments indicate that environmental personhood is not so much symbolic or pragmatic. It is both jurisprudentially possible because law has been based on fictions for the creation of representation for a long time and normatively justified because ecosystems have intrinsic value to be protected. Yet it remains fragile and it may be undermined either by symbolic appropriation or political marginalisation, since it is anthropocentric in terms of metaphors, and it is institution dependent on instrumentalities.

2. THE APPROACHES OF INDIAN COURTS

2.1. Constitutional Foundations

The rights of nature are not explicitly defined by the Indian Constitution but the very structure allows the eco-centric interpretation. Article 21 ensures the right to life and the Supreme Court has interpreted it rather broadly in addition to a healthy and clean environment.²⁸ In *M.C. Mehta* (Oleum gas leak case), the principle of absolute liability was developed by the Court in *Union of India* when it decided that any business which undertook dangerous ventures was absolutely liable in case of damages.²⁹ In *Subhash Kumar* case, the Court in the state of Bihar affirmed that the right to life entailed the right to clean water and air.³⁰

Ecological obligations are also strengthened on the basis of Directive Principles. Article 48A of the Indian Constitution instructs the State to offer environmental protection and enhancement, whereas article 51A (g) sets responsibilities on the citizens. Courts have not been granted justiciability, but have viewed and treated them as judicial guidance to enhance Article 21 protective measures.³¹

2.2. Doctrinal Foundations

The Indian environmental jurisprudence has particularly been significant on two doctrines.³²

²⁷ Shibani Ghosh & Anirudh Jha, *Environmental Personhood in India: Eyewash or Answer?*, Indian J. Env'tl. L. (2021).

²⁸ Allison Athens, *Can Personhood Protect the Environment?*, 45 Fordham Int'l L.J. 315 (2021).

²⁹ *M.C. Mehta v. Union of India*, (1987) 1 SCC 395 (India).

³⁰ *Subhash Kumar v. State of Bihar*, (1991) 1 SCC 598 (India).

³¹ Zia Akhtar Jha & Anurag Ghosh, *Legal Personhood for Nature: Emerging Judicial Discourse in India*, 11 NUJS L. Rev. 159 (2018).

³² Allison Athens, *Can Personhood Protect the Environment?*, 45 Fordham Int'l L.J. 315 (2021).

The doctrine of the public trust as evolved in *MC Mehta v. Kamal Nath*, court held that people hold natural resources as trustees to the state and that these cannot be transferred by them.³³

Indian courts have applied to nature the doctrine of *parens patriae* that a State is a protector of individuals who cannot represent themselves. Such a transformation indicates a change in the way natural resources are viewed as the property of states into the perception of them as struggling beings in need of protection.³⁴

2.3. The Uttarakhand Cases

The largest proposed effort to implement these constitutional and doctrinal bases was made by the Uttarakhand High Court in 2017. In *Mohd. Salim* case, the court made a declaration of the rivers of Ganga and Yamuna to be a legal person. It appointed three officials the Director of Namami Gange, the Chief Secretary of Uttarakhand and the Advocate General as guardians in *parens patriae*.³⁵

Only ten days after, in *Lalit Miglani* case, the Uttarakhand High Court also applied their logic to glaciers (Gangotri and Yamunotri), forests, lakes, meadows, springs and waterfalls and held them to be legal persons in the State of Uttarakhand. These ecosystems were characterised as sacred and worshipped and the responsibility of the State as the trustee was referenced.³⁶

The Court specifically cited the recognition of New Zealand Whanganui River which was an indication that India would be able to adapt global innovations. However, Uttarakhand as compared to the New Zealand statutory guardianship approach, was purely based on judicial logic and constitutional principles.³⁷

Very shortly the orders of the High Court were stayed by the Supreme Court casting a doubt on the enforceability and liability. It has observed that the recognition of rivers and glaciers as legal persons created new unresolved questions: can they be sued in case of the damage caused by floods? Would there be personal responsibility of guardians due to acts of nature? In the absence of a statutory understanding, the Court found implementation impracticable.³⁸

³³ *M.C. Mehta v. Kamal Nath*, (1997) 1 SCC 388 (India).

³⁴ *Shibani Ghosh & Anirudh Jha, Environmental Personhood in India: Eyewash or Answer?*, Indian J. Env'tl. L. (2021).

³⁵ *Mohd. Salim v. State of Uttarakhand*, W.P. (PIL) No. 126 of 2014 (Uttarakhand H.C. Mar. 20, 2017) (India).

³⁶ *Lalit Miglani v. State of Uttarakhand*, W.P. (PIL) No. 140 of 2015 (Uttarakhand H.C. Mar. 30, 2017) (India).

³⁷ *Shreya Jha & Shibani Ghosh, Rights of Nature and Legal Personhood for Rivers in India*, 11 NUJS L. Rev. 3 (2018).

³⁸ *State of Uttarakhand v. Mohd. Salim*, SLP (C) No. 016879/2017 (Sup. Ct. India July 7, 2017).

The writers of scholarly articles have criticised the Uttarakhand rulings as being ambitious yet poorly developed. Personhood touched upon the ethos of the Indian constitution, but did not have the statutory and institutional frames to be put in place.³⁹ There are arguments that the rulings were excessive stretching of constitutional principles with no credible legislative foundation.⁴⁰

These Indian cases set an example as to how the constitutional principles can be used by the courts to justify ascribing legal rights to natural entities and it also shows the limits of the courts through the intervention of Supreme court. India needs not only the rulings of the courts but also strong legislation and institutions for the working of the concept of environmental personhood, without such strong mechanism, granting rights to nature and practically enforcing them becomes difficult.

3. A COMPARATIVE ANALYSIS

Ecuador and New Zealand are the two jurisdictions that are most frequently mentioned as the first to adopt environmental personhood. Their strategies are two opposite extremes: Ecuador introduced rights of nature into its Constitution, whereas New Zealand made the legislative personhood of certain nature entities. Both shows how culture, law, and politics meet various issues with the making of the meaning and enforceability of environmental personhood.

3.1. Ecuador: Constitutional Personhood of Pachamama.

The Constitution of 2008 of Ecuador was the first constitution worldwide to explicitly define nature as a rights-bearing entity. Article 71 provides that Pachamama (Mother earth) has the right to exist, and to live, to perpetuate and recover its vital processes, structure, activities and processes in evolution. It is based on Andean Indigenous cosmologies where a human community cannot exist independently of an ecological system.⁴¹

This doctrine was put to test in Vilcabamba River case. People confronted a road-building project that disposed the debris into the river claiming that it had breached the constitutional rights of Pachamama. The Provincial Court of Loja allowed the claim and ordered the restoration with the recognition of the right of the river to flow without interference. This was

³⁹ Shibani Ghosh & Anirudh Jha, *Environmental Personhood in India: Eyewash or Answer?*, Indian J. Env'tl. L. (2021).

⁴⁰ Zia Akhtar Jha & Anurag Ghosh, *Legal Personhood for Nature: Emerging Judicial Discourse in India*, 11 NUJS L. Rev. 159 (2018).

⁴¹ *Supra note 3 at 2.*

the first of its kind. An action of the state was declared invalid not only because it harmed human rights, but because it had infringed the rights of nature.⁴²

But the experience of Ecuador also shows how frail the constitutional rights are when they are opposed to deep-rooted economic system and in Ecuador, the economy still depends on extractive industries, in particular oil and mining.⁴³ The rights of nature are occasionally enforced by the courts but in most cases, it leaves the policy of states undisturbed. According to scholars, the constitutional recognition of these rights will fail unless it is backed by the will of the state and strong institutions.⁴⁴

3.2. New Zealand: Statutory Personhood and Guardianship.

New Zealand took another course of action. The length of negotiation resulted in Parliament enacting the Te 5 Awa Tupua Act 2017 giving the legal person status to the Whanganui River and officially declaring it to be an inseparable, sentient being. The Act was based on Maori cosmology that sees the river as an ancestor, which cannot be separated and is inseparable by the iwi, who rely on it.⁴⁵

Most importantly, the act established a new institution: Te Pou Tupua, a two-guardianship institution, which has one guardian who is appointed by the Crown and the other one by the iwi. This makes the river have proper representation that balances the culture with law-making.⁴⁶

Further recognition was also triggered by the Whanganui settlement. Te Urewera forest was declared as a legal entity in 2014 and Mount Taranaki acquired similar status in 2018. Both arrangements incorporate Maori cosmology as well as offer statutory guardianship frameworks. According to these cases, environmental personhood is scalable and adaptable when it is institutionalised and has its origins embedded in cultural traditions and clarity.⁴⁷

3.3. Comparative Reflections

Ecuador and New Zealand put next to each other illustrate two different directions. The

⁴² *Supra note 6 at 3.*

⁴³ Hilda Loury, Pachamama over People and Profit: A Case for Indigenous Ecology and Environmental Personhood, 47 Am. Indian L. Rev. 229 (2023).

⁴⁴ Devon Ward, *The Art of Environmental Personhood and the Possibility of Environmental Statehood*, 32 Artnodes 1 (2023).

⁴⁵ *Supra note 4 at 2.*

⁴⁶ Toni Collins & Shea Esterling, *Fluid Personality: Indigenous Rights and the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 in Aotearoa New Zealand*, 20 MELB. J. INT'L L. 1 (2019).

⁴⁷ *Ibid.*

constitutional model, in use in Ecuador, is symbolic and comprehensive, personhood at the very apex of the law, but not implementing itself well against economic pressures. The statutory model used in New Zealand is more limited in scope but operationally sound, as it is a mixture of cultural recognition and guardianship establishments.⁴⁸

The lesson that can be applied to India is two-fold. First, judicial acts such as those by the Uttarakhand are similar to those made by Ecuador but may be fragile unless followed up by legislation. Second, India can come to know the guardianship system of New Zealand and adapt it to Indian conditions, be they community forest and glacier guardianships or statutory guardianships.⁴⁹ The cultural legitimacy also plays a significant role: whereas Maori cosmology is the foundation of the model of New Zealand, India might embark on the local practises where rivers such as the Ganga are worshipped as maternities.

These kinds of models depict the two-sided nature of legal fictions philosophically. Butler is reminding us that personhood is always fictional, and only serves as justification when it is justified by functional or moral purposes.⁵⁰ This provocation by Stone still rings true: in the history of law, the expansion of moral community has been one of its most customary features.⁵¹ However, the recognition that is linked to human metaphors will become anthropocentric again, despite putting its possible attempts to overcome anthropocentrism into practise.⁵² There is a dilemma of striking the right balance: ambitious and at the same time safe enough to entrench this into legal systems and use it to leverage the cultural traditions that already regard rivers, forests, and mountains as living creatures.

4. SUSTAINABLE DEVELOPMENT GOALS AND ENVIRONMENTAL PERSONHOOD.

Sustainable Development Goals (SDGs) were initiated in 2015 as an international mechanism which ties the development of humanity with environmental sustainability. The SDGs place climate change, biodiversity and ecosystem integrity in the limelight unlike previous development agendas. The use of the rights to the ecosystems ensures that the SDG laudation can be transformed into a regulatory measure in domestic legal frameworks.

⁴⁸ Hilda Loury, *Pachamama over People and Profit: A Case for Indigenous Ecology and Environmental Personhood*, 47 *Am. Indian L. Rev.* 229 (2023).

⁴⁹ *Ibid.*

⁵⁰ Eleanor Butler, *Legal Fictions and the Personhood of Nature*, 38 *Pace Env'tl. L. Rev.* 79 (2021).

⁵¹ *Supra note 1 at 1.*

⁵² *Supra note 19 at 7.*

4.1. SDG 13: Climate Action

Environmental personhood is directly in favour of climate action as it will allow ecosystems to challenge state or corporate actions that contribute to climate change. In Colombia, the Constitutional Court proclaimed the rainforest of the Amazon as the subject of rights which meant that uncontrolled deforestation was a violation of right of nature as well as the right of future generations. The court instructed the state to take mitigation actions.⁵³

The Indian court of Uttarakhand gave personhood to glaciers like Gangotri and Yamuna. The courts caused a shift in the views of anyone interested in the state of the glaciers by declaring them as legal individuals; it means that the process of their disappearance is a constitutional issue that requires intergenerational justice.⁵⁴ These glaciers supply the great rivers that support India and their recession may cause the water security of millions of people.⁵⁵

But without the support of the legislation, the personhood will remain a mere symbolism. The concern is that the courts may not be able to translate the ecological recognition into an effective climate regulation unless their statements are backed by the statutory frameworks.⁵⁶

4.2. SDG 14: Life Below Water

Oceans and freshwater environments are experiencing new threats brought about by overfishing, industrial effluents, plastic pollution and acidification due to climate changes. Personhood can also integrate water bodies into the law and consider them as persons with their own rights as opposed to state property.⁵⁷

The Pachamama provisions in Ecuador were used to oppose contamination of rivers by extractive and mining projects, which shows how constitutional provisions can be used to defend water bodies.⁵⁸ The personhood of the Whanganui River, New Zealand, enables the guardianship agency Te Pou Tupua to realise the health of the river in its dynamic specifics of water governance as it combines both cultural and ecological aspects.⁵⁹

⁵³ Shibani Ghosh & Anirudh Jha, *Environmental Personhood in India: Eyewash or Answer?*, Indian J. Env'tl. L. (2021).

⁵⁴ Ebi Biolade & B. V. Brisibe, *Adopting Environmental Personhood in Nigeria: Challenges, Opportunities and Implications*, 7 Afr. J. L. Ethics & Educ. 35 (2024).

⁵⁵ Ibid.

⁵⁶ Zia Akhtar Jha & Anurag Ghosh, *Legal Personhood for Nature: Emerging Judicial Discourse in India*, 11 NUJS L. Rev. 159 (2018).

⁵⁷ Sana Shaikh, *Granting Rights to Nature*, 6 Int'l J. Legal Sci. & Innovation 50 (2024).

⁵⁸ *Supra note 3 at 2.*

⁵⁹ *Supra note 4 at 2.*

In other places, personhood acknowledgement could enhance river restoration work such as Namami Gange because it would give the river legal personhood. Instead of the state suing to defend its property, Ganga as a legal person might oppose pollution, sand mining as well as diversion project on its own account.

4.3. SDG 15: Life on Land

SDG 15 obligates states to safeguard forests, stop the degradation of biodiversity and desertification. Environmental personhood can contribute to addressing this objective by promoting a change in land and forest management and governance by extractive models of ownership to stewardship models.

Apart from the need to conserve forests and biodiversity that surrounded the river basin, the recognition of the Atrato River as a legal subject by Colombia was influenced by the need to focus on forests conservation. The relocation directly correlates the health of the ecosystem with that of humankind.⁶⁰ The Pachamama rights of Ecuador also includes biodiversity but the concept has been implemented erratically because of other economic priorities.⁶¹

The Supreme Court has also imposed a continuing mandamus in *T.N. Godavarman v. Union of India* case, wherein it has already developed some sort of judicial protection against forests.⁶² This might be formalised by the environmental personhood, which would grant forests a right to exist, regenerate, and fight against destruction.

4.4. Personhood as a part of Sustainable Development Goals

SDG's are the goals set for nations globally. Though environmental personhood and SDG's are not linked directly, the granting of legal rights to nature and natural entities will help the nations realise the Sustainable Development goals. Environmental personhood especially help realise goals like climate action, biodiversity and water goals and help make the rights enforceable.⁶³

But there is always the danger of the symbolic recognition. The absence of statutory guardians, evident solutions and political investment can turn personhood into another form of fallacy of aspirational rights with no enforcement. The experience of other nations demonstrates that successful models should be a combination of constitutional acclaim, legislative planning and

⁶⁰ Shibani Ghosh & Anirudh Jha, *Environmental Personhood in India: Eyewash or Answer?*, Indian J. Env'tl. L. (2021).

⁶¹ *Supra* note 6 at 3.

⁶² *T.N. Godavarman Thirumulpad v. Union of India*, (1997) 2 SCC 267 (India).

⁶³ M. S. Menon, *Sustainable Development and the Indian Constitution*, in *SD* (2022).

social conviction.

5. CHALLENGES AND WAY FORWARD

The idea of environmental personhood cannot be denied but so are its problems. Rather than mere judicial proclamation recognition, as has been seen in India and by comparison, cannot rest there. Personhood needs to transcend conceptual ambiguities, institutional weakness and the limitations of the political economy in order to be successful.

5.1. Conceptual Challenges

Personhood is fictitious. Butler helps us to remember that the fictions will only be used by the law when they are coherent. The economic activity is supported by corporate personhood whereas the fourth principle of environmental personhood is caused by the necessity of the ecological system. The danger is that by making law subject ecosystems to the status of person, the ecological reality of ecosystems is bleached, and turned into human equivalents.⁶⁴

Some note that environmental personhood is a threat to strengthening anthropocentrism instead of conquering it. Such legal measures of establishing the rights of rivers to subsequently be construed as being similar to human beings might reduce ecological imagination instead of enlarging it.⁶⁵ This strain is why such jurisprudential grounding needs to be conducted carefully: personhood should not be modelled as a reflection of human beings, but rather as the acknowledgment of the inherent and interdependent worth of ecosystems.

5.2. Institutional Fragility

The institutional design will dictate whether personhood will be functional or not. The statements of the Uttarakhand High Court were failing since there was no clarity in guardianship and unlimited liability. Are parents liable to damages caused by floods? Would state officials be personally responsible to natural disasters? These questions were not answered because of the lack of statutory scaffolding, which resulted in the intervention of the Supreme Court.⁶⁶

In comparison, the Te Awatas Puau Act of New Zealand was successful since it enshrined the concept of guardianship in laws, apportioning the role between the Crown and the

⁶⁴ *Supra* note 18 at 7.

⁶⁵ *Supra* note 19 at 7.

⁶⁶ *State of Uttarakhand v. Mohd. Salim*, SLP (C) No. 016879/2017 (Sup. Ct. India July 7, 2017).

representatives of the iwi. Such clarity prevented the confusion of liability and the gaps in the representations.⁶⁷

Though rights of nature are recognised in paper like in the case of Ecuador which grants legal rights through its Constitution, in practice it points out the weaknesses of its enforcement. The government puts its economic interests ahead of the rights of nature – this shows that rights exist in paper and are not truly protected.⁶⁸

Even the most superior structures face economic and political opposition. As noted by some scholars the efforts by governments to adopt a policy based on the rule of law tends to come into conflict with the desire to stimulate industrial development, particularly in developing economies which rely on natural resources as sources of fiscal stability.⁶⁹

In a federal system, coordination is an additional burden. According to Collins and Esterling, the personhood produces a conflicting claim and disjointed authority when natural entities cut across multiple jurisdictions.⁷⁰ An example of this difficulty is provided by rivers such as the Ganga which run across several states, who represents the river when the interests of the several states run against each other?

5.3. The Path Ahead

India should shift out of judicial pronouncements to legislative models. State legislatures or parliament could pass laws that would inquire certain ecosystems as civil entities with their protection bestowed on multi-stakeholder groups comprising of state government, localities, and Indigenous representatives. The frameworks would integrate the legal explicitness with the cultural authenticity.

This point by Stone is still informative today: the extension of rights is considered radical until it becomes intuitive to everyone with hindsight.⁷¹ One of the frontiers is personhood to nature. It will ensure the strengthening of constitutional values and the establishment of ecological stewardship, support the realisation of the sustainability objectives, with the firm institutional support and political will. Devoid of that assistance, it will likely still be just a shocking yet conceptual experiment.

⁶⁷ *Supra* note 4 at 2.

⁶⁸ *Supra* note 3 at 2.

⁶⁹ *Supra* note 6 at 3.

⁷⁰ Toni Collins & Shea Esterling, *Fluid Personality: Indigenous Rights and the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 in Aotearoa New Zealand*, 20 MELB. J. INT'L L. 1 (2019).

⁷¹ *Supra* note 1 at 1.

CONCLUSION

The daring of legal imagination and delicacy of the practise emerges by the environmental personhood as depicted by the ride. It is a very simple, radical notion, in its essence: nature is not just the resource of humans, but the subject of law that exists and has rights. Since Stone struggled in the 1970s to prove that natural objects such as the Pachamama are entitled to legal redress and the constitutional rights of the New Zealand government in New Zealand recognised the statutory guardianship of the Whanganui River, the idea has since developed into action. The Uttarakhand cases were a short-lived involvement of the judiciary of India in this international movement, where rivers and glaciers are declared as legal persons. Even though those decisions were stayed by the Supreme court, they were a turning point in the constitutional law in India.

Environmental personhood is not a model as such; it lies along a spectrum. Ecuador uses a constitutional path, which is expansive, iconic, and profoundly rooted in Indigenous cosmologies, and it has issues of poor implementation in the face of extractive economic forces. New Zealand has shown a more circumscribed statutory pathway that is institutionally resilient, which entrenches guardianship in legislation and culturally sound with Maori involvement. The Indian move attempts the breadth that Ecuador is trying, but fails to come through without legislative backing of New Zealand.

India has a solid constitutional and doctrinal basis of personhood. It is fertile ground that is offered by Article 21 expansion to incorporate the right to a healthy environment, the principle of *parens patriae*, and the public trust doctrine. But imagination itself is not enough. The action of the Supreme Court to stay the rulings in Uttarakhand exemplifies an American proverb, that can utter only on bold declarations which lack practical guardianship and liability structures remain mere fairy tales. The way is to secure a legislature to set up unmistakable guardian agencies, to clarify responsibilities and obligations and to make the rights of nature to work genuinely not merely a naturalisation.

The SDGs add urgency. The emergence of climate change (SDG 13), aquatic ecosystems degradation (SDG 14), or land biodiversity loss (SDG 15) all necessitate new legal frameworks. Environmental personhood provides the means to convert the goals of the globe into the rights enforceable. The river is an eyewitness in terms of industrial pollution, the rights of the river must be safeguarded against mining, the forest to which the legal person is assigned faces the tree-cutters. It becomes accountable through rhetoric when Sustainable Development Goals

promises are embedded into the local law.

Caution is needed. Personhood should not fall prey to elevated pronouncements that are inactive. It must not help to reinforce anthropocentrism by treating ecosystems as human-like persons, but as they have their own and relational value. It needs to also pursue an understanding of Indian cultural and federal environment where rivers are considered holy mothers, forests nurture local communities, and the administration is divided among states and agencies.

The answer is in hybridization, using the constitutional symbolism of Ecuador, the constitutional clarity of New Zealand and the constitutional teachings of India. The legislative frameworks need to define some models of guardianship to involve the state officials, locals, and indigenous representatives. Courts may carry on with doctrinal innovation, but the follow-up of legislation is necessary. Such a twofold approach, which is both innovative in conception and practical in formulation will aid India to become a pioneer in the adoption of the ecological person in constitutional democracy.

After all it is not radical that the test of environmental personhood should sound radical but whether it should work. Similarly, as with other extensions of rights that used to seem unimaginable (women voting, the end of slavery, corporate personhood), the establishment of nature as a legal subject will seem inevitable one day. Up to this point, its effectiveness will be based on how law can transcend rhetoric by developing real institutions to support rivers, forests, and ecosystems to generations to come.

BIBLIOGRAPHY**ARTICLES**

1. Rawnak Miraj Ul Azam, Syeda Afroza Zerine & Fahim Faisal Khan Alabi, *The Rights of Nature Movement: Legal, Cultural, and Policy Challenges in Implementing Eco-Centric Laws*, 5 J. Envtl. L. & Pol'y 4 (2025).
2. Eleanor Butler, *Legal Fictions and the Personhood of Nature*, 38 Pace Envtl. L. Rev. 79 (2021).
3. Oriol Bueno, *Pachamama over People and Profit: A Case for Indigenous Ecologies*, Arcadia (2018).
4. Shibani Ghosh & Anirudh Jha, *Environmental Personhood in India: Eyewash or Answer?*, Indian J. Envtl. L. (2021).
5. Zia Akhtar Jha & Anurag Ghosh, *Legal Personhood for Nature: Emerging Judicial Discourse in India*, 11 NUJS L. Rev. 159 (2018).
6. Joshua Reeves & John Peters, *Responding to Anthropocentrism with Anthropocentrism: The Biopolitics of Environmental Personhood*, Phil. & Tech. (2021).
7. Christopher D. Stone, *Should Trees Have Standing? Toward Legal Rights for Natural Objects*, 45 S. Cal. L. Rev. 450 (1972).
8. Devon Ward, *The Art of Environmental Personhood and the Possibility of Environmental Statehood*, 32 Artnodes 1 (2023).
9. Toni Collins & Shea Esterling, *Fluid Personality: Indigenous Rights and the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 in Aotearoa New Zealand*, 20 MELB. J. INT'L L. 1 (2019).

CASES

1. Lalit Miglani v. State of Uttarakhand, W.P. (PIL) No. 140 of 2015 (Uttarakhand H.C. Mar. 30, 2017) (India).
2. M.C. Mehta v. Kamal Nath, (1997) 1 SCC 388 (India).
3. M.C. Mehta v. Union of India, (1987) 1 SCC 395 (India).
4. M.C. Mehta v. Union of India, (2004) 12 SCC 118 (India).
5. Mohd. Salim v. State of Uttarakhand, W.P. (PIL) No. 126 of 2014 (Uttarakhand H.C. Mar. 20, 2017) (India).
6. State of Uttarakhand v. Mohd. Salim, SLP (C) No. 016879/2017 (Sup. Ct. India July 7, 2017).

7. Subhash Kumar v. State of Bihar, (1991) 1 SCC 598 (India).
8. T.N. Godavarman Thirumulpad v. Union of India, (1997) 2 SCC 267 (India).