



Exploring India's Ecological Landscape on the Road to Environmental Personhood

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ABSTRACT:

Several countries have established regimes for the protection of nature, including Ecuador, Bolivia, New Zealand, India, Bangladesh, and local governments in the United States. In the case of Animal Welfare Board v. A. Nagaraja, the apex court of India has said that the Grundnorm, i.e., the Constitution of India's Article 21 right to life, could also be extended to non-humans. This paper contends that endowing nature with rights might undermine anthropocentric environmental protection legislation and regulations, improve environmental results, and strengthen the acceptance of First Nations stewardship notions. The research aims to evaluate the extent to which the legal concept of 'environmental personhood' has been recognized in India and to propose a roadmap for establishing nature's rights and representation in the country's environmental laws and constitution. By extending legal rights and protections to non-human elements such as rivers, forests, and ecosystems, the notion of environmental personhood constitutes a paradigm shift. This research looks at the legal frameworks, socio-cultural viewpoints, and policy actions that contribute to the emerging discourse of environmental personhood in India.

Introduction:

A legal personality, often termed a juristic personality, pertains to an entity, separate from a human individual, that the legal system acknowledges as capable of possessing specific rights and obligations. This extends to recognizing nature and the environment as entities entitled to certain legal rights. These rights can encompass a spectrum of legal protections, ranging from fundamental rights essential for the well-being of our natural surroundings to a comprehensive array of rights designed to safeguard the environment in all its facets. This concept is at the heart of the evolving legal framework that seeks to grant nature the legal standing to protect and preserve the environment.

Salmond defines a legal person as *“any subject matter other than a human being to which the law attributes personality. This extension for good and sufficient reasons of the concept of personality beyond the class of human beings is one of the most noteworthy feats of the legal imagination.”*

The notion of "environmental personhood" has evolved as a ground-breaking new paradigm in environmental jurisprudence and philosophical discourse in a period characterised by intensifying environmental difficulties and a growing understanding of the interdependence between human well-being and the natural world.

Natural entities have been awarded legal rights in New Zealand, Ecuador, Colombia, India, and local communities throughout the United States. The fundamental idea of giving legal and moral personhood to environmental components like rivers, forests, and ecosystems is encapsulated by this concept. India, a country with a rich tapestry of cultural, philosophical, and legal influences that meet beautifully with the ambitions of environmental personhood, is one of the countries at the forefront of this transformational debate.

The ecological landscape of India is a battleground for sustainable development at present and a cradle of historic ecological knowledge. It is a canvas painted with various ecosystems, sacred rivers, and vivid biodiversity. Constitutional principles, judicial activism, indigenous knowledge, and the development of an eco-centric ethical framework are all stops on the varied route that leads to environmental personhood in India. This research study explores this journey, examining the philosophical and legal underpinnings of India's changing connection with its environment as it moves closer to the acceptance of environmental personhood.

The idea of assigning legal rights to nature has sparked an explosive discussion with the rising need to stop environmental deterioration and protect the planet's vulnerable ecosystems. The paper aims to navigate



through the complex web of notions, beliefs, and social movements that have come together to influence India's perspective on environmental personhood. The paper seeks to shed light on the path India takes in embracing the idea of environmental personhood by looking at the constitutional provisions that uphold environmental protection, the crucial role that judicial activism has played in forming environmental jurisprudence, the fusion of traditional ecological knowledge with contemporary legal frameworks, and the resonance of international ecological standards within the Indian context.

As the Ganges and Yamuna rivers are endowed with the status of "living entities" and indigenous communities assert their deep-rooted connection with the land and nature, India's trajectory toward recognizing environmental personhood beckons a closer examination. This research paper endeavours to contribute to the ongoing dialogue surrounding the rights of nature, the ethical responsibilities of human society, and the potential of legal innovations to shape a more sustainable and harmonious relationship between humanity and the environment.

Legal and Environmental Innovation:

The codification of the environment with human interests represents an anthropocentric view of the environment built upon extractive values.

Shaping Legal Precedents: The study contributes to the establishment of legal precedents by analyzing recent court rulings recognizing natural entities as legal persons. This can lead to a transformative shift in environmental jurisprudence.

Innovative Conservation Approaches: Understanding how environmental personhood aligns with India's ecological diversity and cultural norms offers innovative approaches to conservation and sustainable development.

2. Cultural and Traditional Integration:

Revitalizing Cultural Values: Exploring the integration of environmental personhood with India's cultural heritage showcases the potential to revitalize traditional values of reverence for nature.

Harmonizing Beliefs: The study can demonstrate how recognizing nature's legal personhood aligns with religious and cultural beliefs, fostering a more harmonious relationship between humans and the environment.

Ecological Protection and Restoration: Enhancing Conservation Efforts: Recognizing nature's rights under the concept of environmental personhood provides additional legal tools for preserving and restoring fragile ecosystems, rivers, and landscapes.

Biodiversity Preservation: By acknowledging the intrinsic value of nature, the study supports efforts to protect diverse flora and fauna, ultimately contributing to biodiversity preservation.

Policy and Governance: Influencing Policy Development: Insights gained from the study can inform policy-making, encouraging the integration of environmental personhood principles into national and regional policies.

Empowering Local Communities: The concept empowers local communities to play a proactive role in environmental protection and management, enhancing bottom-up governance.

Contributing to International Dialogue: Findings from the study can contribute to global discussions on environmental rights, fostering cross-border exchanges on legal and cultural approaches to ecological conservation.

Inspiration for Other Nations: India's experience with recognizing environmental personhood can inspire other countries to explore similar legal and cultural paradigms for nature conservation.

Sustainable Development Goals: The goals are based on pivoting towards protecting the Earth for future generations. Aligning with SDGs: The study aligns with the United Nations' Sustainable Development Goals (SDGs), particularly Goal 15 (Life on Land) and Goal 17 (Partnerships for the Goals), emphasizing the interconnectedness of environmental and societal well-being.

Origin and Development :

In 2008, Ecuador took a pioneering step by incorporating fundamental rights for the natural ecosystem, known as "Pacha Mama," into its Constitution. This can be observed in Article 10, Section 2, which states that "Nature shall be the recipient of the rights recognized by the Constitution." Furthermore, in Chapter 7 (Articles 71–74) of the Constitution, we find provisions that assert the rights of nature, where Pacha Mama, the source of life, is entitled to comprehensive respect for its existence and for the preservation and rejuvenation of its life cycles, structure, functions, and evolutionary processes.

Similarly, in 2010, Bolivia also recognized the rights of nature through the "Law of the Rights of Mother Earth." This law defines Mother Earth as a collective subject of public interest, akin to the concept of the common heritage of mankind. The Bolivian Constitution identifies both Mother Earth and life-systems, which encompass human communities and ecosystems, as bearers of intrinsic rights outlined in the law (Article 5). The concise law also establishes the "Defensoría de la Madre Tierra," a counterpart to the human rights ombudsman office known as the "Defensoría del



Pueblo." However, it delegates the development and establishment of this institution to subsequent legislation.

Another example of granting environmental personhood is the case of the national park Te Urewera in New Zealand. In 2016, it was given the status of a "legal person". Bolivia also played a prominent role in this movement by enacting the "Law of the Rights of Mother Earth" in 2010. This law identified Mother Earth and life-systems as legal entities, with their inherent rights specified in the legislation.

Colombia, in 2016, saw a notable development in the recognition of environmental personhood when the Colombian Supreme Court granted legal rights to the Atrato River. The ruling established the river's rights to protection, conservation, maintenance, and restoration. Aotearoa / New Zealand adopted a unique legal approach in 2017, declaring the Whanganui River a legal entity with its own rights and responsibilities under a legal settlement. In France, 2019 marked the year when the French Parliament adopted a law recognizing the legal rights of the French countryside. Additionally, the Mexican state of Oaxaca passed legislation in 2020 that acknowledged the rights of nature.

These instances demonstrate a global shift towards acknowledging the rights of nature, each with its own legal framework and approach, as various countries seek to address environmental concerns and promote sustainable practices.

The Legal and Philosophical Foundations of Environmental Personhood in India

In an era marked by escalating environmental challenges and a growing awareness of the intricate interdependencies between human well-being and the natural world, the concept of "environmental personhood" has emerged as a revolutionary paradigm in both environmental jurisprudence and philosophical thought. In 2014, the Supreme Court of India allowed Article 21 the right to life of India's constitution to be extended to non-human animals. This concept encapsulates the profound idea of ascribing legal and ethical personhood to elements of the environment, such as rivers, forests, and ecosystems. Among the nations at the forefront of this transformative discourse stands India, a country rich in cultural heritage, philosophical traditions, and a legal framework that converge harmoniously with the aspirations of environmental personhood.

India's ecological landscape is a canvas adorned with diverse ecosystems, sacred rivers, and vibrant biodiversity, reflecting a tapestry of both ancient

ecological wisdom and contemporary aspirations for sustainable development. The journey towards recognizing environmental personhood in India is multifaceted, navigating through constitutional principles, judicial activism, indigenous knowledge, and the pursuit of an ecocentric ethical framework. This research delves into the intricate tapestry of legal and philosophical foundations that underpin India's evolving relationship with its environment, as it charts a course towards the recognition of environmental personhood.

Amidst the growing imperative to confront environmental degradation and safeguard the delicate balance of ecosystems, the notion of granting legal personhood to natural entities has ignited a vibrant discourse that reverberates beyond legal corridors. This paper seeks to unravel the intricate interplay of ideas, principles, and movements that have converged to shape India's distinctive approach to environmental personhood. By examining the constitutional provisions enshrining the protection of the environment, the pivotal role of judicial activism in shaping environmental jurisprudence, the amalgamation of traditional ecological wisdom with modern legal frameworks, and the harmonization of international environmental norms within the Indian context, we aim to illuminate the trajectory India traverses as it embraces the transformative potential of environmental personhood.

From conferring the status of "living entities" upon the Ganges and Yamuna rivers to indigenous communities asserting their intrinsic connection with the land and nature, India's voyage towards recognizing environmental personhood beckons us to explore its dimensions comprehensively. In this process of evolution of different forms of government, the environment was not paid much attention to, despite the fact that no form of government or economy can function without utilising the virtues of nature (natural resources). This research endeavor aspires to contribute to the ongoing dialogue surrounding the rights of nature, the ethical responsibilities of human society, and the potential of innovative legal mechanisms to forge a more harmonious and sustainable relationship between humanity and the environment.

By embarking on this intellectual odyssey, we endeavor to gain a comprehensive understanding of India's ecological landscape and its profound evolution on the road to environmental personhood. Through the fusion of legal analysis, philosophical contemplation, and a socio-cultural lens, this paper seeks to illuminate the challenges, opportunities, and transformative potential that lie ahead as India navigates the complex terrain of environmental personhood.



Constitutional Imperatives and Environmental Stewardship:

At the heart of India's legal and philosophical foundations for environmental personhood lie the constitutional imperatives that underline the country's commitment to ecological preservation. The Directive Principles of State Policy, enshrined in Part IV of the Indian Constitution, articulate the state's duty to protect and improve the environment, safeguard forests and wildlife, and promote scientific temper and humanism. These principles, while not legally enforceable in themselves, guide the formulation of laws and policies, shaping India's approach to environmental governance.

One of the cornerstones of India's environmental jurisprudence is Article 21 of the Constitution, which guarantees the fundamental right to life. Over time, courts have expansively interpreted this right to encompass the right to a clean and healthy environment. This interpretation has paved the way for legal interventions aimed at mitigating environmental harm, thereby establishing a precedent for recognizing the moral and legal significance of the environment.

For ecosystems that only provide provisioning services may still have some possibility of having an economic value being attached to it, but this is more difficult when there are cultural, supporting, and regulating services merged with it. For example, let us consider one of each service received from a river which is considered holy by a lot of people.

Judicial Activism and the Evolution of Environmental Jurisprudence:

India's judiciary has been instrumental in shaping the country's environmental jurisprudence, often displaying a proactive role in safeguarding the environment. Landmark cases have left an indelible mark on the landscape of environmental law in India. The Oleum Gas Leak case of 1986, which introduced the principle of "absolute liability" on enterprises engaged in hazardous activities, marked a turning point in holding polluters accountable. The Bichhri case, which followed soon after, expanded the scope of fundamental rights to encompass the right to a pollution-free environment. These cases exemplify the judiciary's commitment to environmental protection and have contributed to the gradual evolution of the concept of environmental personhood.

In a significant legal development in Chennai, the capital of Tamil Nadu state in India, a notable stance was taken by a high court. This stance affirmed that nature possesses the status of a person deserving protection under the law.

The case in question, *A Periakaruppan v. The Principal Secretary*, involved an individual who sought to transfer protected land through a legal deed. As the land lacked a representative to safeguard its interests, the presiding judge invoked the doctrine of *Parens Patriae*, a legal principle that empowers the state to intervene in situations where vulnerable members of society are inadequately protected by their guardians. Although nature does not equate to a child, the court highlighted its vulnerability by drawing a parallel with the doctrine. The judge emphasized that when nature lacks a safeguard, the nation must step in, much like it would for an individual in a vulnerable position.

Beyond invoking the doctrine, the judge underlined the imperative of conserving nature in a manner reminiscent of India's ancestral practices. The judge took this analogy a step further by personifying nature as "She." The judge's characterization included a poignant description of nature as "struggling for breath," underscoring the urgent need for extending "constitutional rights" that can be invoked on behalf of nature. Consequently, nature was granted equivalent rights to those afforded to humans.

However, it was the pioneering decision of the High Court of Uttarakhand in 2017 that truly captured the imagination of legal scholars and environmental activists alike. In a landmark ruling, the court accorded the status of "living entities" to the Ganges and Yamuna rivers, effectively endowing them with the legal rights and responsibilities akin to those of a legal person. This decision not only reflected a departure from conventional legal reasoning but also signaled a paradigm shift in how the law conceptualizes and engages with the environment.

The concept of environmental personhood in India is exemplified through a noteworthy case study, particularly the recent ruling by the Madras High Court. This ruling represents just one facet of the complex array of judge-made laws that address the issue of natural rights within the Indian context. Notably, several state high courts across the country have issued verdicts in favor of recognizing legal personhood for various entities, including glaciers, rivers, animals, and even Mother Earth herself.

While these rulings bear significant weight at the state level, there exists an ongoing evolution in the federal arena, where legislation concerning the rights of nature continues to take shape. For instance, a notable instance involved the Uttarakhand High Court granting legal personhood to the Ganges and Yamuna rivers in 2017. However, this decision was subsequently overturned by India's Supreme Court, which deemed it unconstitutional



due to the imposition of "duties and obligations" on the rivers that were akin to those applicable to humans. This raised concerns about potential legal implications related to natural calamities, underscoring the intricate complexities and responsibilities involved. Moreover, the fact that these rivers traverse state boundaries added an additional layer of intricacy, prompting questions about jurisdictional matters.

Despite the stance taken by the Supreme Court, other state judiciaries have remained steadfast in their interpretation of nature's rights within the framework of legal personhood. Notably, the Uttarakhand High Court and the Punjab and Haryana High Court, in the years 2018 and 2019 respectively, extended legal person status to animals within their respective jurisdictions. Furthermore, the Punjab and Haryana High Court extended this concept to include Sukhna Lake, a reservoir nestled in the Himalayan foothills, deeming it a "living entity" and according it the status of a "legal person."

Addressing pivotal questions, such as how to effectively represent diverse ecosystems and determining the appropriate levels of governance (be it at the Panchayat, State Legislative Assembly, or National Parliament level), necessitates a nuanced integration of traditions, myths, cultural norms, and religious beliefs within India's democratic framework. This harmonious integration holds paramount importance in firmly establishing the concept of environmental personhood within the country's constitutional and legal structures. In the case of the environment, the situation is reversed. While in most jurisdictions the environment is not a legal person, it arguably has a more compelling claim to personhood as it is socially understood.

Cultural Ecology and the Indigenous Ethos:

India's cultural tapestry is interwoven with a reverence for nature that finds expression in myriad forms, from religious rituals to ethical principles. The ancient concept of "Vasudhaiva Kutumbakam" – the world is one family – resonates deeply with the philosophy of interconnectedness that underpins environmental personhood. Traditional ecological knowledge, often held by indigenous communities like the Adivasis, embodies a holistic understanding of nature's intricate web. These communities have long recognized the spiritual, cultural, and ecological significance of the land, asserting a harmonious coexistence with the environment.

The philosophy of "rights of nature" aligns with India's indigenous ethos, and movements advocating for

environmental personhood draw inspiration from these cultural roots. By acknowledging the intrinsic rights of natural entities, India's legal system takes a stride towards aligning with the indigenous wisdom that has safeguarded ecosystems for generations.

Global Commitments and Local Realities:

India's journey towards environmental personhood is situated within the global context of advancing environmental ethics and rights of nature. The global rights of nature movement, symbolized by the Universal Declaration on the Rights of Mother Earth and the establishment of the International Rights of Nature Tribunal, resonates with India's pursuit of recognizing the legal personhood of natural entities. These international developments offer both inspiration and a framework for contextualizing India's own efforts.

However, as India grapples with the complexities of development, the push for environmental personhood is often met with challenges rooted in economic aspirations, resource utilization, and the intricate interplay between local and global priorities. Balancing the imperatives of conservation with the demands of development underscores the need for innovative legal mechanisms that can harmonize these seemingly divergent trajectories.

Ecological Ethics and Philosophical Contemplations:

The emergence of environmental personhood in India is closely intertwined with evolving ecological ethics and philosophical perspectives. The concept of deep ecology, which recognizes the intrinsic value of all living beings, resonates with the endeavor to extend legal personhood to nature. Ecocentrism challenges anthropocentrism and urges a reevaluation of humanity's relationship with the environment, aligning with the foundational principles of environmental personhood.

Philosophical contemplations further delve into the moral and ethical dimensions of recognizing nature's inherent rights. These discussions provoke introspection on the ethical responsibilities of humans towards the environment, prompting a reconsideration of established hierarchies and norms.

Conclusion:

The legal and philosophical foundations of environmental personhood in India are an intricate tapestry woven from constitutional principles, judicial activism, cultural ethos, international commitments, and ecological philosophy. This complex interplay reflects a dynamic journey towards acknowledging the intrinsic value and rights of natural entities within a legal framework. As India navigates this transformative



terrain, the concept of environmental personhood emerges as a powerful force shaping the nation's environmental consciousness and legal discourse.

The road to environmental personhood is marked by a nuanced interplay of legal evolution and philosophical contemplation. India's constitutional framework, guided by principles of environmental stewardship, provides a solid foundation for recognizing the rights of nature. Judicial activism, epitomized by landmark cases and innovative decisions, illuminates a path towards harmonizing ecological imperatives with developmental aspirations.

Cultural traditions and indigenous wisdom converge with global movements, amplifying the chorus for environmental personhood. Philosophical explorations challenge prevailing anthropocentrism, propelling India towards a more holistic and ecocentric perspective. This convergence of legal, philosophical, and cultural factors underscores the urgency of embracing environmental personhood as a transformative tool for sustainable development.

In the journey towards recognizing environmental personhood, India stands at a crossroads, poised to redefine its relationship with the environment and forge a path towards ecological harmony. This evolution carries profound implications for legal systems, societal values, and the overarching narrative of humanity's role in the natural world. As India's ecological landscape interweaves with its legal and philosophical discourse, the concept of environmental personhood emerges as a beacon of hope, illuminating a path towards a more equitable, just, and sustainable future for all living beings.

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