



ARTICLE

Environmental Personhood: Reimagining Liability For Nature's Rights

Chilla Padma Priyanka *

Abstract

This paper delves into the concept of environmental personhood, a legal framework that grants rights to natural entities, such as rivers, mountains, or forests, which inherit rights and legal standing. By recognising the constitutive value of nature, this approach enables its representation and protection in legal proceedings. There are nearly 500 rights of nature laws across 40 countries, statutory enactments and landmark judicial decisions. This global movement is effectively shaping environmental laws practiced globally. Despite this progress, corporations are often not held accountable for their environmental pollution, resulting in adverse effects on both the ecosystem and human health. The paper will examine the reasons for regulatory inaction. This paper will examine the underlying regulations governing crucial issues related to the enforceability of environmental personhood rights, as well as the complexities of guardianship and inheritance of these rights. This legal concept of environmental personhood is an evolving and impactful movement that is reshaping the course of practicing environmental law worldwide.

Keywords - Environmental Personhood, Rights of Nature, Environmental Law, Natural Entity

I. INTRODUCTION

Environmental personhood or juridic personhood is a legal concept which designates certain environmental entities with the status of a legal person. This assigns to these entities the rights, protections, privileges, responsibilities and attributes of a legal personality. Because environmental entities such as rivers and plants can not represent themselves in court, a "guardian" can act on the entity's behalf to protect it. Environmental personhood emerged from the evolution of legal focus in pursuit of the protection of nature. Over time, focus has evolved from human interests in exploiting nature to protecting nature for future human generations to conceptions that allow for nature to be protected as intrinsically valuable. This concept can be used as a vehicle for recognising Indigenous people's relationships to natural entities, such as rivers. Environmental personhood, which assigns nature (or aspects of it) certain rights, concurrently provides a means to individuals or groups such as Indigenous peoples to fulfil their human rights.¹²¹

* Undergraduate Student (BBA LL.B.), GITAM School of Law, GITAM (Deemed to be University), India

¹²¹ Environmental Personhood, Wikipedia,

https://en.m.wikipedia.org/wiki/Environmental_personhood#:~:text=Environmental%20personhood%20or%20juridic%20personhood,to%20fulfill%20their%20human%20rights (last visited July 28, 2025)

This concept is basically a legal recognition of nature or specific nature entities (e.g., rivers, forests, or ecosystems) as having inherent rights, legal standing, or the ability to be represented in the legal proceedings. This concept views nature away from property of humans or a resource of human use, instead acknowledging its value and entitlement to protection. In the world, there are few remarkable emergences as a legal innovation. From the Whanganui River in New Zealand to the Atrato River in Colombia, and landmark legislative proposals made in India and the United States, this evolution of legal framework is significantly growing as an international movement in humanity's relationship with the natural world, offering an approach to governance and protection.

II. CORPORATE NEGLIGENCE AND REGULATORY GAPS

Despite increasing environmental awareness, the issue of harm caused by the environment remains a huge global challenge. Like Industrial pollution, resource over-extraction, habitat destruction, etc, will have a long-lasting effect on damage to the ecosystem. Corporations should follow a concept of Corporate Social Responsibility, which states that it's a business approach where companies will operate to enhance but not degrade society or the environment. Every company have an environmental responsibility, which states that Corporate social responsibility is rooted in preserving the environment. A company can pursue environmental stewardship by reducing pollution and emissions in manufacturing, recycling materials, replenishing natural resources like trees, or creating product lines consistent with CSR.¹²² Corporations usually don't take accountability for the environmental degradation caused by them. Traditional legal frameworks struggle to address these activities or often indirectly impact corporate activities on the environment which resulting in insufficient penalties, delayed justice.

The reasons for regulatory gaps in this concept in India are that there is also no legal framework detailing how these rights are enforced, who the legal guardians are, or what penalties exist for violations. Court rulings, like those from the Uttarakhand High Court, lack support from legislation and have even been put on hold by the Supreme Court. Moreover, this concept often conflicts with development objectives, as infrastructure and industrial projects intrude on natural ecosystems. India's legal system predominantly focuses on human interests, using outdated colonial laws that treat nature as a resource instead of a rights-bearing entity. Institutional gaps, such as the absence of specialised enforcement bodies or trained officials, further hinder implementation. Additionally, without proper safeguards, this approach could be exploited for baseless lawsuits or superficial declarations.¹²³

III. CONCEPTUAL AND PHILOSOPHICAL FOUNDATIONS OF ENVIRONMENTAL PERSONHOOD

a. Conceptual Foundation

¹²² Corporate Social Responsibility (CSR), Investopedia, <https://www.investopedia.com/terms/c/corp-social-responsibility.asp#:~:text=Environmental%20responsibility:%20Corporate%20social%20responsibility,product%20lines%20consistent%20with%20CSR> (last visited July 28, 2025)

¹²³ See generally Environmental Personhood: Can Nature Hold Legal Rights?, Lawful Legal (Jan. 9, 2023), <https://lawfullegal.in/environmental-personhood-can-nature-hold-legal-rights/#:~:text=While%20recognizing%20nature%20as%20a,trained%20officials%2C%20further%20hinder%20i> mplementation

The legal rights that are given to the natural entities include the ability to sue and not to be sued, and to hold rights and responsibilities. Since natural entities can't represent them in the legal proceedings, a guardian or trustee is appointed on behalf of the act in the legal context. This concept originated with Christopher Stone's 1970s essay "Should trees have Standing?", which inspired U.S Supreme Court Justice William O. Douglas to argue for legal standing for nature in *Sierra Club v. Morton* (1972).¹²⁴

b. What is a Personhood

Personhood is a mere status of being a person, but defining the term 'personhood' is a complex and debated topic, as this term has multiple interpretations or perspectives, particularly in philosophy and law. This term doesn't only describe being a human being, as it also involves concepts like rights, responsibilities and moral status.

c. Philosophical Foundation

Philosophical discourse surrounding the recognition of legal personhood for non-human entities has drawn upon various ethical theories and frameworks, including environmental ethics, animal rights theory, and theories of justice. Proponents argue that extending legal personhood to non-human entities is essential for acknowledging their intrinsic value and inherent rights, independent of their instrumental value to humans. Critics, however, raise concerns about the feasibility and implications of recognising legal personhood for non-human entities, questioning the ability of legal systems to effectively protect their rights and interests.¹²⁵

The roots of the legal-philosophical tradition are rooted in Thomas Berry and emerged as "Earth Jurisprudence", this philosophy states that the law reflects ecological interdependence rather than merely human interests.¹²⁶

The ethical and moral argument for understanding the contributions of nature of the world is "The relationship between a person (or peoples) and a natural entity (an animal or plant, a species, another human) is deemed as being of use (instrumental or utility) to the people in living a good life "nature's contributions to people". There is thus no explicit reference to the good lives of nonhumans where there are no humans, there is no value."¹²⁷

d. Historical Parallels

Corporate personhood is the ethical and legal concept according to which corporations may be treated morally or legally as entities independent of the human beings associated with them. In particular, this means that corporations have certain rights (such as the right to own property) and can be held accountable for their actions. It is a concept recognised within the legal systems of

¹²⁴ See generally Jacob D. Glick, *The Legal Man on the Moon: Exploring Environmental Personhood for Celestial Bodies*, 2024 U. Chi. J. Int'l L. 24, <https://cjl.uchicago.edu/print-archive/legal-man-moon-exploring-environmental-personhood-celestial-bodies>

¹²⁵ See generally Apoorva Agrawal & Tushar Kant, *Granting Rights to Nature: A Legal and Philosophical Analysis*, 2 IJLSI 123 (2023), <https://ijlsi.com/wp-content/uploads/Granting-Rights-to-Nature.pdf>.

¹²⁶ See generally *Legal Personhood*, Cambridge Core, <https://www.cambridge.org/core/elements/legal-personhood/EB28AB0B045936DBDAA1DF2D20E923A0> (last visited July 28, 2025)

¹²⁷ See generally M. S. C. A. C. M. A. Costa, *The Relationship Between Corporations and Nature*, 6 Biological Conservation, 109605 (2022), <https://www.sciencedirect.com/science/article/pii/S0006320722001252#:~:text=The%20relationship%20between,i s%20no%20value>

all advanced economies, because without corporate personhood, there simply can be no corporations.¹²⁸

The key difference between the concepts of Environmental Personhood and Corporate Personhood is that Environmental Personhood focuses on granting rights to non-human beings, whereas Corporate Personhood protects the interests of corporations as distinct legal entities separate from their owners or members. Environmental Personhood grants legal rights to nature. While both are represented through corporate personhood, the board of directors represents the corporation, whereas a guardian is appointed by law to represent the environment.

e. Role of Indigenous Knowledge

The intricate relationship between indigenous peoples and the environment is a complex and multifaceted one, deeply rooted in traditional knowledge and practices that have been passed down through generations. Indigenous peoples have long been recognised as effective stewards of the environment, with a profound understanding of the natural world and a deep commitment to preserving it for future generations.¹²⁹ Indigenous knowledge systems often offer methods of environmental protection or sustainable resource management, such as protection from traditional hunting and fishing practices. These practices can inform specific rights and responsibilities associated with environmental personhood and also contribute to effective conservation strategies. Justin Langan, Curator of the Winnipeg Hub, argued that: “we mustn’t just focus on AI and technology, but instead on the nature and symbiosis of indigenous peoples.”¹³⁰

IV. THE PROBLEM: CORPORATE ENVIRONMENTAL NEGLIGENCE AND REGULATORY GAPS

a. Analysis of Corporate Malpractice towards the Environment

Corporate malpractice, which includes environmental degradation, often focuses on maximising profits with little regard to the ecological consequences. Any form of pollution that is caused by industrial sources (corporate) is known as industrial pollution. Environmental degradation is an increasingly pressing issue that affects us all. It is caused by a variety of factors, ranging from human activities to natural disasters, and its effects can be devastating. Many of these effects cause further degradation, which means that environmental degradation’s impact works in a downward cycle. Fortunately, there are solutions, and we can all work together to mitigate the impacts of environmental degradation. Planting With Purpose exists to help reverse this cycle and create a more sustainable future for communities all around our planet.¹³¹ A primary example of environmental degradation is the Ganga River Pollution, where industries dump their industrial waste in rivers without even filtering it, which forms white foam-like clouds floating

¹²⁸ Corporate Personhood, Concise Encyclopaedia of Business Ethics, <https://conciseencyclopedia.org/entries/corporate-personhood/#:~:text=Corporate%20personhood%20is%20the%20ethical,who%20deserve%20credit%20or%20blame> (last visited July 28, 2025)

¹²⁹ Environmental Personhood, Sustainability Directory, <https://sustainability-directory.com/term/environmental-personhood> (last visited July 28, 2025)

¹³⁰ Indigenous Peoples and the Environment, Number Analytics, <https://www.numberanalytics.com/blog/indigenous-peoples-and-the-environment#:~:text=The%20intricate%20relationship,for%20future%20generations> (last visited July 28, 2025)

¹³¹ Environmental Degradation Causes, Effects and Solutions, Google Share, <https://share.google/bCpLmjBq1nfHOP6kt> (last visited July 28, 2025)

on the river. In the case of *M.C. Metha v. Union of India*¹³², Which stands as a landmark case for environmental law in India concerning the pollution in the River Ganga, the Supreme Court held that mandated that industries, including tanneries, install primary treatment plants for their effluents before discharge. It also held municipal corporations responsible for preventing untreated sewage and industrial waste from entering the river.¹³³ The effects of environmental degradation can lead to multiple natural calamities, like flooding and, most importantly, climate change.

b. Regulatory Gaps

India has a strong framework of environmental laws for effective implementation and enforcement, including the Environment (Protection) Act, 1986, the Air (Prevention and Control of Pollution) Act, 1981, and the Water (Prevention and Control of Pollution) Act, 1974. But despite these regulations, there are increasing challenges of environmental degradation and inaction, raising questions about the government's commitment to the protection of the environment. In India, the Biological Diversity (Amendment) Bill, 2021-22¹³⁴ has removed significant criminal penalties for violations while replacing them with monetary penalties, which can be given as an example of weak enforcement and insufficient penalties. In India, there is documented evidence of corporate lobbying influencing the decisions of government to dilute environmental safeguards, for instance in sector of mining and power sectors, e.g., Vedanta, Association of Power Producers, have successfully pushed for the relaxation of norms for air pollution, eased green clearances, and even influenced the opening up of ecologically sensitive forests for mining.¹³⁵ The government often focuses on the job creation, fast development, economic growth and industrial development over required environmental protection. The Forest Conservation (Amendment) Act, 2023, for example, narrows the definition of "forest," exempts "deemed forests," and removes the requirement of Gram Sabha consent for certain projects¹³⁶, which is seen as a legal loophole.

c. Consequences on Ecosystem and Human Health

The combined affect of weak regulations and corporate-driven pollution on nature and human health is interconnected, as increased industrial emissions and deforestation lead to global warming and extreme climatic conditions, which directly affect greenhouse gases. Due to increased pollution leads to respiratory issues, cancers and chronic health issues. Acts of deforestation will also affect the habitat of environmental species and homes of forest-dependent tribes, leading loss of traditional livelihoods. Pollutants will also accumulate in the food chain, leading to more potential health issues.

¹³² *M.C. Mehta v. Union of India*, 1988 INSC 3 (India)

¹³³ *M.C. Mehta v. Union of India*, (1986): Ganga Pollution Case, The Legal Quorum, <https://share.google/EuAYwodqXyZyXGCwf> (last visited July 28, 2025)

¹³⁴ The Biological Diversity (Amendment) Bill, 2021, PRS Legislative Research, <https://prsindia.org/billtrack/the-biological-diversity-amendment-bill-2021?hl=en-IN> (last visited July 28, 2025)

¹³⁵ Corporate Lobby Sways Centre While Its Members Fill BJP's Cooffers, The Reporters' Collective, <https://www.reporters-collective.in/trc/corporate-lobby-sways-centre-while-its-members-fill-bjps-cooffers?hl=en-IN> (last visited July 28, 2025)

¹³⁶ Biological Diversity Amendment Bill, 2023, Depenning, <https://depenning.com/blog/biological-diversity-amendment-bill-2023/?hl=en-IN> (last visited July 28, 2025)

V. LEGAL RECOGNITION OF ENVIRONMENTAL PERSONHOOD: AN INTERNATIONAL AND INDIAN PERSPECTIVE

a. *International Landmark judicial/statutory declarations*

Many global movements that recognise the rights of nature have seen a diverse and innovative approach bring multiple constitutional provisions and judicial pronouncements.

- In 2008, Ecuador became the first country in the world to add provisions based on Rights of Nature (Pacha Macha) in its constitution. Articles 10 and 71-74 explicitly recognise nature as a subject of rights, granting it the right to exist, persist, maintain, and regenerate its life cycles, structure, functions, and evolutionary processes.¹³⁷ This constitution recognises the principles of Sumak Kawsay.
- A landmark legislation like New Zealand's Whanganui River Act grants the Whanganui River as a legal person, comprising the river from mountain and sea, incorporating all its physical elements.¹³⁸ The ACT appoints two guardians, one from the crown and the other from the local Māori iwi, to represent behalf of the river, which reflects a unique blend of Western legal personhood with indigenous spiritual and cultural connection to the river.
- The Colombian constitutional Court declares the River Atrato and its surrounding basin as a subject of Rights while also ordering the government to protect, restore, maintain and conserve its ecosystem.¹³⁹ This judicial decision filed by the local Afro descendant highlights the strong link between the local rights with the rights of nature.
- Bolivia's Law of the rights of mother earth (law no.071 of 2010)¹⁴⁰ States that Mother Earth is a collective subject of public interest with inherent rights, including the rights to life, the diversity of water, clean air, and freedom from pollution.

These international landmark judicial decisions/statutory declarations move towards the protection of nature beyond human-centric environmental protection, by using legislation, specific status for particular entities and judicial rulings in favour of granting legal standing and rights of nature.

b. *Environmental Personhood in India*

While India has not yet adopted any particular Rights of Nature-based legal frameworks, like Ecuador or Bolivia's constitutional provisions, existing statutes and a series of judicial decisions that lay down a significant groundwork for identifying the value and even recognising the natural elements as a "legal entity" at times.

The Indian Constitution has various amendments and judicial interpretations that provide a framework for environmental protection, which paves the way for the idea of environmental rights, like

- In article 21, Right to Life and Personal Liberty, the Supreme Court of India has interpreted it as to include the "Right to a wholesome environment". This means that living in a clean and healthy environment is a basic right of human life. A landmark case that discusses this concept is *Rural*

¹³⁷ See generally Erin R. L. Okuno, Human Rights, Environmental Rights, and Rights of Nature: A Comparative Analysis of the Atrato River, the Whanganui River, and Lake Erie, 20 Wm. & Mary Env't L. & Pol'y Rev. 8 (2018), <https://digitalcommons.law.uw.edu/wilj/vol20/iss3/8/?hl=en-IN>

¹³⁸ See generally Louis J. Kotzé & Erin R. L. Okuno, A Transformative Constitutional Moment? The Atrato River Decision and the Future of Environmental Constitutionalism, 29 J. Env't L. 12 (2017), <https://www.tandfonline.com/doi/full/10.1080/13642987.2024.2314532?hl=en-IN#:~:text=20%20The%20model%20also%20recognises,duties%2C%20and%20liabilities%2C22%20as>

¹³⁹ Atrato River Decision T-622/16 of November 10, 2016, Climate Change Litig., <https://climatecasechart.com/non-us-case/atrato-river-decision-t-622-16-of-november-10-2016/?hl=en-IN#:~:text=Atrato%20River%20Decision%20T%2D622,10%2C%202016%20%2D%20Climate%20Change%20Litigation> (last visited July 28, 2025)

¹⁴⁰ See generally Melissa Vega, Bolivia's Mother Earth Laws: Is the Ecocentric Legislation Misleading?, Harv. Rev. of Latin Am., <https://revista.drclas.harvard.edu/bolivias-mother-earth-laws-is-the-ecocentric-legislation-misleading/?hl=en-IN> (last visited July 28, 2025).

litigation and entitlement v. state of U.P.¹⁴¹ (Dehradun Quarrying Case), The case interpretation implies that environmental degradation is a violation of the fundamental right of Right to Life as it impacts the well-being of human lives.

- According to article 48A of the Directive Principles of State Policy, the State shall protect and improve the environment and safeguard the forests and wildlife of the country. Even though this article doesn't directly imply environmental protection, but places an obligation on to State to engage in the protection and improvement of the environment.
- According to article 51A(g) states that every citizen of the country must protect and improve the natural environment, which imposes a sense of responsibility on citizens.

Even though this article states the broader scope of environmental protection but making the mere scope of environmental protection is not a policy goal, but a prerequisite for fundamental human rights.

The existing Indian environmental status explicitly doesn't grant "personhood" but recognises the value and ecological importance of nature. In India, several important environmental statutes are currently in force, aiming to protect and improve nature, a few of which are;

- THE WILD LIFE (PROTECTION) ACT, 1972, this act protects wildlife and habitats while controlling illegal trade and establishes protected areas.
- THE FOREST (CONSERVATION) ACT, 1980, provides for the conservation and regulates non-forest use of forest lands.
- THE NATIONAL GREEN TRIBUNAL ACT, 2010, is a tribunal court which handles cases related to the environment.
- THE BIOLOGICAL DIVERSITY ACT, 2002, focus on conserving biological resources while promoting sustainable use and ensuring equitable benefit sharing.
- COSTAL REGULATION ZONE NOTIFICATIONS, manages coastal areas, preventing ecological damage while promoting sustainable development.
- There are multiple PREVENTION AND CONTROL OF POLLUTION acts of water and air that prevent them.

These play an important role in developing a balance between environmental protection and addressing degradation challenges.

c. Landmark Judicial Declarations

In case of *Mohd. Salim v. State of Uttarakhand* (2017)¹⁴², The Uttarakhand High Court declared that the rivers Ganga and Yamuna as living entities with legal personhood, which grants the rivers rights similar to humans and gives them the right to appoint a guardian to protect themselves. However, the Supreme Court has stayed the Uttarakhand High Court's decision due to implementation issues, particularly concerning the inter-state matter of the rivers.

Some of Uttarakhand has seen some extent of natural entities as legal personhood to air, glaciers, forests, meadows, and lakes in the case of *Lalit Mglani v. State of Uttarakhand* (2017)¹⁴³.

In the case of *Vellore Citizens Welfare Forum v. Union of India* (1996)¹⁴⁴, The Supreme Court introduced and incorporated the precautionary principle and the Polluter Pays Principle into environmental law in the country while recognising them as essential components of sustainable development.

¹⁴¹ Rural Litig. & Entitlement Kendra v. State of U.P., 1985 INSC 52 (India).

¹⁴² Mohd. Salim v. State of Uttarakhand, MANU/UC/0050/2017 (Uttarakhand High Court) (India)

¹⁴³ See, e.g., In re: Enforcement of Environmental Laws (WPPIL No. 140 of 2015), Uttarakhand High Court (India)

¹⁴⁴ Vellore Citizens' Welfare Forum v. Union of India, 1996 INSC 952 (India)

In the case of *MC Mehta v. Kamal Nath* (1997)¹⁴⁵, The Supreme Court has established the Public Trust Doctrine, through which the government holds a responsibility for protecting natural resources as a trustee for the public, and preventing them from exploitation for private gains.

In the case of *MC Mehta v. Union of India* (1987)¹⁴⁶, This case is famously known as the Oleum Gas Leak Case, in which the Supreme Court laid the principle of Absolute Liability, which holds the industries accountable and strictly liable for engaging in hazardous activities for environmental damage, irrespective of negligence.

VI. IMPLEMENTATION CHALLENGES: ENFORCEABILITY, GUARDIANSHIP, AND INHERITANCE

A key challenge lies in identifying who can sue on behalf of nature and how to address harm inflicted on natural entities, which differs significantly from harm to humans. In several countries, such as Ecuador, the law allows any individual to be appointed as a guardian for the environment. The Supreme Court's stay of the High Court of Uttarakhand ruling regarding the Ganga and Yamuna underscores concerns about the practicalities of legal personhood declarations without clear enforcement mechanisms.

Various models for guardianship exist, including appointments from government bodies, communities, tribes, or trustees to represent environmental interests. However, potential conflicts of interest may arise if these guardians have economic or political agendas, presenting a substantial risk. An appropriate guardian must be selected either by a court of law or under existing laws.

While nature may possess rights of inheritance, this does not imply a biological transfer of inheritance akin to that of humans. Rather, it should be understood in the context of a fundamental principle that signifies these rights are meant to endure indefinitely, existing perpetually as long as the natural entity remains.

VII. RECOMMENDATION AND CONCLUSION

The concept of environmental personhood marks an important shift in legal thought, moving towards the views of recognising nature's inherent rights and its value. This emerging legal framework assigned legal standing to two natural entities, like rivers and forests, which has gained a global momentum which is exemplified by judicial declarations in Ecuador and strategic recognition from New Zealand's Whanganui River, and other significant judicial decisions from other parts of the world. This shift of environmental law directly addresses the ongoing problem of corporate environmental negligence, which continues to inflict degradation through pollution or unsustainable resource extraction. Such malleable practices often escape by a regulatory Gap, or we can enforce that frequently overwrites environmental concerns, as seen in the Indian legislative changes. This concept of environmental personhood or legal personhood has roots in eccentric philosophies and is deeply informed by knowledge systems of indigenous as environmental personhood advocates for a fundamental reorientation of humanity's relationship with nature.

While India has not yet adopted any legal prohibitions on the rights of nature framework, its judiciary has significantly advanced the concept through interpreting the constitutional Frameworks by linking environmental health to the fundamental right to life. Landmark judicial rulings that have declared rivers and other natural entities as living persons through these bold declarations have encountered a practical implementation of these rights, but the Supreme Court remains silent due to a proper provision to

¹⁴⁵ *S. Jagannath v. Union of India*, 1996 INSC 1466 (India)

¹⁴⁶ *M.C. Mehta v. Union of India*, 1986 INSC 282 (India)

implement. Implementing environmental personhood presents substantial challenges, including defining legal standing, proving harm to Nature and conflict-free guardianship models. Furthermore, this concept ensures that nature's rights and the interests of future generations demand legal innovation. Despite these complications, this concept is emerging as it is getting significant support as it plays a powerful tool for safeguarding our planet and signalling a crucial step towards an ecologically balanced future.