
LEGAL PERSONHOOD OF NATURE: A STEP TOWARDS ENVIRONMENTAL JUSTICE

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ABSTRACT

Environmental degradation and climate change have escalated to unprecedented levels causing large scale destruction and loss of innocent lives. Several national and global environmental reports suggest that if the pace of environmental destruction doesn't stop, then we can face grave consequences in the form of natural disasters, and ecosystem collapse that will aggravate the public health concerns, increase food insecurity, and environment-led displacement and will lead to economic instability. However, the existing laws and international conventions aimed towards mitigating the effects of climate change have proved to be ineffective in dealing with climate change issues. In this context, the issue of granting the status of legal personhood to nature has emerged which can be a step towards ameliorating the ill-effects of climate change. This paper, therefore, examines the various facets of granting such status to nature including its philosophical foundations, and practical implications. The paper further explores some national and international judicial efforts towards granting the status of legal personhood to nature including the landmark cases like Mohammed Salim v. State of Uttarakhand and global cases of Ecuador and Bolivia. The paper delves deeper into the need and consequences of giving such status to nature and the practical implications of bestowing rights and duties to nature. At last the paper suggests a holistic legal framework through which we can move a step towards environmental justice by recognising the rights of nature instead of merely using it as resources.

Keywords: Climate Change; Legal Personhood to Nature; Rights of nature; Environmental Justice

Introduction

There is not even an iota of doubt that the advent of Industrialisation and Urbanisation has made human lives easier and convenient and led to many modern advancements. However, the fact that they have also led to irreversible and irreparable environmental damage can't be denied. After the Industrial Revolution, humans started to exploit natural resources on a large scale, which gave birth to many environmental issues that we are witnessing today. From global warming to the extinction of flora and fauna to the severe water crisis to growing air pollution, the list of environmental degradation is never-ending. Although the brunt of climate change and environmental degradation is faced by everyone, however, the countries and people who are at the receiving end suffer the most. Countries which are geographically and economically vulnerable, like many African countries, including Nigeria, Chad, Somalia, Polynesian countries like Samoa, Tonga, Tuvalu, the Cook Islands and Melanesian countries like Fiji, Vanuatu, the Solomon Islands, South American countries like Chile, Brazil, and Argentina are severely facing the repercussions of climate change.¹ These countries, due to their geographical locations, are prone to climate hazards like excessive floods, droughts, wildfires, and are facing an overall threat to biodiversity.² Moreover, due to economic incapacity, these countries often face challenges in recovering from the losses caused by environmental damage. Apart from this, climate change is also leading to the displacement and forced migration of people. Hence, it won't be an exaggeration to say that climate change is one of the biggest environmental threats that we are facing today.

Despite several efforts that have been taken at both the national and international levels, the human community hasn't been able to decrease climate change as well as its effects. Many international conventions have been signed and ratified by the global community, and many environmental laws have been legislated by many countries; however, the repercussions of climate change continue to rise. And one of the reasons for the same is our unwillingness to use the natural resources judiciously. If developed countries and giant industries continue to exploit the natural resources, then international conventions will no longer be effective.³ In

¹ Germanwatch, *Global Climate Risk Index*, Germanwatch (2024), <https://www.germanwatch.org/en/cr/#:~:text=The%20most%20affected%20countries%20in,particularly%20affected%20Global%20South%20countries.>

² Intergovernmental Panel on Climate Change, *Chapter 12: Climate Change and Human Security*, in *Climate Change 2022: Impacts, Adaptation and Vulnerability* (Sixth Assessment Report, Working Group II, 2022), <https://www.ipcc.ch/report/ar6/wg2/chapter/chapter-12/>.

³ Zhou, Y., & Wang, J., *The Role of Renewable Energy in Achieving Carbon Neutrality: A Global Perspective*, 175 *Energy Policy* 113456 (2023), <https://www.sciencedirect.com/science/article/abs/pii/S0301420723006979>.

light of this, the issue of giving legal personhood to rivers, oceans, mountains, trees, and other parts of nature has gained prominence. Giving the status of person to natural objects can ameliorate the present environmental crisis as it would lead to the creation of rights of these natural objects, which can reduce their exploitation and degradation. Giving the status of legal personhood can also lead to more awareness towards them, which might have a positive impact. For instance, many communities and tribes throughout the world worship trees, forests, and natural vegetation, which have played an instrumental role in protecting many trees and forests and saving them from extinction. These sacred groves hold deep religious and spiritual significance for many indigenous communities in India⁴ due to which they have been given legal protection as Community Reserves under section 36I of the Wildlife Protection Act, 1972⁵. In India, there are around one million sacred forests and around 150,000 sacred groves, which are spread around the country and are protected by the indigenous population.⁶ Sacred groves like Sarna in Jharkhand, Bugyal and Dev Van in Uttarakhand and Orans in Rajasthan are considered to be the last refuges of many endemic species.⁷ Apart from India, many indigenous tribes in Asia and Africa⁸ are conserving many plant species due to their religious and spiritual significance. For instance, in Kenya, the Kikuyu protect mugumu, the groves of fig trees, to honour ancestors and for prayers.⁹ Whereas in the Ethiopian Highlands, the Ethiopian Christians' traditions have saved the region's only remaining Afromontane forests.¹⁰ Therefore, the importance of sacred groves in protecting the forests, especially the endemic species, can't be overstressed. So, giving religious and spiritual significance to forests and trees can play a monumental role in protecting these species. Similarly, going one step further, if we extend legal protection of nature by giving them the status of legal personhood, then it might at least help in decelerating the repercussions of climate change if it can't completely stop it. In the landmark case of Mohammed Salim v. State of Uttarakhand¹¹, the Uttarakhand High Court granted the status of legal persons to rivers Ganga and Yamuna, which also have high

⁴ Vision IAS, *Sacred Groves*, Vision IAS (Jan. 22, 2025), <https://visionias.in/current-affairs/monthly-magazine/2025-01-22/environment/sacred-groves>.

⁵ The Wildlife (Protection) Act, 1972, Section 36I, No. 53, Acts of Parliament, 1972 (India).

⁶ International Union for Conservation of Nature (IUCN), *Sacred Groves, the Secret Wizards of Conservation*, IUCN (Aug. 2023), <https://www.iucn.org/blog/202308/sacred-groves-secret-wizards-conservation>.

⁷ Mala Agarwal, *Conserving Water & Biodiversity: Traditions of Sacred Groves in India*, 5 Eur. J. Sustainable Dev. 129 (2016), <https://ecsdev.org/ojs/index.php/ejsd/article/download/390/387/773>.

⁸ Rajasri Ray, M.D. Subash Chandran & T.V. Ramachandra, *Sacred Grove: Nature Conservation Tradition of the Ancient World*, Sahyadri E-News, Issue 32, Centre for Ecological Sciences, Indian Institute of Science (2005), https://wgibis.ces.iisc.ac.in/biodiversity/sahyadri_enews/newsletter/issue32/article1.htm.

⁹ Fred Pearce, *Sacred Groves: How the Spiritual Connection Helps Protect Nature*, Yale Environment 360 (Jan. 4, 2023), <https://e360.yale.edu/features/sacred-groves-religion-forests>.

¹⁰ Pearce, *supra* note 9.

¹¹ *Mohd. Salim v. State of Uttarakhand*, 2017 SCC OnLine Utt 367 (India).

religious and spiritual status in Indian culture. This was the first case in India which extended the status of a legal person to any natural object. But this case was overturned by the Supreme Court as it held that giving legal protection to the rivers sounds impractical to implement, and though it is true that these rivers need protection but the solution should be more nuanced and legally sound.¹² However, in another case, *A. Periyakaruppan vs The Principal Secretary To Government*¹³, Madras High Court gave the status of a legal person to Mother Nature and directed that the central and state governments should take appropriate steps to protect them.¹⁴ These cases are discussed in detail in the later section of the paper.

Granting legal personhood to nature marks a significant shift from an anthropocentric approach¹⁵ that puts humans as the centre of the universe and believes that only human beings have an intrinsic value while other entities are just a means to achieve the ends goals of humans¹⁶, to an ecocentric approach¹⁷, which believes that every part of the ecosystem, including plants, animals, rivers, and mountains have equal value and end in themselves. However, many people believe that granting legal personhood to natural objects will just be an ornamental step, as it will not have any practical implications and it will also be legally unsound. Therefore, this research paper is an attempt to dive deeper into the issue of granting legal personhood to nature. The paper tries to analyse the need and the consequences of giving legal personhood to nature. The paper also analyses the practical implications of giving such rights to nature and their effectiveness.

Meaning of Legal Personhood

Before diving deeper into the need and consequences of giving legal personhood to nature, it is important to understand the meaning of legal personhood and what rights and liabilities are born when any entity is considered a legal person. Two types of persons are recognised under

¹² EcoJurisprudence Initiative, *Salim v. State of Uttarakhand*, EcoJurisprudence (2023), <https://ecojurisprudence.org/initiatives/salim-v-state-of-uttarakhand/>.

¹³ *A. Periyakaruppan v. The Principal Secretary to Government*, W.P. (MD) No. 18636 of 2013 (Madras H.C. Apr. 19, 2022).

¹⁴ EcoJurisprudence Initiative, *Madras High Court Case Establishing Legal Personhood to Mother Nature*, EcoJurisprudence (2022), <https://ecojurisprudence.org/initiatives/madras-high-court-case-establishing-legal-personhood-to-mother-nature/>.

¹⁵ Anthropocentrism, *ScienceDirect Topics*, <https://www.sciencedirect.com/topics/social-sciences/anthropocentrism> (last visited on May 26, 2025).

¹⁶ Anthropocentrism, *Supra* note 15.

¹⁷ Ecocentrism, *ScienceDirect Topics*, <https://www.sciencedirect.com/topics/social-sciences/ecocentrism> (last visited May 29, 2025).

law; one is a natural person, i.e. human beings, whereas the other is a legal person, who are entity that is given the status of a legal person by law. As per Yale Law Journal, 1928 edition, a legal person is described as “*To be a legal person is to be the subject of rights and duties. To confer legal rights or to impose legal duties, therefore, is to confer legal personality. If society, by effective sanctions and through its agents, will coerce A to act or to forbear in favour of B, B has a right and A owes a duty.*”¹⁸ In simple words, when an entity is given the status of a legal person, then it gets the same legal rights under the court of law that human beings possess.¹⁹ So a legal person can sue others as well as be sued, it can own property and can also enter into a contract.

The concept of legal personhood is not new, and it has existed since the times of Roman Law.²⁰ The doctrine of legal personhood is also attributed to Pope Innocent IV, who helped in spreading the idea of *persona ficta* i.e a person created under law.²¹ Under Canon Law, the monasteries were allowed to have legal existence under this doctrine of *persona ficta*.²² Due to this, monasteries were now able to own properties and enter into contracts without placing individual obligations on the monks.²³ With time, the doctrine of *persona ficta* evolved, and many new non-human entities such as corporations, trusts, municipalities, and trade unions were granted the status of legal personhood. The status of legal personhood was granted for administrative and functional purposes so that these bodies can be given rights and liabilities irrespective of the members who are running the organisation. In the modern legal system, a legal person is an entity that is recognised by law and is given legal rights and duties, is subject to liabilities, is capable of suing as well as being sued in its own name and can also own properties. Thus, extending the status of legal personhood to non-human entities facilitates the better regulation of economic and institutional frameworks.²⁴ For example, a corporation is

¹⁸ Legal Personality, 37 Yale L.J. 283 (1927–1928),

https://openyls.law.yale.edu/bitstream/handle/20.500.13051/12065/23_37YaleLJ283_1927_1928_.pdf.

¹⁹ Legal Personhood, *Encyclopaedia Britannica*, <https://www.britannica.com/topic/legal-personhood> (last visited May 28, 2025).

²⁰ Legal Personhood, *Supra* note 19.

²¹ Legal Personality, 36 La. L. Rev. 435 (1948–1949),

https://digitalcommons.law.lsu.edu/cgi/viewcontent.cgi?params=/context/lalrev/article/1615/&path_info=36_9LaLRev435_1948_1949_.pdf.

²² Legal Personality, *Supra* note 21.

²³ Bryan V. Pham, *A Public Juridic Person in Canon Law Seeking Chapter 11 Bankruptcy Protection in the United States: Theory, Process, and Application*, Insolvency Law Academy (2022),

<https://insolvencylawacademy.com/wp-content/uploads/2022/09/A-Public-Juridic-Person-in-Canon-Law-seeking-Chapter-11-Bankruptcy-Protection-in-the-United-States-Theory-Process-and-Application.pdf>.

²⁴ Maximilian Koessler, *The Person in Imagination or Persona Ficta of the Corporation*, 36 La. L. Rev. 435 (1948–

considered a legal or juristic person for various reasons, like protecting shareholder interests, facilitating legal personhood, and assigning the liabilities in legal disputes. Therefore, the rationale of granting legal personhood to non-human entities increases the accountability of these entities and simplifies the cumbersome processes of the legal framework that might otherwise hinder justice and make the process more complex. This also helps these entities to function more effectively without depending on the individual members who are running the entity. Overall, granting this status is beneficial for both the entities as they get many legal rights, as well as society by increasing accountability and transparency of these entities, which in turn benefits society at large.

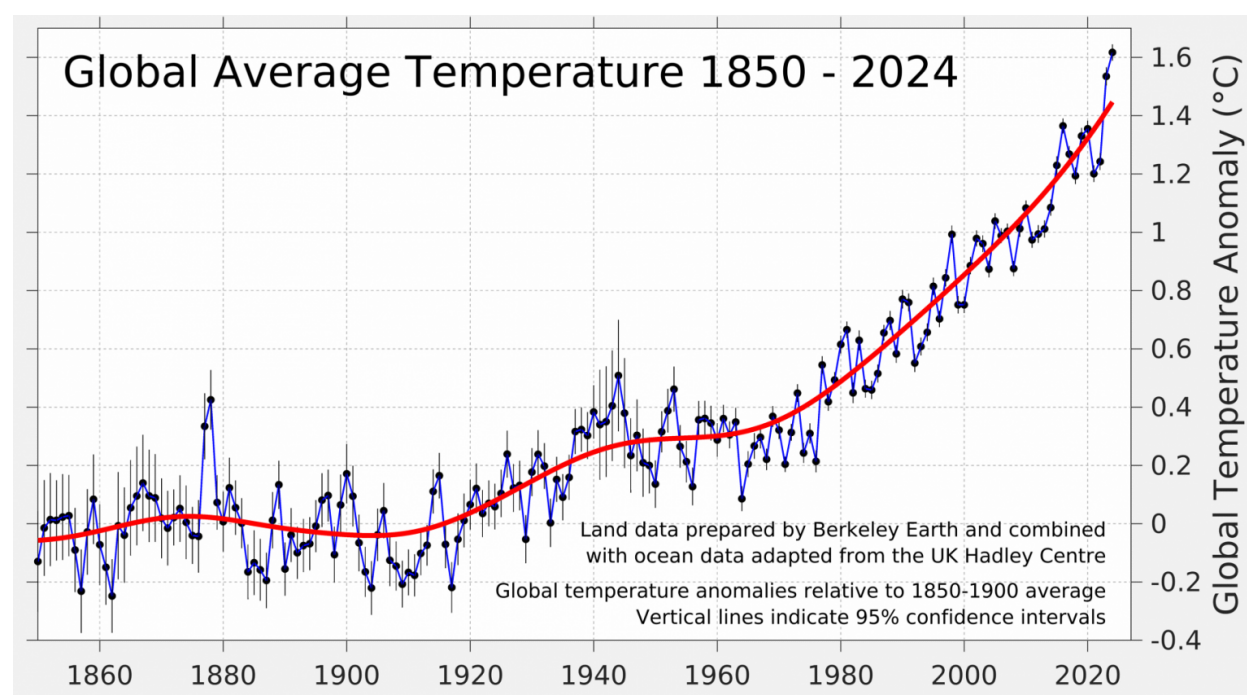
However, giving the status of a legal personhood to nature is not as simple as other entities. Unlike corporations and associations, where individuals run and administer these bodies, nature is not an organisation or an association, which is run by individuals. So, at first instance, it might seem impractical to endow nature with rights and duties, as in the case of corporations, the court can always lift the veil to impose responsibility when required. But in the case of natural objects like rivers, forests, and mountains, it will be difficult to do so, as assigning rights and duties to these entities might look impractical or just a symbolic step. Despite this impracticality, many courts around the world have not shied away from recognising many elements of nature as legal persons. Because in the case of nature, the purpose of giving legal personhood is not to ascertain liability or accountability of nature rather it is to endow them with certain rights and protection to prevent their exploitation. And therefore, giving the status of legal personhood to nature marks a paradigm shift wherein forests, mountains, rivers, oceans, and other natural bodies will no longer act as passive beneficiaries, which can merely be used as resources and are subjected to incessant exploitation.

The Need for Giving Legal Personhood to Nature

Our environment works on the principle of equilibrium, i.e. every resource on our earth is present in a sufficient amount that can satisfy the basic needs of every individual. However, due to fast-paced development, and the excessive exploitation of natural resources in the heed to fulfil human desires, this equilibrium has been broken up. As a result, we are witnessing the worst consequences of climate change, that is ironically affecting the lives of human beings

1949), https://digitalcommons.law.lsu.edu/cgi/viewcontent.cgi?params=/context/lalrev/article/1615/&path_info=36_9LaLRev435_1948_1949_.pdf.

who are responsible for causing this destruction. According to the Global Climate Report, 2023 was the warmest year since global records began in 1850²⁵, and the rate of warming is more than three times faster since 1982²⁶. As per the Intergovernmental Panel on Climate Change (IPCC), the Sixth Assessment Report, the time to limit the global average temperature rise to 1.5 degrees Celsius from the Pre-Industrial Level is running out.²⁷ Further, as per the World Meteorological Organisation's State of the Climate in Africa, 2024 report, climate change and extreme weather are not just aggravating hunger and displacement but also affecting every facet of socio-economic development in Africa.²⁸



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And as per the State of India's Environment Report, 2023, the average duration of life lost due to air pollution is four years and eleven months³⁰, and rural India is losing more years due to

²⁵ NOAA, *Climate Change: Global Temperature*, <https://www.climate.gov/news-features/understanding-climate/climate-change-global-temperature> (last visited May 25, 2025).

²⁶ NOAA, *Supra* note 25.

²⁷ Intergovernmental Panel on Climate Change (IPCC), *Climate Change 2023: Synthesis Report*, Contribution of Working Groups I, II, and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, Core Writing Team, H. Lee & J. Romero (eds.), IPCC, Geneva, Switzerland, 2023, <https://www.ipcc.ch/assessment-report/ar6/>.

²⁸ World Meteorological Organization, *State of the Climate in Africa 2024*, WMO, May 12, 2025, <https://wmo.int/publication-series/state-of-climate-africa-2024>.

²⁹ Robert Rohde, *Global Temperature Report for 2024*, Berkeley Earth (Jan. 10, 2025), <https://berkeleypoint.org/global-temperature-report-for-2024/>.

³⁰ Centre for Science and Environment, *State of India's Environment 2023: In Figures* (2023), available at: <https://www.cseindia.org/State of India's Environment Report 2023>, Drishti IAS,

health issues caused by the pollution than the urban areas.³¹

	Cause	Death By Risk Factor in India in 2021
1.	Air pollution (outdoor & indoor)	2.09 million
2.	High blood pressure	1.44 million
3.	Indoor air pollution	1.05 million
4.	Outdoor particulate matter pollution	948,000 ³²

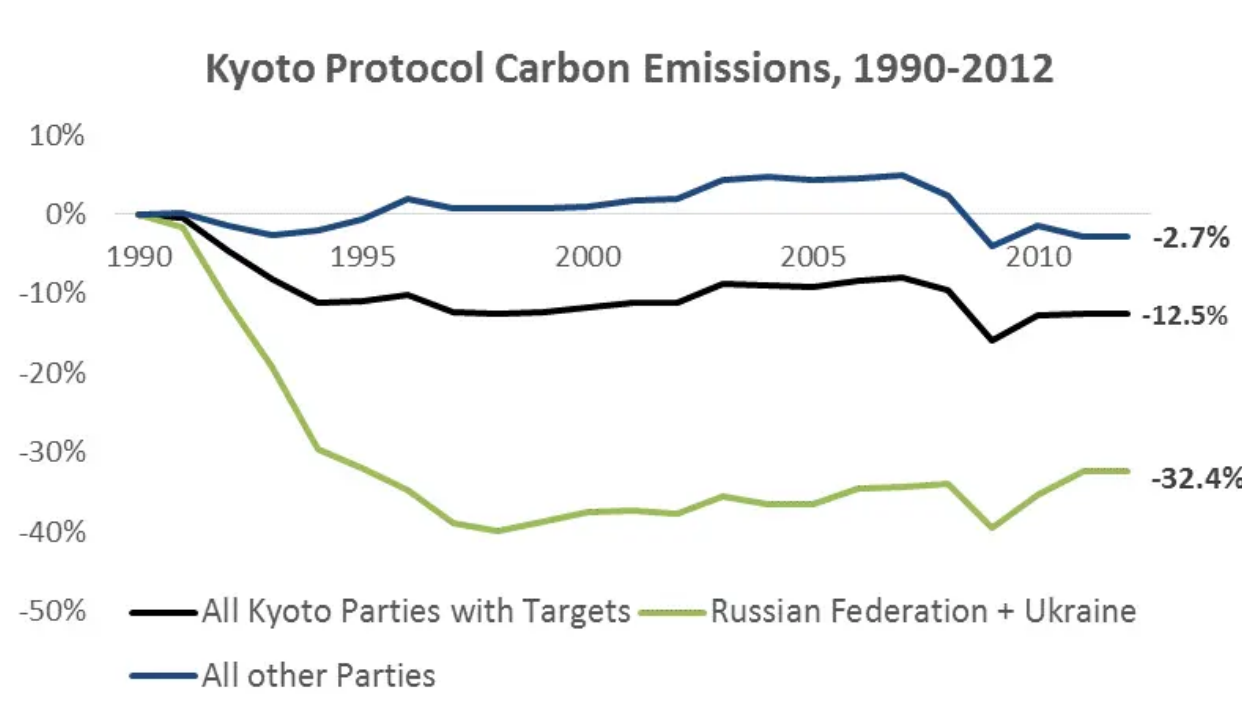
Therefore, these reports present a glaring reality, which shows that the damage caused by climate change is very severe as well as fatal. The repercussions of climate change are not short-term; rather, they affect every aspect of human lives, from clear air to fertile soil to habitable temperatures. Therefore, the anthropocentric approach, which led to this incessant exploitation of natural resources, has caused irreversible destruction. And unfortunately, the laws, policies and conventions that are aimed towards protecting the exploitation of nature and to ameliorate the effects of climate change are neither fulfilling their objectives and purpose nor showing the desired result.³³

<https://www.drishtiias.com/daily-updates/daily-news-analysis/state-of-india-s-environment-report-2023> (last visited May 28, 2025).

³¹ State of India's Environment Report 2023, *supra* note 30.

³² Hannah Ritchie & Max Roser, *Air Pollution*, Our World in Data (Feb. 2024), <https://ourworldindata.org/air-pollution>.

³³ Arik Levinson & Derek Kellenberg, *Waste of Effort? International Environmental Agreements*, CEPR VoxEU, Mar. 1, 2014, <https://cepr.org/voxeu/columns/waste-effort-international-environmental-agreements>.



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So, it is in this context that the need for giving legal personhood to nature is being contemplated, as the other efforts made towards fighting climate change are turning futile.

The idea of giving legal personality status to the environment first emerged with Christopher D. Stone's work "Should Trees Have Standing? Towards Legal Rights for Natural Objects".³⁵ Later on, in the case of *Sierra Club v. Morton*³⁶, when Justice William Douglas cited Stone's work, this concept received more prominence. Justice Douglas, in his dissenting opinion, held the view that for the dual purpose of conservation and protection of the environment, the distinct aspects of the environment must be given legal status.³⁷ As per Justice Douglas, the

³⁴ Circular Ecology, *The Kyoto Protocol: Climate Change Success or Global Warming Failure?*, Circular Ecology (Feb. 4, 2015), <https://circularecology.com/news/the-kyoto-protocol-climate-change-success-or-global-warming-failure>. Kyoto Protocol-one of the most landmark and signficatory international treaties which aims to reduce greenhouse gas emissions has not been able to achieve its target. This graph shows that without the Russian Federation, the contribution of other parties in reducing the emission of Green House Gases are negligible.

³⁵ Christopher D. Stone, *Should Trees Have Standing?—Towards Legal Rights for Natural Objects*, 45 S. Cal. L. Rev. 450 (1972).

³⁶ *Sierra Club v. Morton*, 405 U.S. 727 (1972).

³⁷ Hima Ashwath & Ms. Swetha P., *Environmental Personhood: An Illusion or A Solution*, CMR Univ. J. Contemp. Legal Aff. (May 2024), <https://www.cmr.edu.in/school-of-legal-studies/journal/wp-content/uploads/2024/05/Article-13.pdf>.

status of legal personhood will serve multiple purposes by providing rights to the environment as well as changing the psychological and sociopsychological elements.³⁸

Also, at the core of this concept of giving legal personhood to nature, there lies a belief that nature has intrinsic value and is independent of its utility to humans. Because when rivers die, or glaciers melt, or forests vanish, it is not just affecting the humans that are dependent on these systems for their livelihoods and cultural identity, but also affects the entire biodiversity that suffers from disturbance in the equilibrium. Therefore, it is believed that by granting legal personhood the present status of nature from being property or resources can be changed to an entity with its own rights so that the violations against its can be contested in the court of law more effectively which will ensure that the excessive exploitation of nature is not a regulatory failure but a right-based violation that deserves accountability and transparency.³⁹

Consequences of Giving Legal Personhood

The advocates for granting legal personhood to the environment believe that this status will not only offer protection to them but also prevent the human exploitation and mistreatment of them. Many countries around the world have started giving explicit legal recognition to rivers and other natural objects around the world to protect them from damage. Ecuador was the first country who gave legal protection to its river, including the Vilcamba River.⁴⁰ In 2008, Ecuador's constitution was amended to incorporate the rights of nature. Articles 71 to 74 of the Ecuador Constitution under Chapter 7 explicitly recognise the legal rights of nature with regard to its maintenance and restoration.⁴¹ As per Article 71 of the Ecuador Constitution, "where life is reproduced, it has a right to existence as well as maintenance and regeneration of its life cycle, structure, functions and evolutionary processes,"⁴² and it is the duty of people, communities, and public authorities to enforce these rights.⁴³ Article 71 also says that the state

³⁸ Ashwath & Swetha, *Environmental Personhood*, supra note 37.

³⁹ Jérémie Gilbert, Elizabeth Macpherson, Emily Jones & Julia Dehm, *The Rights of Nature as a Legal Response to the Global Environmental Crisis? A Critical Review of International Law's 'Greening' Agenda*, in Netherlands Yearbook of International Law 2021 47–74 (Daniëlla Dam-de Jong & Fabian Amtenbrink eds., T.M.C. Asser Press 2023), https://link.springer.com/chapter/10.1007/978-94-6265-587-4_3.

⁴⁰ Mihnea Tanasescu, *When a River is a Person: From Ecuador to New Zealand, Nature Gets Its Day in Court*, Open Rivers: Rethinking Water, Place & Community, Issue 8 (Fall 2017), <https://openrivers.lib.umn.edu/article/when-a-river-is-a-person-from-ecuador-to-new-zealand-nature-gets-its-day-in-court/>.

⁴¹ Andrea Westall, *The Ecuadorian Constitution was the first national constitution to give rights to nature*, Foundation for Democracy and Sustainable Development (Apr. 3, 2015), <https://fdsd.org/ideas/ecuadorian-constitution-rights-to-nature/>.

⁴² Westall, supra note 41.

⁴³ Westall, supra note 41.

shall incentivise people and legal entities who protect nature. Similarly, Article 72 says that nature has the right to be restored, as well as in the case of exploitation of non-renewable natural resources, the state will establish the most effective mechanism to achieve the restoration of such resources and also adopt measures to mitigate the environmental consequences caused by such exploitation.⁴⁴ Further, Article 73 puts an onus on the state to apply preventive and restrictive measures on activities that can lead to the extinction of species, or the destruction of the ecosystem.⁴⁵ Adding these provisions explicitly in the Constitution is a commendable step that not just provides explicit rights to nature but also puts a responsibility on the state, people, communities, as well as public authorities to protect nature. Further, these provisions also provide a mechanism for the restoration of natural resources in cases of their exploitation.

After this in 2011, an American couple in Ecuador sued the provincial government of Loja who were planning to make a road project in front of the riverfront property of the couple. The couple argued that the road project would deposit the excavation material and large quantities of deposit into land. So, the court in this case recognised the rights of Vilcamba river had been violated and held that the river had the right to regenerate as per Article 71 of the Constitution. Following Ecuador, Bolivia soon gave legal personhood rights to nature. In 2012, Bolivia passed The Framework Law on Mother Earth and Integral Development to Live Well under which not just legal personhood rights are given to nature but also rights and knowledge of the indigenous population has been recognised.⁴⁶ This law mandates that human beings must respect the natural environment and should live in harmony and balance with it.

Later in 2017, the New Zealand government enacted the Te Awa Tupua or Whanganui river Claims Settlement) Act which recognised the sacred Whanganui river that has its own rights and interests.⁴⁷ By granting the legal personhood rights to the Whanganui river, the act also empowers the two appointed guardians (one guardian is a member of the government whereas another is from Maori Iwi tribe) who can represent the rivers in legal matters.⁴⁸ This historic legislation was the result of decades of struggle and advocacy by the indigenous Maori Iwi tribe who not just worship the Whanganui river but also consider the river as their ancestors

⁴⁴ Westall, *supra* note 41.

⁴⁵ Westall, *supra* note 41.

⁴⁶ Shanthi Van Zeebroeck, *What Countries Grant Legal Rights to Nature And Why?*, Earth.Org (Oct. 6, 2022), <https://earth.org/nature-rights/#:~:text=3.,harmony%20and%20balance%20with%20it>.

⁴⁷ Kate Evans, *The New Zealand River That Became a Legal Person*, BBC Travel (Mar. 20, 2020), <https://www.bbc.com/travel/article/20200319-the-new-zealand-river-that-became-a-legal-person>.

⁴⁸ Evans, *Supra* note 47.

and a living entity. For years, the Maori Iwi tribe has been dependent on this river for food and habitation. Therefore, this act was a big victory for the tribes.

Like New Zealand, several such movements for giving legal personhood to nature are going on around the world to protect them from human exploitation. For instance, a project at the Carnegie Institute of Art and the German collective supported by the Pittsburgh Lobby for Tree personhood is advocating for giving legal personhood status to specific trees.⁴⁹

In India, courts have come to the rescue of protecting the natural environment by establishing the liability on humans through various mechanisms. In *M.C Mehta v Kamal Nath*⁵⁰, where a club Span Motels which was linked to Kamal Nath, the then Minister of Environment and Forests, was built by encroaching upon a forest land in Kullu Manali. The encroachment changed the course of Beas river which could have increased the occurrence of landslides in ecologically fragile areas in Himachal Pradesh. In this case, the Supreme Court, by applying the Public Trust Doctrine for the first time in India, held that resources like air, waters, forests, trees, ocean, etc are extremely important for the entire community, therefore it is unjust to make them a subject of private ownership. The court finally held that the Himachal Pradesh government committed a grave error by leasing out an ecologically fragile area. So, by applying public trust doctrine, courts have put an onus on the government to protect nature as trustee rather than being an owner. Later on Supreme court applied the Public Trust doctrine in many cases⁵¹ and held that it is also an integral part of Article 21 of the Constitution. Further, in the case of *Indian Council of Enviro-Legal Action vs Union of India*⁵², the court applied the Polluters Pay Principle and held that it is the responsibility of the person or industry to own the financial burden who caused the pollution and environmental damage. In *Animal Welfare Board v. A. Nagaraja*⁵³, the SC observed that every species should be given legal protection as they have an inherent right to life.⁵⁴

So, these judgments opened a new era of environmental jurisprudence in India, where courts adopted an active approach by making the government or corporations or any person

⁴⁹Legal Personhood, Supra note 19.

⁵⁰ *M.C. Mehta v. Kamal Nath*, (1997) 1 S.C.C. 388 (India).

⁵¹ *Majra Singh v. Indian Oil Corporation*, (1999) 7 S.C.C. 49 (India) & *M.C. Builders v. Radhey Shyam Sahu*, (1999) 7 S.C.C. 330 (India).

⁵² *Indian Council for Enviro-Legal Action v. Union of India*, (1996) 3 S.C.C. 212 (India).

⁵³ *Animal Welfare Board of India v. A. Nagaraja*, (2014) 7 S.C.C. 547 (India).

⁵⁴ Stellina Jolly, '*Rights of Nature' Is a Faux Rights Revolution Entangled in Anthropocentrism*, The Wire Science (July 21, 2022), <https://science.thewire.in/law/rights-of-nature-anthropocentrism/>.

financially liable for the environmental damage. However, with the case of Mohd. Salim v. State of Uttarakhand & Others⁵⁵, the Supreme Court took an instrumental step by declaring the two sacred rivers of India, Ganga and Yamuna, as living persons who are capable of holding rights. This unprecedented move was aimed towards giving stronger legal protection to the rivers which are venerated in India from time immemorial. The court while applying the principal of loco parentis (a legal principle where state has authority to act as guardian for individuals who are not capable to look after themselves), assigned the role of shebait (resembling trustee in Hindu Law) to the Director of NAMAMI Gange, the Chief Secretary of Uttarakhand, and the Advocate General of Uttarakhand, who can act as a trustee of these rivers.⁵⁶ However, soon the SC stayed the Uttarakhand HC's order citing legal and practical challenges in enforcing such status by expressing concern over the jurisdiction, liabilities and enforcement of such rights and duties.⁵⁷ Later on the Madhya Pradesh Assembly also passed a resolution that granted the status of legal entity to Narmada river.⁵⁸

In another significant case A Periakaruppan v. The Principal Secretary⁵⁹, the Madras High Court, again invoked the principle of Parents Patriae and declared “Mother Nature” as living entity. The court observed that “the mother earth is grasping for breath and therefore she must be endowed with the constitutional rights who should be protected, preserved and respected as living entities”.⁶⁰ This case, therefore marks a progressive shift in Indian environmental jurisprudence by formally recognising nature as a legal person with enforceable rights.

Now, a pertinent question that arises in front of us is what are the legal implications of giving such recognition to nature. So the simple answer to this question is that by granting legal personhood status to nature, any harm done to rivers, mountains, glaciers or any integral part of nature can be treated as harm caused to a right-bearing entity, thereby offering stronger

⁵⁵ Mohd. Salim v. State of Uttarakhand, Supra note 11.

⁵⁶ Ashwath & Swetha, *Environmental Personhood*, supra note 37.

⁵⁷ The Indian Express, *SC stays Uttarakhand HC order on Ganga, Yamuna living entity status*, The Indian Express (July 7, 2017), <https://indianexpress.com/article/india/sc-stays-uttarakhand-hc-order-on-ganga-yamuna-living-entity-status-4740884/>.

⁵⁸ The New Indian Express, *After Ganga and Yamuna, river Narmada granted living entity status*, The New Indian Express (May 3, 2017), <https://www.newindianexpress.com/nation/2017/May/03/after-ganga-and-yamuna-river-narmada-granted-living-entity-status-1600663.html>.

⁵⁹ A Periakaruppan v. The Principal Secretary, Supra note 13.

⁶⁰ Shanthi Van Zeebroeck, *What Countries Grant Legal Rights to Nature And Why?*, Earth.Org (Oct. 6, 2022), <https://earth.org/nature-rights/#:~:text=3.,harmony%20and%20balance%20with%20it>.

protection to them. However, for effective implementation of this status it is important to appoint guardians or trustees of nature that act on behalf of them in case of legal proceedings. Just like temple deities in India are recognised as a perpetual minors where a shebait or trustee is appointed to look after the deities, an state actor or public authorities or even a member of community can be appointed to can represent the nature as well as whose responsibilities will be to ensure that natural resources are not exploited for human greed. By representing a legal guardian or custodian, the effective implementation of giving the status of legal person can be achieved and through which human beings can be made accountable for the destruction of the environment. Otherwise, the status of legal personhood will be nothing more than an embellishment which can be seen in other cases. The large-scale destruction of nature continues despite giving such explicit legal recognition and giving status of legal personhood to nature. In both Ecuador and Bolivia, large-scale destruction of natural resources, including oil extraction and mining, continues⁶¹ which unleashes the futility of giving such legal recognition and turns such recognition into an ornamental status with no practical consequences.

Is giving Legal Personhood a Panacea for Climate Change Solutions?

One of the most pertinent questions that comes to our mind is, is giving legal personhood to nature a panacea for all the climate change issues that we are facing today? There is no straight answer to this question. Since the concept of providing legal personhood status to nature challenges the deeply entrenched anthropocentric view of development that puts humans at the centre, many people also criticise the assignment of rights to nature as it can hinder development projects and can act as a bottleneck in economic growth. Many people also termed the step as irrelevant and unnecessary. For example, a Delhi based lawyer and author, Manjeri Subin Sunder Raj believes that instead of granting legal personhood status to nature, the courts should focus on the right to exist and regenerate which is done in the cases of Ecuador and Bolivia.⁶² Similarly, the executive director of the Center for Democratic and Environmental Rights, Mari Margil believes that the recognition of nature as a legal person is not an ideal approach as nature is very different from human beings and therefore giving them the same

⁶¹ Mihnea Tanasescu, *When a River is a Person: From Ecuador to New Zealand, Nature Gets Its Day in Court*, Open Rivers: Rethinking Water, Place & Community, no. 8 (Fall 2017), <https://openrivers.lib.umn.edu/article/when-a-river-is-a-person-from-ecuador-to-new-zealand-nature-gets-its-day-in-court/>.

⁶² Katie Surma, *Indian Court Rules That Nature Has Legal Status on Par With Humans—and That Humans Are Required to Protect It*, Inside Climate News (May 4, 2022), <https://insideclimatenews.org/news/04052022/india-rights-of-nature/>.

rights, duties and liabilities is not a feasible step.⁶³ So instead of legal personhood, he advocates for legal naturehood where rights of nature are interpreted, guaranteed, protected, and upheld.⁶⁴

However many people also believe that the status of legal personhood is the need of the hour. So, when the human community is in the middle of a crisis and Mother Earth is struggling to survive, no one solution can act as a panacea for ameliorating the present crisis caused by climate change. Therefore, we need multiple approaches to stop this fast-paced exploitation of natural resources, which is slowly engulfing our planet. But the true implementation of the status will require multiple efforts from every organ of the state as well as society. As the paper discussed, implementing the status of legal personhood will be a herculean task, as we have to ensure that this status will not turn into an ornamental task. So, strong political will coupled with contributions from civil society is required to make this a reality.

However, it won't be wrong to say that providing legal personhood to nature can be an instrumental step towards fighting climate change. This legal personhood status will supplement the existing mechanisms, such as national laws, policies, and international conventions, that are meant towards conserving and protecting the environment.

Giving the status of legal personhood to nature is not a panacea for solving the issues caused by climate change; however, when coupled with other frameworks, it has the potential to reshape environmental governance. And it can surely form a part of a larger and holistic approach towards environmental justice.

Conclusion and Suggestions

This paper discussed various facets of giving legal recognition to forests, rivers, mountains and other natural objects. The need for giving such legal recognition to them has arrived as the current systems are proving to be inadequate in protecting nature from continuing destruction due to large-scale economic development and human greed, leading to the exploitation of nature. This has resulted in a human-made catastrophe which is slowly engulfing our planet Earth as well as its inhabitants. However, giving the status of legal recognition to the environment is filled with multiple challenges. The first one is the vagueness and ambiguity surrounding it, and in assigning liability in cases of violation of rights. Unlike corporations and

⁶³ Surma, Supra note 60.

⁶⁴ Surma, Supra note 60.

trusts, nature can't be held liable for breaches of its duties. Therefore, the first step is to decide who will be responsible in cases where natural resources are exploited. The second challenge before us is the lack of implementation, as can be seen from the cases of Ecuador, where, despite the recognition of the rights of the Vilacambá river by the court, the government was not able to implement the ruling.

In 2009, a mining law was upheld by the Constitutional Court in Ecuador even though it violated the rights of nature.⁶⁵

Another major challenge is a lack of political will, which is often seen in countries like India. Therefore, giving status of legal personhood to nature first requires establishing a clear legal framework that includes enacting specific laws that define rights of natural entities as well as specific mechanisms for protecting rights. The second step should be to designate the individual or institution as the legal guardian or trustee of the natural entities who can represent them in the court of law, as well as who will be liable in cases of their breach of duty or in cases of their exploitation. This step will ensure proper implementation and will make sure that the rights of nature are defended in practice. To make the implementation of nature's rights more effective, the legal professionals and courts must be trained and equipped to handle cases involving the rights of nature. Further, the policies and legal frameworks should incorporate the indigenous philosophies that view nature as sacramental and make them an integral part of human lives. This will enhance the ethical and cultural legitimacy of such legal measures. Also, to increase the participation of people and the community, education campaigns and awareness programmes should be conducted to make people understand the importance of providing such rights to natural entities. Last but not least, international cooperation and collaboration towards the protection of natural entities should be increased with a greater reliance on giving rights to natural entities as well as providing the status of legal personhood to them.

These steps might look minuscule at first glance, but implementing them might prove to be an instrumental step towards reducing the exploitation of nature as well as reducing the repercussions of climate change. As Christopher Stone concluded in his work that "giving legal status to nature would serve a small breakthrough in pursuance of our larger goal, which is saving the future of our planet".⁶⁶

⁶⁵ Ashwath & Swetha, *Environmental Personhood*, supra note 37.

⁶⁶ D. Stone, Supra note 35.