



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2025

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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CAN TREES BE LEGAL PERSONS? REIMAGINING ENVIRONMENTAL LAW IN INDIA

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INTRODUCTION: LEGAL PERSONHOOD FOR TREES

Legal Personhood is a concept which developed as a part of a principle called 'Rights to Nature'. This is a legal construct that challenges the anthropocentric belief that humans are the most important beings on this planet and that natural resources should be protected because they benefit humans. But on the contrary, the concept of legal personhood is based on ecocentrism and says that trees, animals, rivers and other entities of nature should be protected regardless of their benefits to man because they have their own inherent rights.¹

If this approach is implemented religiously, then it could bring an evolution in the Environmental Laws. If trees are legal persons, then falling of trees would become a violation of rights. The marginalized tribes, whose lives depend on forests can approach the court representing the trees, ensuring both environmental and human justice.²

IS INDIA READY TO REIMAGINE ENVIRONMENTAL LAW?

Article 21³ of the Indian Constitution talks about right to life and its broad interpretation extends to include the right to have a healthy environment. Further, Article 48 A⁴ of the Indian Constitution gives direction to the state to take steps to safeguard the forests. Also, Article 51A⁵(g) talks about the duty of every citizen to safeguard the environment. The judgement of the case of Mohd Salim v. State of Uttarakhand⁶ declared the rivers Ganga and Yamuna as legal

¹ Harini Nagendra, Heritage Trees Need Legal Rights, Deccan Herald, (29/06/25, 8:30 p.m.)

<https://share.google/sT9kv5fWStcKMrH9A> .

² Kathy Robb and K.B. Miller, Do Trees Have Legal Standing? ,Climate & Capital Media, (30/06/25, 10:30 p.m.) <https://share.google/5E8p6tbNCJDuNT2Kc> .

³ INDIA CONST. art. 21.

⁴ INDIA CONST. art. 48 A.

⁵ INDIA CONST. art. 51A(g).

⁶ Mohd Salim v. State of Uttarakhand & others Writ Petition (PIL) No. 126 of 2014.

persons having rights. Many historical forests movements like the Chipko Movement, the Apiko Movement where the villagers and the forests communities hugged the trees to prevent deforestation, emphasise on the strong cultural and spiritual connection of the society with the forests.⁷ Moreover, in many Indian traditions, trees like Banyan and Peepal are considered sacred and therefore they are worshipped. Many communities like the Adivasi community across India consider forests as deities. The ancient rituals and festivals like the van Mahotsav (forest festival), and the Tulsi Vivah (Sacred marriage ceremony of the Tulsi plant), etc. symbolize personhood for plants and trees.

These constitutional mandates and the Indian traditions rooted in ancient culture, show that the Indian society has already been practicing the idea of 'Rights to nature' and that the cultural and the legal frameworks in India deeply recognize the inherent rights of the nature.

IMPLICATIONS & CHALLENGES

Granting legal personhood to trees ensures stronger protection for the environment because then falling of trees wouldn't be just an environmental concern but would also be a violation of legal rights. Currently, the environmental law focuses on restoration and steps in after the damage has been done but once legal personhood is granted to the trees the focus of law will rather be on prevention because the law will see trees as a person having rights.⁸

Along with the benefits, there are several concerns related to expanding legal personhood to include trees too. The main challenges relate to enforceability. Critics have argued that giving legal personhood to trees on paper is not sufficient if their rights cannot be enforced. In a country like India which struggles with enforcing the rights of even the actual legal beings, ensuring the rights of trees seems symbolic but not practical.

Further, the next main concern in legal personhood to trees is about the conflict of this idea with development projects. Deforestation majorly occurs for the fulfilment of the infrastructural works like making roads, buildings, theme parks, factories, farms, mining, etc. Now, granting legal personhood to trees will lead to uncountable legal disputes, raising tensions in between the environmentalists/forest communities and the industrialists.

Next, conflicts pertaining to land rights will also increase because landowners have the right to do whatever they want with the trees on their private land. Now if trees are granted legal

⁷ Aiyadurai, Ambika, et al. Conservation & Society, Review of The Chipko Movement: A People's History, by S. Pathak & M. Chaudhary, vol. 20, 47, 47-53 (2022).

⁸ Kersten, Jens, Who Needs Rights of Nature?, vol no.6, JSTOR, 9, 9-14(2017).

personhood then which right will supersede the other, the rights of the trees or the rights of the landowner.

Lastly, if trees are to be given legal rights then the legal frameworks will require several amendments. The Indian environmental laws like the Environment Protection Act, 1980 & Forests Conservation Act, 1986 do not provide rights for any other legal persons than humans. Courts will have to bear a lot of burden due to absence of a proper legislation on the matter and conflicts of different laws.

CONCLUSION

Giving legal rights to trees is a major shift which requires a lot of attention. This idea needs legal interpretation, amendment in laws and several institutional reforms to work otherwise it will remain symbolic and will never come into practice.

To move from recognition on paper to practical implementation of this idea, we need a framework which is inclusive of community awareness, public participation, and most importantly has legal backing.