

# Rivers, Rights, and Religion: Securing Legal Personhood for the Ganges River in India

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I.	INTRODUCTION .....	42
II.	THE SIGNIFICANCE OF THE GANGES.....	43
	A. <i>Environmental Significance</i> .....	45
	B. <i>Religious and Cultural Significance</i> .....	47
	C. <i>Economic Significance</i> .....	49
III.	THREE CASE STUDIES IN LEGAL PERSONHOOD FOR RIVERS .....	51
	A. <i>What is Legal Personhood in the Environmental Context?</i> .....	51
	B. <i>Case Study I: The Ganges in India</i> .....	54
	1. Court Case Granting Legal Personhood .....	54
	2. Other Forms of Legal Personhood for Nonliving Entities in India .....	56
	C. <i>Case Study II: The Whanganui in New Zealand</i> .....	57
	1. Significance and History of the River .....	57
	2. Te Awa Tupua Act and the Effects of Legal Personhood.....	59
	D. <i>Case Study III: The Atrato in Colombia</i> .....	62
	1. Significance and History of the River .....	62
	2. Guardians of the River Commission and the Effects of Legal Personhood .....	64
IV.	A LEGISLATIVE PROPOSAL FOR LEGAL PERSONHOOD FOR THE GANGES .....	66
	A. <i>Legal Personhood and Guardianship for the Ganges</i> .....	66
	B. <i>The Potential of Personhood for the Ganges</i> .....	68
V.	CONCLUSION .....	69

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## I. INTRODUCTION

Every day, as the sun rises in the Himalayas, the water from the melting glaciers flows into what becomes the Ganges River. Yet, what starts as pristine glacial water becomes polluted with toxic chemicals, sewage, and human remains by the time it flows through India and Bangladesh and empties into the Bay of Bengal.

Beyond being a crucial natural resource serving a third of India's population, the Ganges River is also a religious landmark to the approximately 900 million Hindus around the world, many of whom make the pilgrimage to scatter their loved ones' ashes in the holy waters.<sup>1</sup> The banks of the river are also home to many businesses and irrigation channels used for crucial agricultural needs.<sup>2</sup> Consequently, the water that is home to endangered species and used for drinking is becoming increasingly polluted.<sup>3</sup> While there are laws that regulate some activity along the river, the river as a whole must be protected and authorized to defend itself against these multiple sources of contamination.<sup>4</sup> Granting the river legal personhood is a step in the right direction.

Granting legal personhood to a river or even a natural resource is not a novel concept.<sup>5</sup> In 2017, New Zealand became the first to do so when it granted legal personhood to the Whanganui River through legislative action.<sup>6</sup> Colombia acted similarly when granting the Atrato River legal

1. Donald G. McNeil Jr., *The Ganges Brims with Dangerous Bacteria*, N.Y. TIMES (Dec. 23, 2019), <https://www.nytimes.com/2019/12/23/health/ganges-drug-resistant-bacteria.html>; *World Religions & Beliefs: Hinduism*, S. ADVENTIST UNIV. (last updated Feb. 15, 2023), <https://southern.libguides.com/worldreligions/hinduism>; Subhamoy Das, *The Ganges: Hinduism's Holy River*, LEARN RELIGIONS (last updated Apr. 12, 2019), <https://www.learnreligions.com/ganga-goddess-of-the-holy-river-1770295>.

2. *Ganges River Basin*, NAT'L GEOGRAPHIC EDUCATION, <https://education.nationalgeographic.org/resource/ganges-river-basin/> (last visited Apr. 16, 2023); Lillygol Sedaghat, "*Sea to Source: Ganges*" *Dispatch: The River Just Needs to Flow—On Pollution, Population, and the Fate of the Ganga*, NAT'L GEOGRAPHIC (June 15, 2019), <https://blog.nationalgeographic.org/2019/06/15/the-river-just-needs-to-flow-on-pollution-population-and-the-fate-of-the-ganga/>.

3. *Id.*

4. E.g., Zia Haq, *New Ganga Law Will Define Cleanliness Levels, Make Polluters Pay*, HINDUSTAN TIMES (Aug. 19, 2020, 11:24 AM IST), <https://www.hindustantimes.com/india-news/modi-govt-to-bring-new-law-to-keep-ganga-clean/story-XT0sNAofJAyBiUcF6STg8L.html>.

5. See generally Lavanya Rathi, *Tracing the History of Environmental Personhood*, NICKLED & DIMED (Dec. 2, 2022), <https://nickledanddimed.com/2022/12/02/tracing-the-history-of-environmental-personhood/>.

6. Sudipta Sen, *Of Holy Rivers and Human Rights: Protecting the Ganges by Law*, (Yale Univ. Press 2019), <https://yalebooks.yale.edu/2019/04/25/of-holy-rivers-and-human-rights-protecting-the-ganges-by-law/>.

personhood in a court case.<sup>7</sup> Even in India, the Ganges was granted legal personhood at the state court level before it was stripped of that protection shortly thereafter at the national level, with the Supreme Court citing issues of enforceability.<sup>8</sup>

Similarly to New Zealand's approach to the Whanganui and Colombia's approach to the Atrato, India should grant the Ganges River legal personhood at the national level to protect this important natural resource, while still respecting the religious beliefs of millions of Hindus in India and around the world. Part I of this paper provides factual background on the Ganges, and considers the religious, environmental, and commercial significance of the Ganges as well as the existing level of pollution that threatens the health of the river and surrounding regions. Part II explores the concept of legal personhood for natural resources, focusing on two case studies of rivers in New Zealand and Colombia that have already attained this status, as well as an emerging case in India. It examines the distinct processes through which legal personhood was established for the two rivers and analyzes the impact of this status on their protection and management. Part III proposes granting legal personhood to the Ganges River at the national level. It supports the proposal with recommendations for (1) who will be responsible as guardians of the river, (2) how the river's new rights will be enforced, and (3) how granting legal personhood status will ultimately result in positive change.

## II. THE SIGNIFICANCE OF THE GANGES

The Ganges River basin spans eleven states, with the river flowing through five states.<sup>9</sup> As crucial as the river is, the Ganges has often been deemed the "World's Most Polluted River."<sup>10</sup> Despite efforts to clean up the Ganges, it absorbs over one billion gallons of waste each day, three-quarters of which is raw sewage and domestic waste.<sup>11</sup> The remaining

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7. *Id.*

8. *Id.*

9. *Location*, NAT'L MISSION FOR CLEAN GANGA <https://nmcg.nic.in/location.aspx> (last visited Apr. 16, 2023). The river basin spans Uttarakhand, Uttar Pradesh, Madhya Pradesh, Chhattisgarh, Bihar, Jharkhand, Rajasthan, West Bengal, Haryana, Himachal Pradesh, and Delhi, while the river itself travels through Uttarakhand, Uttar Pradesh, Jharkhand, Bihar, and West Bengal; *id.*

10. Austa Somvichian-Clausen, *The World's Most Polluted River Revealed in Photos*, NAT'L GEOGRAPHIC (Nov. 8, 2017), <https://www.nationalgeographic.co.uk/environment-and-conservation/2017/11/worlds-most-polluted-river-revealed-photos>.

11. *See generally, About NMCg*, NAT'L MISSION FOR CLEAN GANGA, [https://nmcg.nic.in/about\\_nmcg.aspx](https://nmcg.nic.in/about_nmcg.aspx) (last visited Apr. 16, 2023).

waste is industrial effluent, such as agricultural runoff.<sup>12</sup> Tanneries alone are a major source of industrial waste, as the over-400 tanneries in the region dump more than 450 million liters (about 118,877,400 gallons) of toxic waste.<sup>13</sup> Only 160-170 million liters of this waste are treated before being dumped, despite containing toxic chemicals and heavy metals such as chromium, cadmium, lead, arsenic and cobalt.<sup>14</sup> The Ganges is so densely polluted in some areas that the waters turn red and “clouds of toxic foam” can be seen floating on the surface.<sup>15</sup> The effects of the pollution manifest in local residents, who suffer from “different types of stomach problems and respiratory diseases,” and higher respiratory illnesses and morbidity rates have been linked to high exposure to chromium and its incidence in blood streams.<sup>16</sup>

For the past thirty years, the government has attempted to address these pollution concerns.<sup>17</sup> There have been wildly varying estimates on how much has been spent on cleanup efforts, but these efforts have ultimately been “undone by corruption and apathy.”<sup>18</sup> The most recent effort, announced by Prime Minister Narendra Modi in 2014, is the Namami Ganges cleanup initiative,<sup>19</sup> which is the implementation arm of the National Ganga River Basin Authority.<sup>20</sup> The initiative creates a five-tier structure for “prevention, control and abatement of environmental pollution” in the Ganges and seeks to ensure the “continuous adequate flow of water” to “rejuvenate the river.”<sup>21</sup> Despite cleanup efforts, as the

12. George Black, *What It Takes to Clean the Ganges*, NEW YORKER (July 18, 2016), <https://www.newyorker.com/magazine/2016/07/25/what-it-takes-to-clean-the-ganges>; Amanda Maxwell, *Human Pressure Drives Ganges River Pollution*, NOW (Mar. 13, 2020), <https://now.northropgrumman.com/human-pressure-drives-ganges-river-pollution/>.

13. *Toxic Tanneries*, DHAKA TRIB., [https://ganges.dhakatribune.com/toxic\\_tanneries.html](https://ganges.dhakatribune.com/toxic_tanneries.html), (last visited Apr. 16, 2023).

14. *Id.*

15. Simon Scarr, Weiyi Cai, Vinod Kumar and Alasdair Pal, *The Race to Save the River Ganges*, REUTERS GRAPHICS (Jan. 18, 2019), <https://www.reuters.com/graphics/INDIA-RIVER/010081TW39P/index.html>.

16. *Toxic Tanneries*, *supra* note 13.

17. Black, *supra* note 12.

18. *Id.* Estimates vary on how much has been spent on cleanup efforts, ranging from 600 million to nearly \$3 billion USD.

19. *Id.*

20. *About NMCG*, NAT'L MISSION FOR CLEAN GANGA, [https://nmcg.nic.in/about\\_nmcg.aspx](https://nmcg.nic.in/about_nmcg.aspx) (last visited Apr. 16, 2023).

21. *Id.* The five tiers are as follows: (1) National Ganga Council under chairmanship of the Prime Minister; (2) Empowered Task Force on the river under the Union Minister (Department of Water Resources, River Development and Ganges Rejuvenation); (3) National Mission for Clean Ganga (NMCG); (4) State Ganga Committees; and (5) District Ganga committees in every specified district abutting the river and its tributaries in the states.

population grows, the increased religious and commercial use of the river ultimately lead to more and more pollution, which threatens both the river ecosystem and those who rely on it.<sup>22</sup>

#### A. *Environmental Significance*

The Ganges River is a crucial natural resource, as a unique river ecosystem and a water source for the over 400 million people in the surrounding river's basin.<sup>23</sup> A river's ecosystem and its intrinsic biodiversity play a crucial role in the health of the surrounding basin as well as the "ecosystem services provided by the river."<sup>24</sup> The river cannot be described as having one general ecosystem or biome, as it passes through three distinct landscapes—the snowy Himalayas, tropical alluvial plains, and the estuarine zone—before it hits the sea, with each zone having its own distinct biodiversity and ecosystems.<sup>25</sup> Unfortunately, in recent years, as the Ganges gets more polluted and populations have skyrocketed, there has been significant loss in species biodiversity in the river network.<sup>26</sup>

Most notably, the Ganges River is home to two rare species: the gharial, which is classified as critically endangered<sup>27</sup>; and the Ganges River dolphin, which is classified as endangered.<sup>28</sup> The Indian gharial (*Gavialis gangeticus*) is the only surviving member of a larger ancient family of crocodiles.<sup>29</sup> The species once spanned Pakistan, Burma, North India, Nepal, and Bhutan, with populations of 5,000-10,000 in the 1940s; now, they are limited to fewer than 200 in India and 35 in Nepal and are extinct everywhere else.<sup>30</sup>

The Ganges River Dolphin (*Platanista gangetica gangetica*) is another unique species and one of the few species of freshwater dolphin

22. *Id.*

23. *Ecosystem Restoration of Ganga River Basin*, INDIA SCI., TECH. & INNOVATION (July 30, 2021), <https://www.indiascienceandtechnology.gov.in/featured-science/ecosystem-restoration-ganga-river-basin>.

24. *Id.*

25. *Id.*

26. *Id.*

27. *Gharial*, NAT'L GEOGRAPHIC, <https://www.nationalgeographic.com/animals/reptiles/facts/gharial> (last visited Apr. 16, 2023).

28. *Ganges River Dolphin*, WWF, <https://www.worldwildlife.org/species/ganges-river-dolphin> (last visited Apr. 16, 2023).

29. Prasanta Kumar Saikia, *Indian Gharial (Gavialis gangeticus): Status Ecology and Conservation*, RARE ANIMALS OF INDIA, 42-58 (2012). [https://www.researchgate.net/publication/287461660\\_Indian\\_Gharial\\_Gavialis\\_gangeticus\\_Status\\_ecology\\_and\\_conservation](https://www.researchgate.net/publication/287461660_Indian_Gharial_Gavialis_gangeticus_Status_ecology_and_conservation).

30. *Id.*

left in the world.<sup>31</sup> More importantly, the dolphin is considered a “reliable indicator of the health of the entire river ecosystem”<sup>32</sup> because thriving populations of freshwater dolphins are often a sign that the overall freshwater ecosystem is flourishing.<sup>33</sup> However, this rare and important species is threatened by two major factors that affect its sustainability: physical habitat modification and human-dolphin conflicts.<sup>34</sup>

With respect to physical habitat modification, these dolphins are geographically constrained and loss of such “suitable hydrophysical habitats” affects the populations by potentially reducing or eliminating reproductive success, as has been shown in the past with bottlenose dolphins.<sup>35</sup> Though declines in the population have been attributed to dams and other water-based development structures, the attributable loss is trivial compared to loss caused by a decrease in suitable environments.<sup>36</sup>

Regarding human-dolphin conflicts, a major conservation concern is the interaction between artisanal fisheries and the rare dolphins, as such interactions and unsustainable fishing practices in China resulted in the extinction of the baiji, a similar freshwater dolphin species endemic to the Yangtze River.<sup>37</sup>

Aside from serving as a home to rare species, the Ganges carries nutrient-rich sediment as it flows, which is deposited along its shores creating nutrient-rich soil.<sup>38</sup> Most early civilizations formed around rivers, spreading outward, as rivers provided drinking water, irrigation, transportation channels, and fertile soil for crops along the banks.<sup>39</sup> The fertile soil of the Ganges allowed civilizations to develop and flourish for centuries.<sup>40</sup> As it flows through the subcontinent, the Ganges water is also vital, as it is used for drinking, bathing, and irrigation by 400 million people in the region.<sup>41</sup>

31. *Can Dolphins Live in Freshwater*, WHALE FACTS, <https://www.whalefacts.org/can-dolphins-live-in-freshwater/> (last visited Apr. 16, 2023).

32. *Ganges River Dolphin*, *supra* note 28.

33. *Freshwater Dolphin Species and Facts*, WWF, <https://www.worldwildlife.org/stories/freshwater-dolphin-species-and-facts> (last visited Apr. 16, 2023).

34. Shambhu Paudel & John L. Koprowski, *Factors Affecting the Persistence of Endangered Ganges River Dolphins (Platanista gangetica gangetica)*, 10 *ECOLOGY & EVOLUTION* 3138 (2020), <https://onlinelibrary.wiley.com/doi/full/10.1002/ece3.6102>.

35. *Id.*

36. *Id.*

37. *Id.*

38. *Ganges River Basin*, *supra* note 2.

39. *Key Components of Civilization*, NAT'L GEOGRAPHIC EDUC., <https://education.nationalgeographic.org/resource/key-components-civilization/> (last visited Apr. 16, 2023).

40. *Ganges River Basin*, *supra* note 2.

41. *Id.*

Ultimately, when it empties into the Bay of Bengal, the mouth of the river forms the largest river delta in the world, the Ganges River Delta.<sup>42</sup> Beyond its size, the delta is also home to a large swamp forest in Bangladesh, one of the world's most densely populated countries, and one particularly vulnerable to climate change due to the unique threats it faces from sea level rise.<sup>43</sup>

### B. *Religious and Cultural Significance*

In Hinduism, every element of nature is venerated and tied to divine beings in Hinduism, and the Ganges is the most holy of them all.<sup>44</sup> The Ganges is considered the embodiment of the goddess Ganga, and the waters themselves, called Gangajali, are said to have purifying properties, washing away impurity and sin while bestowing blessings.<sup>45</sup> The river itself is worshiped as the goddess Ganga Ma or Mother Ganges.<sup>46</sup> Hindus believe in reincarnation of the soul, such that the physical body after death serves no purpose, and thus cremate the body with many accompanying rituals to help release and reincarnate the soul.<sup>47</sup> As such, it is considered especially holy to have one's cremation on the banks of the Ganges and have the ashes scattered in the holy purifying waters.<sup>48</sup>

While a cremation along the banks of the Ganges is a longstanding tradition, it is not easily afforded by all. In the past, there have been issues of those who cannot afford proper cremations burying their dead in the holy waters, with bodies ultimately floating and coming ashore after improper burial practices.<sup>49</sup> This practice was exacerbated during the COVID-19 pandemic, with higher death tolls, especially among low-income communities, exacerbated by the fact that the river ran through

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42. *Id.*

43. *Ganges River Delta*, NASA GLOB. CLIMATE CHANGE, [https://climate.nasa.gov/climate\\_resources/111/ganges-river-delta/](https://climate.nasa.gov/climate_resources/111/ganges-river-delta/) (last visited Apr. 16, 2023).

44. *Ganges River*, SACRED LAND FILM PROJECT, <https://sacredland.org/ganges-river-india/> (last visited Apr. 16, 2023).

45. *Id.*

46. Mukesh Kumar Shukla et al., *Women for Ganges River Conservation in India*, 1 J. AGRIC. & AQUACULTURE (Dec. 13, 2019), <https://escientificpublishers.com/women-for-ganges-river-conservation-in-india-JAA-01-0012>.

47. *Hindu Funerals*, FUNERAL PARTNERS, <https://www.funeralpartners.co.uk/help-advice/arranging-a-funeral/types-of-funerals/hindu-funeral-rites-and-death-rituals/>.

48. Das, *supra* note 1.

49. *Indian Government Criticised After Scores of Bodies Surface in Ganges*, GUARDIAN (Jan. 19, 2016), <https://www.theguardian.com/world/2016/jan/19/hindu-bodies-ganges-india-pollution-narendra-modi>.

some of the worst-affected regions.<sup>50</sup> Thousands of bodies, many partially burned, were found floating in the river as they were dumped into the river before the cremations had finished.<sup>51</sup>

Most concerning, bacteria resistant to antibiotics have recently been found in the river.<sup>52</sup> While many samples were taken where drains and sewage spilled out into the Ganges,<sup>53</sup> tests showed antibiotic-resistant bacteria at “astronomically high” levels in the river far before it hit any sewage, when the water was still in the narrow gorges of the Himalayan foothills, showing that the only source could be humans using the waters in the Himalayan foothills in religious rituals.<sup>54</sup> While individuals may choose to modify their religious practices or a modified approach to rituals may help the environment, ultimately, the majority of respondents from religious institutions in the region do not consider rituals a polluting activity, and further, do not approve of modifications to established religious practices.<sup>55</sup> While the Indian constitution requires citizens to practice their faith in a way that does not harm “public order, morality, or health,” the country is a secular nation and cannot create laws or apply laws “regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice.”<sup>56</sup> Therefore, the government cannot outright ban rituals, or even mandate that all religious visitors adopt modified practices.

Beyond the funeral rites, the Ganges is home to other cultural practices, though many still intertwine with religion.<sup>57</sup> The river basin is home to many holy sites for both Hindus and Sikhs. Every year, various religious groups make pilgrimages to sites along the main river, as well as the upper levels of the river in the Himalayan foothills.<sup>58</sup> The region is also home to nearly 1.3 million farming households and tens of thousands

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50. Pallavi Pundir, *In India's Sacred River, the Floating COVID Dead Spark Concerns for the Living*, VICE (May 19, 2021), <https://www.vice.com/en/article/dyvpbk/in-indias-sacred-river-the-floating-covid-dead-spark-concerns-for-the-living>.

51. *Id.*

52. Rajeev Mani, *Allahabad: Antibiotic-Resistant Bacteria Found in Ganga*, TIMES OF INDIA (Oct. 29, 2022, 05:35 IST), <https://timesofindia.indiatimes.com/city/allahabad/allahabad-antibiotic-resistant-bacteria-found-in-ganga/articleshow/95154405.cms>.

53. *Id.*

54. McNeil, *supra* note 1.

55. *Cultural-Religious Aspects of Ganga Basin*, INDIAN INST. OF TECH., 10 (Dec. 2013), [https://cganga.org/wp-content/uploads/sites/3/2018/11/045\\_GBP\\_IIT\\_SEC\\_ANL\\_07\\_Ver-1\\_Dec-2013\\_0.pdf](https://cganga.org/wp-content/uploads/sites/3/2018/11/045_GBP_IIT_SEC_ANL_07_Ver-1_Dec-2013_0.pdf).

56. INDIA CONST., art. III, cl 25.

57. *Cultural-Religious Aspects of Ganga Basin*, *supra* note 55.

58. *Id.*



of fishing households whose livelihoods, cultures, and traditions are intrinsically connected to the land, as they consider the river their “life.”<sup>59</sup>

### C. *Economic Significance*

Religion itself drives the economy in the Ganges, as many pilgrimages to the river and nearby holy sites in the river basin generate tourist revenue, which is crucial in a newer state like Uttarakhand.<sup>60</sup> The Ganges is considered the world’s most popular pilgrimage site, as over 20 million Hindus visit annually to pay their respects.<sup>61</sup> Especially for pilgrimages in the northern region, the harsh weather of the Himalayas means the sites are only available for visiting in the summer,<sup>62</sup> creating an important seasonal tourist economy. Thus, the Ganges has been considered not just a “spiritual lifeline” but an “economic lifeline” for the Indian people.<sup>63</sup>

The Ganges, as a natural resource, also supports the economy. The river and its tributaries have enormous hydroelectric potential, with estimates ranging from 51,700 to 128,800 megawatts, with hydroelectric dams as one such way to leverage this potential.<sup>64</sup> The water also holds potential as an economic resource through its use as a commercial waterway.<sup>65</sup> In India, there is a major project underway to connect Varanasi, an inland city, to Haldia, an eastern seaport 1,360 kilometers

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59. *Boosting River Transport on Ganga and Brahmaputra Has Costs*, THE THIRD POLE (Feb. 19, 2018), <https://www.thethirdpole.net/en/nature/boosting-river-transport-on-ganga-and-brahmaputra-has-costs/>. Though indiscriminate fishing practices hurt the wildlife of the Ganges, prior to modern synthetic nets with excessive bycatch, the longstanding fishing communities of the Ganges took a more environmentally conscious approach. Rahul Singh, *Involvement of Fishing Communities, Transboundary Cooperation Could Help Mitigate Threats to the Ganges River Dolphin*, MONGABAY (Aug. 3, 2022), <https://india.mongabay.com/2022/08/involvement-of-fishing-communities-transboundary-cooperation-could-help-mitigate-threats-to-ganges-river-dolphin/>. For example, traditional cultural fishing practices included cotton nets that were less tightly woven to avoid damaging smaller fish and dolphins.

60. *Cultural-Religious Aspects of Ganga Basin*, *supra* note 55.

61. *Ganga Most Visited Pilgrim Site in World, at over 2 Crore People Every Year*, ECON. TIMES (Nov. 2, 2021, 04:06 PM IST), <https://economictimes.indiatimes.com/news/india/ganga-most-visited-pilgrim-site-in-world-attracts-over-2-crore-people-every-year/articleshow/87486296.cms>.

62. *Cultural-Religious Aspects of Ganga Basin*, *supra* note 55, at 10.

63. *Ganga Most Visited Pilgrim Site in World*, *supra* note 61.

64. *Hydroelectric Power*, BRITANNICA, <https://www.britannica.com/place/Ganges-River/Hydroelectric-power> (last visited Apr. 16, 2023).

65. Bob Saum & Junaid Kamal Ahmad, *Inland Waterways Revive South Asia Arteries of Trade*, WORLD BANK BLOGS (May 21, 2019), <https://blogs.worldbank.org/endpovertyinsouthasia/inland-waterways-revive-south-asia-arteries-trade>.

away.<sup>66</sup> The project, the First Capacity Augmentation of the National Waterway Project for India, strives to enhance the efficiency and reliability of the national waterway and ultimately develop and manage India's inland waterway transport system in an environmentally sustainable manner using two major components: (1) improving the navigability of national waterway 1 (the Haldia to Varanasi route) and (2) strengthening the "institutional capacities" and improving the "investment climate, vessel design, and construction framework" of the waterways.<sup>67</sup> As promising as an environmentally friendly water transport system may seem, it presents environmental concerns, such as damage to fish and dolphin sanctuaries and populations and disruption to fishing and farming communities that depend on the rivers.<sup>68</sup>

Tanneries also remain a significant component of the pollution in the Ganges.<sup>69</sup> Kanpur, a city of 2.5 million along the banks of the Ganges, is home to over 300 tanneries.<sup>70</sup> The tanneries have been so successful that the area has now become the country's leading leather exporter, with over ninety percent of the products sent internationally to markets in Europe and the United States.<sup>71</sup> However, beyond just dumping toxic chemicals into the water, the resulting pollutants have resulted in diseases as well, with effects such as the brown skin of workers turning white from contact with the toxic waste.<sup>72</sup> The resulting chromium from the tanneries also ends up in the food chain as it builds up in the water.<sup>73</sup> Though tanneries are often singled out, other industries are to blame as well, including hospitals and the paper and distillery industries.<sup>74</sup> However, the concentration of tanneries in one region and the region's influence on the

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66. *Id.*

67. *Capacity Augmentation of the National Waterway-1 (JAL MARG VIKAS) Project*, WORLD BANK (last updated Jan. 23, 2023), <https://projects.worldbank.org/en/projects-operations/project-detail/P148775?lang=en&tab=overview>.

68. *Boosting River Transport*, *supra* note 59.

69. *Toxic Tanneries*, *supra* note 13.

70. Sean Gallagher, *India: The Toxic Price of Leather*, PULITZER CTR. (Feb. 4, 2014), <https://pulitzercenter.org/stories/india-toxic-price-leather>.

71. *Id.*

72. *Id.*

73. *Id.*

74. George Black, *What It Takes to Clean the Ganges*, NEW YORKER (July 18, 2016), <https://www.newyorker.com/magazine/2016/07/25/what-it-takes-to-clean-the-ganges>; *All Industries to Blame for the Ganges River Pollution*, INT'L LEATHER MAKER (Dec. 6, 2017), <https://internationalleathermaker.com/all-industries-to-blame-for-the-ganges-river-pollution/>.

industry are noteworthy.<sup>75</sup> The annual export business for leather in India is worth around \$10 billion USD and the Indian leather industry is the sixth largest in the world.<sup>76</sup>

### III. THREE CASE STUDIES IN LEGAL PERSONHOOD FOR RIVERS

#### A. *What is Legal Personhood in the Environmental Context?*

“Legal personhood” can be conferred upon non-human entities, essentially treating them as people for limited legal purposes, namely allowing the entities to sue, own property, and enter into contracts.<sup>77</sup> Such non-human entities can range from corporations to rivers in today’s legal systems with human legal guardians seeking legal redress on the entity’s behalf.<sup>78</sup> Legal guardianship, often used in the context of people having legal guardianship for other individuals, is similar for rivers and non-human entities.<sup>79</sup> In guardianship arrangements, an individual or group of individuals will be selected to represent the interests of the non-human entity and protect its rights in response to unacceptable conduct, but also proactively through policy-making processes.<sup>80</sup> Furthermore, in most standard guardianship agreements, the guardian, unless specifically provided, is generally not responsible for the ward’s actions.<sup>81</sup>

Environmental personhood is a subcategory of legal personhood as it gives environmental entities the same status as a legal person, giving nature rights and asking courts of law to enforce those rights.<sup>82</sup> However, this does not mean a natural resource is conferred the same rights as a

75. See *The Principle of the Matter—Sustainability in India*, LEATHER INT’L (May 15, 2016), <https://www.leathermag.com/features/featurethe-principle-of-the-matter-sustainability-in-india1-5010496/>.

76. *Id.*

77. *Legal Person*, CORNELL L. SCHOOL LEG. INFO. INST., [https://www.law.cornell.edu/wex/legal\\_person](https://www.law.cornell.edu/wex/legal_person) (last visited Apr. 16, 2023).

78. Patrick Barkham, *Should Rivers Have the Same Rights as People?*, GUARDIAN (July 25, 2021, 06:00 EDT), <https://www.theguardian.com/environment/2021/jul/25/rivers-around-the-world-rivers-are-gaining-the-same-legal-rights-as-people>.

79. *Advancing Legal Guardianship for Nature*, EARTH L. CTR. (Nov. 20, 2020), <https://www.earthlawcenter.org/blog-entries/2020/11/advancing-legal-guardianship-for-nature>.

80. Craig M. Kauffman, *Guardianship Arrangements in Rights of Nature Legal Provisions*, <http://files.harmonywithnatureun.org/uploads/upload922.pdf>.

81. See e.g., D.C. CODE § 21-2047 (providing that while a guardian is responsible for the care, custody, and control of the ward, they are not personally liable to third persons by reason or that responsibility for acts of the ward).

82. Cassandra Roxburgh, *Environmental Personhood: A Radical Approach to Climate Justice*, NONPROFIT Q., (Mar. 7, 2022), <https://nonprofitquarterly.org/environmental-personhood-a-radical-approach-to-climate-justice/>.

human, but rather that it would be afforded the same rights and status as other “legal persons,” such as corporations, in the eyes of the law.<sup>83</sup>

The idea of legal personhood for natural resources traces its origins to the book, *Should Trees Have Standing?*, by Christopher D. Stone.<sup>84</sup> Stone posited that legal systems were able to evolve to give women more rights to attain equality, and should thus be able to similarly evolve to give nature basic rights as well.<sup>85</sup> Though Stone’s theory did not receive significant support when it was proposed, his proposal was embraced almost thirty years later. In the early 2000s, South African environmental lawyer Cormac Cullinan described the emerging theory of “Earth jurisprudence,” based on the idea that “humans are only one part of a wider community of beings and that the welfare of each member of that community is dependent on the welfare of the Earth as a whole.”<sup>86</sup> This time, unlike Stone’s earlier efforts, the legal community responded with far more enthusiasm.<sup>87</sup> This idea of resources having rights also reflects the influence of Indigenous perspectives of understanding the relationship between human beings and the natural world, and showed signs of bridging the gap between modern legal systems and Indigenous practices.<sup>88</sup>

In 2008, Ecuador became the first country to recognize the “Rights of Nature” in its constitution, or specifically the rights of “Pachamama” (a sort of Mother Earth deity) to “maintain and generate its cycles, structure, functions and evolutionary processes.”<sup>89</sup> This recognition followed a high court case involving mining in a protected region of the Ecuadorian rainforest.<sup>90</sup> The 2008 constitution generally empowered any person to enforce the rights in court on behalf of nature and further required the state to enforce and protect the rights of nature, including

83. Matthew Miller, *Environmental Personhood and Standing for Nature: Examining the Colorado River Case*, 17 U. N.H. L. REV. 355, 357 (2019); Gwendolyn J. Gordon, *Environmental Personhood*, 43 COLUM. J. ENV’T L. 49, 51 (2018).

84. CHRISTOPHER D. STONE, *SHOULD TREES HAVE STANDING? TOWARD LEGAL RIGHTS FOR NATURAL OBJECTS* (1974).

85. Alex Traub, *Christopher Stone, Who Proposed Legal Rights for Trees, Dies at 83*, N.Y. TIMES, (May 28, 2021), <https://www.nytimes.com/2021/05/28/us/christopher-stone-dead.html>.

86. Stone, *supra* note 84.

87. *Id.*

88. Roxburgh, *supra* note 82.

89. Shanthi Van Zeebroeck, *Nature Rights: What Countries Grant Legal Personhood Status to Nature and Why?*, EARTH.ORG (Oct. 6, 2022), <https://earth.org/nature-rights/>.

90. *Id.*; *Rights of Nature FAQ*, INT’L JOINT COMM’N, <https://www.ijc.org/system/files/commentfiles/2019-10-Nicolette%20Slagle/FAQ.pdf> (last visited Apr. 16, 2023).

through preventative action.<sup>91</sup> Bolivia soon followed suit with similar recognition in its constitution, as well as by enacting “laws of Mother Earth.”<sup>92</sup> New Zealand subsequently made history by recognizing legal personhood for two distinct geographical features, the Te Urewera forest and the Whanganui River.<sup>93</sup>

For a river, when recognized as a legal person, its “inviolable basic right will be the right to flow freely” with the relevant ecological conditions creating the habitat also to be respected and protected.<sup>94</sup> A river has the right, when granted personhood, to maintain its “spirit, identity and integrity” and the right to “flow (unhindered), meander, and to flood in its floodplains.”<sup>95</sup> Legally, this gives a river the power to bring suit in its name, have its injuries recognized, hold polluters responsible for harm caused, claim compensation, and be entitled to other remedies.<sup>96</sup> Though it seems like a simple system in terms of protecting resources with an individual in charge of suing on behalf of the resource, there are challenges in implementing rights of nature protections beyond the basic question of who acts on behalf of the resource.<sup>97</sup> A major issue, especially with resources such as rivers, comes from the transboundary nature of these resources. If a river traverses more than one country but is only protected in one, the water still flows across national boundaries, leaving questions regarding protecting the shared resource.<sup>98</sup> Another issue arises from protecting overall ecosystems and whether every component of an ecosystem is protected down to the tiniest pebble.<sup>99</sup> Though the idea

91. Craig M. Kauffman & Pamela L. Martin, *Testing Ecuador's Rights of Nature Why Some Lawsuits Succeed and Others Fail*, (Mar. 18, 2016), <https://static1.squarespace.com/static/55914fd1e4b01fb0b851a814/t/5748568c8259b5e5a34ae6bf/1464358541319/Kauffman++Martin+16+Testing+Ecuador's+RoN+Laws.pdf>.

92. *Id.*

93. Stone, *supra* note 84.

94. Shrishtee Bajpai, *River as a Living Entity*, FRONTLINE (Oct. 14, 2021), <https://frontline.thehindu.com/environment/photo-essay-river-as-a-living-entity/article36984037.ece>.

95. *Id.*

96. *Id.*

97. See generally Mauricio Guim & Michael A Livermore, *Where Nature's Rights Go Wrong*, 108 VA. L. REV. 1347 (2021).

98. Tiffany Halle, *The Rights of Nature—Can an Ecosystem Bear Legal Rights?*, STATE OF THE PLANET (Apr. 22, 2021), <https://news.climate.columbia.edu/2021/04/22/rights-of-nature-lawsuits/>.

99. Julie Turkewitz, *Corporations Have Rights. Why Shouldn't Rivers?*, N.Y. TIMES (Sept. 26, 2017), <https://www.nytimes.com/2017/09/26/us/does-the-colorado-river-have-rights-a-lawsuit-seeks-to-declare-it-a-person.html>.

behind environmental personhood is to protect the overall systems, the scope of these protections remains unclear.<sup>100</sup>

Given the novelty of environmental personhood and the rights of nature in legal systems, simply conferring such rights is not the same as upholding them because such rights do not exist in a vacuum and ultimately can be realized only if there are political, socio-economic, and cultural systems to support them.<sup>101</sup>

### B. Case Study I: The Ganges in India

The Ganges River does not currently have legal personhood. The river was briefly granted legal personhood at the state court level; however, that protection was subsequently revoked on appeal to the Supreme Court of India.<sup>102</sup> Yet, other natural resources have been granted personhood in India.<sup>103</sup> The Ganges also flows through Bangladesh, where the Supreme Court ruled that all rivers in the country have the legal status of living entities and appointed the National River Conservation Commission in the nation as the legal guardian of the rivers.<sup>104</sup>

#### 1. Court Case Granting Legal Personhood

Following the precedent set by the Whanganui in 2017, the Ganges (along with the Yamuna, its main tributary) were granted legal personhood by a court in Uttarakhand, a state in northern India, meaning the rivers would be “legal and living entities having the status of a legal person with all corresponding rights, duties and liabilities.”<sup>105</sup> The 2017 ruling followed non-compliance with a 2016 ruling in which the same High Court dealt with mining and encroachment of land near the

100. *Id.*

101. Nick Mount, *Can a River Have Legal Rights? I Visited the Jungles of Colombia to Find Out*, THE CONVERSATION (Oct. 6, 2017 11:23am EDT), <https://theconversation.com/can-a-river-have-legal-rights-i-visited-the-jungles-of-colombia-to-find-out-84878#:~:text=In%20Colombia%2C%20the%20Atrato%20River,conservation%2C%20maintenance%20and%20restoration.>

102. Mohd. Salim v. State of Uttarakhand and Others, NAT. JUST., [https://naturaljustice.org/wp-content/uploads/2020/07/Environmental-Court-Case-Series\\_Ganges-Case-Summary\\_Natural-Justice-2020.pdf](https://naturaljustice.org/wp-content/uploads/2020/07/Environmental-Court-Case-Series_Ganges-Case-Summary_Natural-Justice-2020.pdf).

103. Rina Chandran, *Fears of Evictions as Bangladesh Gives Rivers Legal Rights*, REUTERS (July 4, 2019), <https://www.reuters.com/article/us-bangladesh-landrights-rivers/fears-of-evictions-as-bangladesh-gives-rivers-legal-rights-idUSKCN1TZ1ZR>.

104. *Id.*

105. Michael Safi, *Ganges and Yamuna Rivers Granted Same Legal Rights as Human Beings*, GUARDIAN (Mar. 21, 2017), <https://www.theguardian.com/world/2017/mar/21/ganges-and-yamuna-rivers-granted-same-legal-rights-as-human-beings>.

Ganges.<sup>106</sup> The High Court cited the protection of the “recognition and the faith of society” in its reasoning and granted legal personhood to the Ganges and Yamuna (the main tributary of the Ganges) rivers as well as their tributaries, streams, and “every natural water flowing with flow continuously or intermittently of these rivers.”<sup>107</sup>

When the Uttarakhand High Court granted the rivers legal personhood, several government officials and a few independent lawyers were designated as the custodians of the river.<sup>108</sup> The court also stated that the state’s chief secretary was permitted to enlist as many as seven public representatives from all cities, towns, and villages within the state to provide representation for the communities living on the banks of rivers near lakes and glaciers.<sup>109</sup> The high court ruling granting the river personhood gave people hope for “environmental redemption” for the river.<sup>110</sup>

Notwithstanding the sense of hope that the decision inspired, there were still many unclear elements, such as how these state officials would represent the river if the government itself was the violator.<sup>111</sup> Ultimately, not long after, the Supreme Court in India stayed the order, finding the decision “legally unsustainable due to its impracticality.”<sup>112</sup> One issue with the status came from Uttarakhand’s argument that this legal status created uncertainty not just about who the custodians of the river are, but also about who would be liable to pay damages on behalf of the river, for

106. *Mohd. Salim v. State of Uttarakhand and Others*, NAT’L JUST., [https://naturaljustice.org/wp-content/uploads/2020/07/Environmental-Court-Case-Series\\_Ganges-Case-Summary\\_Natural-Justice-2020.pdf](https://naturaljustice.org/wp-content/uploads/2020/07/Environmental-Court-Case-Series_Ganges-Case-Summary_Natural-Justice-2020.pdf); *Mohd. Salim v. State of Uttarakhand and Others*, (Dec. 5, 2016), [https://elaw.org/system/files/attachments/publicresource/in\\_Salim\\_decision\\_dec\\_2016.pdf?\\_ga=2.93076254.2059424702.1573720212-2103727208.1570435362](https://elaw.org/system/files/attachments/publicresource/in_Salim_decision_dec_2016.pdf?_ga=2.93076254.2059424702.1573720212-2103727208.1570435362).

107. *Mohd. Salim v. State of Uttarakhand & Others* (Mar. 20, 2017), [https://fore.yale.edu/files/ganga\\_and\\_yamuna\\_judgment.pdf](https://fore.yale.edu/files/ganga_and_yamuna_judgment.pdf).

108. Bajpai, *supra* note 94. Specifically, the court listed the director of Namami Gange, the chief secretary of the State of Uttarakhand, and the advocate general of the State of Uttarakhand as the persons *in loco parentis*, with the advocate general representing at all legal proceedings to protect the river’s interests. *Mohd. Salim v. State of Uttarakhand & Others* (Mar. 20, 2017), [https://fore.yale.edu/files/ganga\\_and\\_yamuna\\_judgment.pdf](https://fore.yale.edu/files/ganga_and_yamuna_judgment.pdf).

109. *Id.*

110. Austa Somvichian-Clausen, *The World’s Most Polluted River Revealed in Photos*, NAT’L GEOGRAPHIC (Nov. 8, 2017), <https://www.nationalgeographic.co.uk/environment-and-conservation/2017/11/worlds-most-polluted-river-revealed-photos>.

111. Shrishtee Bajpai, *‘Righting’ the Wrong: Rights of Rivers in India*, MONGABAY (June 23, 2020), <https://india.mongabay.com/2020/06/commentary-righting-the-wrong-rights-of-rivers-in-india/>.

112. *Mohd. Salim v. State of Uttarakhand and Others*, NAT’L JUST., [https://naturaljustice.org/wp-content/uploads/2020/07/Environmental-Court-Case-Series\\_Ganges-Case-Summary\\_Natural-Justice-2020.pdf](https://naturaljustice.org/wp-content/uploads/2020/07/Environmental-Court-Case-Series_Ganges-Case-Summary_Natural-Justice-2020.pdf).

example to families of victims who drown in the rivers.<sup>113</sup> The Supreme Court also noted the impracticalities of having one state recognize rights for a river that flowed through multiple states.<sup>114</sup>

## 2. Other Forms of Legal Personhood for Nonliving Entities in India

The idea of granting rights to the Ganges is not the only instance of rights for nature in India.<sup>115</sup> The same high court that initially granted personhood to the Ganges ruled in 2018 that the entire animal kingdom in India had rights similar to those of a person.<sup>116</sup> In 2020, the Punjab and Haryana High Court declared Sukhna Lake in Chandigarh city a living entity with rights similar to a person.<sup>117</sup>

More recently, in the southern state of Tamil Nadu, a high court in Chennai, the state capital, used the doctrine of *parens patriae* to advocate for environmental rights.<sup>118</sup> The *parens patriae* (parent of the nation) doctrine traditionally refers to the state's power to intervene when vulnerable members of society (often children) do not receive protection from their parents.<sup>119</sup> Though nature is not a child, the judge emphasized the vulnerability of nature, because when no one protects it, the nation

113. *Id.*

114. *Id.*

115. *E.g.*, 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/>; Bajpai, *supra* note 94.

116. Bajpai, *supra* note 94. In response to a violation to the Prevention of Cruelty to Animals Act (PCA), where the Uttarakhand state government failed to enforce the law regarding overloading horses, the Uttarakhand state government proclaimed that “the entire animal kingdom including avian and aquatic are declared as legal entities having a distinct persona with corresponding rights, duties and liabilities of a living person” with all citizens in the state declared “persons *in loco parentis* as the human face for the welfare/protection of animals.” *Groundbreaking Litigation Seeks to Extend Formal Personhood Status to India’s Animal Kingdom*, LEWIS & CLARK L. SCH. (Sept. 8, 2020), <https://law.lclark.edu/live/news/44234-groundbreaking-litigation-seeks-to-extend-formal>. Narayan Dutt Bhatt v. Union of India, [http://www.indiaenvironmentportal.org.in/files/horse%20cart%20Nepal%20India%20Uttarakhand%20High%20Court%20Judgement%20Narayan\\_Dutt\\_Bhatt.pdf](http://www.indiaenvironmentportal.org.in/files/horse%20cart%20Nepal%20India%20Uttarakhand%20High%20Court%20Judgement%20Narayan_Dutt_Bhatt.pdf).

117. Bajpai, *supra* note 94. To save the lake from extinction, the Punjab and Haryana High Court went beyond ordering the demolition of buildings in the catchment area and requesting the lake be declared a wetland and declared Sukhna Lake a legal person, declaring all citizens of Chandigarh as *in loco parentis*. *Sukhna Lake Is a Living Entity with Rights: HC*, HINDUSTAN TIMES (Mar. 3, 2020, 12:32 AM IST), <https://www.hindustantimes.com/chandigarh/sukhna-lake-is-a-living-entity-with-rights-hc/story-Jrt8vKUy8kqIUwWaLpcYtM.html>.

118. Shanthi Van Zeebroeck, *Nature Rights: What Countries Grant Legal Personhood Status to Nature and Why?* EARTH.ORG (Oct. 6, 2022), <https://earth.org/nature-rights/>. The case arose when a retired man attempted to deed away protected land but there was no one to represent and defend the land.

119. *Id.*



must intervene as it would for any other vulnerable member of society.<sup>120</sup> Ultimately, the judge declared “Mother Nature” a “living being” with the same personhood and rights as a living person.<sup>121</sup>

### C. Case Study II: The Whanganui in New Zealand

In 2017, five days before the Uttarakhand High Court granted the Ganges personhood, the Whanganui was granted legal personhood, becoming the first river in the world to be considered a legal person.<sup>122</sup> This was not the first instance of nature being granted legal personhood in New Zealand; the Urewera Forest in 2014 was granted legal personhood because the forest was considered to have its own *mana* (authority) and *mauri* (life force) and was deemed to be “an identity in and of itself.”<sup>123</sup> Similarly, when the Whanganui was granted legal personhood, the New Zealand government recognized the spirit of the river system, and further acknowledged that the river is “owned by no-one.”<sup>124</sup> This legal personhood recognition embraces the Māori perspective of relationships between humans and the environment—the landscape is personified, and the earth is the earth mother *Papatuanuku*.<sup>125</sup>

#### 1. Significance and History of the River

The Whanganui is the longest navigable river in Aotearoa,<sup>126</sup> and the third longest in New Zealand overall.<sup>127</sup> The river is home to twenty-three

120. *Id.*

121. A. Periyakaruppan v. The Principal Secretary (Apr. 19, 2022), <https://www.casemine.com/judgement/in/625ef382b50db9cc5192cd20>. For legal purposes, “Mother Nature” is considered a “living being,” as well as a legal person, juristic person, juridical person, moral person, and artificial person with the status of a legal person. *Id.* Mother Nature also has all the corresponding rights, duties, and liabilities of a living person and is accorded rights akin to fundamental, legal, and constitutional rights for survival, safety, sustenance, and resurgence to maintain the status and to also promote Mother Nature’s health and well-being. *Id.*

122. Julia Hollingsworth, *This River in New Zealand Is Legally a Person. Here’s How It Happened*, CNN (Dec. 11, 2020), <https://www.cnn.com/2020/12/11/asia/whanganui-river-new-zealand-intl-hnk-dst/index.html>; Bajpai, *supra* note 94.

123. *New Zealand—Legal Rights for Forests and Rivers*, AUSTRALIAN EARTH L. ALL., <https://www.earthlaws.org.au/aclc/rights-of-nature/new-zealand/> (last visited Apr. 16, 2023).

124. *Id.*

125. *Id.*

126. *Aotearoa, Land of the Long White Cloud*, UNIV. OF OTAGO (Aotearoa is the Māori name for New Zealand), <https://www.otago.ac.nz/about/area/aotearoa.html> (last visited Apr. 16, 2023).

127. *Nature as an Ancestor: Two Examples of Legal Personality for Nature in New Zealand*, OPEN EDITION J., <https://journals.openedition.org/vertigo/16199>; Jonathan Pearlman, *New Zealand River to be Recognized as Living Entity After 170-Year Legal Battle*, TELEGRAPH

species of fish and, of those, two are “threatened national vulnerable” and five are “at-risk declining.”<sup>128</sup> Additionally, two species are considered to have very high vulnerability to climate change with another five considered to have high vulnerability to climate change.<sup>129</sup> Unfortunately, according to a 2021 report reviewing biodiversity of the Whanganui River catchment, fewer fish are present, with catches declining and agriculture reducing habitat and water quality.<sup>130</sup> Further, water from the headwaters has been taken since the 1960s for development and is diverted into the Waikato River, leaving less water to support the biodiversity of the Whanganui.<sup>131</sup>

The Māori people also rely on the natural resources provided by the Whanganui for their cultural practices and traditional way of life. The indigenous species in the area are essential to maintaining their way of life in the following ways: plants and animals for food and medicine; flax, pingao, cabbage tree, kiekie, and feathers for weaving; mud, soil, tree bark, and berries for dyes; large trees for canoes, houses and columns; plant seeds for oils; bones, shells, and wood for taonga; and lamprey and eel caught in traditional traps for food.<sup>132</sup>

Similar to the Ganges, the Whanganui is not just an environmental resource, but is religiously significant to the Māori in New Zealand.<sup>133</sup> For the Māori, the river is a “single and indivisible entity” and not something that can be owned, a fundamental part of their culture and heritage.<sup>134</sup> Local Māori say about the Whanganui, “I am the river, and the river is me.”<sup>135</sup> The Māori take their name, spirit, and strength from the river.<sup>136</sup>

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(Mar. 15, 2017, 2:18 PM), <https://www.telegraph.co.uk/news/2017/03/15/new-zealand-river-recognised-living-entity/>.

128. *Biodiversity of the Whanganui River*, NEW ZEALAND GOV'T DEPT OF CONSERVATION (July 2022), <https://www.doc.govt.nz/contentassets/6149970d5730454d8839356dd0ca3d0e/literature-review-summary-whanganui-river.pdf>.

129. *Id.*

130. *Id.*; *A Review of Fisheries & Aquatic Biodiversity Information for the Whanganui River Catchment*, Department of Conservation, EOS Ecology Report NO. DEP01-21005 (Dec. 2021), <https://www.doc.govt.nz/contentassets/6149970d5730454d8839356dd0ca3d0e/fisheries-aquatic-biodiversity-whanganui-review-2021.pdf>.

131. *Biodiversity of the Whanganui River*, *supra* note 128.

132. *History and Culture*, DEP'T OF CONSERVATION, <https://www.doc.govt.nz/parks-and-recreation/places-to-go/manawatu-whanganui/places/whanganui-national-park/history-and-culture/> (last visited Apr. 16, 2023).

133. Hollingsworth, *supra* note 122.

134. *Id.*

135. *Id.*

136. Martin Toft, *The Spiritual Relationship Between Māori Communities and the Whanganui River* PHMUSEUM (Aug. 19, 2019), <https://phmuseum.com/news/the-spiritual-relationship-between-maori-communities-and-the-whanganui-river>.

The region is home to *wāhi tapu* (sacred places) and *wāhi taonga* (treasured places), which are “sites and landscape features with special spiritual, emotional or historic significance” to the Māori and can include specific sites or general locations, such as mountains or rivers, and are places to observe traditional customs and practices to this day.<sup>137</sup> Part of the desire for conservation and personhood is not necessarily to preserve public access, as disturbance or discretion of the sites is highly offensive, but rather to ensure that these sites are preserved for the Māori and for future generations to continue their way of life.<sup>138</sup>

Since the 1800s, there has been conflict between the native Māori and settlers regarding access to and ownership of the Whanganui River.<sup>139</sup> There was also tension within the Māori due to longstanding rivalries between upper and lower Whanganui River Māori.<sup>140</sup> In the decades since conflict first began, despite the Treaty of Waitangi<sup>141</sup> being signed guaranteeing Māori possession and control of their territory, which includes this river, conflict has persisted. Violations of the treaty have resulted in the Māori protesting their loss of control over the river, which includes the loss of navigation and resource-use rights.<sup>142</sup>

## 2. Te Awa Tupua Act and the Effects of Legal Personhood

Ultimately, all the conflict and claims on the river resulted in new legislation, the *Te Awa Tupua (Whanganui River Claims Settlement) Act of 2017*, which mandated that the river was a living entity and legal person with judicially enforceable rights.<sup>143</sup> The river itself is recognized as *Te*

137. *History and Culture*, *supra* note 132.

138. *Id.*

139. *War in Whanganui*, NZ HISTORY, <https://nzhistory.govt.nz/war/wanganui-war> (last visited Apr. 16, 2023).

140. *Id.*

141. *The Treaty in Brief*, NEW ZEALAND HISTORY, <https://nzhistory.govt.nz/politics/treaty/the-treaty-in-brief>. The Treaty of Waitangi is the founding document of New Zealand and was made between the British Crown and over 500 Māori chiefs upon the arrival of British migrants who sought to secure British sovereignty over New Zealand. *Id.* From the outset, there was disagreement over the Māori and English interpretations of the document and it is no longer part of domestic law in New Zealand, but the Waitangi Tribunal still retains the exclusive right to determine the meaning of the treaty to investigate alleged breaches of the treaty by the Crown. *Id.*

142. *Whanganui River Legally Recognized as Living Entity*, *New Zealand*, ENV'T JUST. ATLAS (last updated June 19, 2017), <https://ejatlas.org/conflict/rights-of-nature-new-zealand>.

143. Aikaterini Argyrou & Harry Hummels, *Legal Personality and Economic Livelihood of the Whanganui River: A Call for Community Entrepreneurship*, (Aug. 28, 2019), <https://www.tandfonline.com/doi/full/10.1080/02508060.2019.1643525>; *Te Awa Tupua (Whanganui River Claims Settlement) Act 2017*, <https://www.legislation.govt.nz/act/public/2017/0007/latest/whole.html>.

*Awa Tupua*, a “physical and spiritual entity that supports and sustains the life and natural resources within the catchment” and is a legal person with rights, powers, duties, and liabilities that protect the Whanganui River and its tributaries from the mountains to the sea as an “indivisible and living whole.”<sup>144</sup> While still a “legal fiction,” it is comparable to the legal standing of a corporation but, unlike corporations and people, the river cannot be sued.<sup>145</sup> For instance, if someone were to drown in the Whanganui, the river cannot be sued the way a homeowner could be sued by someone who drowns in their pool.<sup>146</sup>

The Act also created governing bodies for enforcement of the rights and protection of the river.<sup>147</sup> Article 18 of the Act establishes the purpose and power of the river’s guardian body, the Te Pou Tupua office, which has “all the powers reasonably necessary to achieve its purpose and perform and exercise its functions, powers, and duties.”<sup>148</sup> Article 20 of the Act provides that this guardian office will consist of two officers: one Māori representative appointed by the Māori communities and one state representative appointed by the New Zealand government.<sup>149</sup> These guardians’ duties include:

1. to act and speak for and on behalf of the river;
2. to uphold the river’s recognition and values as an indivisible entity and as a legal person;
3. to promote and protect the environmental, social, cultural, and economic health and well-being of the river;
4. to take any other action reasonably necessary to achieve its purpose and perform its functions.<sup>150</sup>

144. *Whanganui River Restoration*, DEP’T OF CONSERVATION, <https://www.doc.govt.nz/whanganui-river> (last visited Apr. 16, 2023).

145. Nick Perry, *New Zealand River’s Personhood Status Offers Hope to Māori*, U.S. NEWS (Aug. 15, 2022), <https://www.usnews.com/news/world/articles/2022-08-15/new-zealand-rivers-personhood-status-offers-hope-to-maori>.

146. *Id.*

147. Aikaterini Argyrou & Harry Hummels, *Legal Personality and Economic Livelihood of the Whanganui River: A Call for Community Entrepreneurship*, (Aug. 28, 2019), <https://www.tandfonline.com/doi/full/10.1080/02508060.2019.1643525>.

148. Argyrou & Hummels, *supra* note 143; Te Awa Tupua (Whanganui River Claims Settlement) Act 2017, Art 18, <https://www.legislation.govt.nz/act/public/2017/0007/latest/whole.html>.

149. Argyrou & Hummels, *supra* note 143; Te Awa Tupua (Whanganui River Claims Settlement) Act 2017, Art 20, <https://www.legislation.govt.nz/act/public/2017/0007/latest/whole.html>.

150. Argyrou & Hummels, *supra* note 143.

Article 29 also establishes a “strategy group” called the Te Kopuka, which is a committee of various individuals and organizations with interests in the river, which includes Māori community representatives, local authorities, the government, commercial and recreational users, and environmental groups with the purpose “to act collaboratively to advance the health and wellbeing of the river.”<sup>151</sup> Ultimately, this group protects social, cultural, and economic interests as well as environmental interests.<sup>152</sup> This two-pronged approach considers both retroactive action by the guardians to remedy past harms and prospective action by the strategy group to prevent future potential harm.<sup>153</sup>

The Act is a sign of hope for the river, has resulted in positive change, and has been hailed as a permanent shift in thinking toward Indigenous values.<sup>154</sup> The Te Awa Tupua settlement element totaled over \$98 million USD.<sup>155</sup> Once passed, it was immediately apparent that it would no longer be business as usual when a local council tried to build a bridge for cyclists and pedestrians across the river without consulting the tribe and community.<sup>156</sup> Though the tribe had no issue with the bridge itself, they did have a problem with the process and lack of consultation given that they were affected, ultimately resulting in the process being delayed.<sup>157</sup> When a larger river project costing approximately 50 million New Zealand dollars or \$31 million USD was subsequently proposed, the tribe led the project with the Council, with all decisions guided “by the river’s legally enshrined value system” to ultimately work for the river’s benefit.<sup>158</sup> Additionally, the strategy group, once established and selected, met in 2019 and created a detailed strategy, the Te Heke Ngahuru, which is required to be reviewed and updated every ten years to ensure progress and protection.<sup>159</sup>

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151. Argyrou & Hummels, *supra* note 143; Te Awa Tupua (Whanganui River Claims Settlement) Act 2017, Art. 29, <https://www.legislation.govt.nz/act/public/2017/0007/latest/whole.html>.

152. Argyrou & Hummels, *supra* note 143.

153. *Id.*

154. Perry, *supra* note 139.

155. *Annual Report 2022* Nga Tangata Tiaki o Whanganui, [https://www.ngatangatatiaki.co.nz/assets/NTT\\_AGM\\_Electronic\\_Copy\\_High\\_Res-v2.pdf](https://www.ngatangatatiaki.co.nz/assets/NTT_AGM_Electronic_Copy_High_Res-v2.pdf).

156. Perry, *supra* note 145.

157. *Id.*

158. *Id.*

159. *Ta Heke Ngahuru / Te Kopuka*, NGA TANGATA TIAKI O WHANGANUI, <https://www.ngatangatatiaki.co.nz/our-story/ruruku-whakatupua/te-kopuka-na-te-awa-tupua/> (last visited Apr. 16, 2023).

#### D. Case Study III: The Atrato in Colombia

After the Whanganui, the Atrato River in Colombia followed in its footsteps when the High Court recognized for the first time that a natural resource, in this case a river, has rights and that the state has a responsibility to protect the resource and its rights.<sup>160</sup> Similarly to New Zealand, there has been a long history of conflict in the region, but more akin to India, there are many more interests at play beyond one major Indigenous community and the government, as there are significant ecological, economic, and Indigenous cultural concerns at hand.<sup>161</sup>

##### 1. Significance and History of the River

The Atrato River flows through one of the most biodiverse jungles on earth with many valuable resources.<sup>162</sup> The river region, Choco, is not one defined by man-made political boundaries, but is rather an ecological region and is considered one of the top ten biodiversity hotspots in the world.<sup>163</sup> The surrounding rainforest is home to over 200 species of mammals, 600 species of birds, 100 species of reptiles, and 120 species of amphibians.<sup>164</sup>

There are currently four main threats to the biodiversity and various species that call the region home:

the loss of habitat due to the transformation of forests into crops; the selective felling of the timber trees that are the refuge and habitat of the species; the indiscriminate hunting of species, and the intense legal and illegal mining with mercury and cyanide that is poisoning [the] waters, which represent the backbone of the communities that cohabit on its banks.<sup>165</sup>

This was not always the case; in fact, Choco was once a leader in the region, maintaining a greater percentage of its forest cover compared to

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160. Laura Villa, *The Importance of the Atrato River in Colombia Gaining Legal Rights*, EARTH L. CTR. (May 5, 2017), <https://www.earthlawcenter.org/blog-entries/2017/5/the-importance-of-the-atrato-river-in-colombia-gaining-legal-right>.

161. Fredrick Gillingham & Melisa Valenzuela, *Toxic River: Mining, Mercury and Murder Continue to Plague Colombia's Atrato*, MONGABAY (Oct. 19, 2019), <https://news.mongabay.com/2019/10/toxic-river-mining-mercury-and-murder-continue-to-plague-colombias-atrato/>.

162. *Atrato*, SINFONIA TROPICO, <https://www.sinfoniatropico.org/regions-in-english/atrato>.

163. *Defense of the Atrato River*, DIGIT. ENV'L JUST., <https://www.environmentaljusticecolombia.com/defenseofatratriver2> (last visited Apr. 16, 2023).

164. *Id.*

165. SINFONIA TROPICO, *supra* note 162; *Colombia: Ethnic Communities Guard Rights of Atrato River*, LUTHERAN WORLD FED'N (Dec. 18, 2020), <https://www.lutheranworld.org/news/colombia-ethnic-communities-guard-rights-atrato-river>.

other parts of the country that lost forest to cattle ranching and monocrop agriculture.<sup>166</sup> This is largely due to the new extractive economies that have developed in the region over 400 years, as colonists began to first exploit the region's mineral wealth in the 1600s using forcibly colonized Indigenous groups and enslaved people from Africa to perform the labor.<sup>167</sup> Over time, Afro-descendant and Indigenous groups resisted colonial rule and took advantage of the relative geographic isolation of the region to develop their own independent villages and communities in the region.<sup>168</sup> Taking advantage of the resources around them, these communities achieved a "relatively equitable and autonomous rural society" with their own small-scale mining operations with minimally disruptive methods.<sup>169</sup>

When mining operations had moved away from the Choco region, both local and foreign entities began to request mining rights in the region on a larger scale, enticed by the potential resurgence of the gold mining industry, making the area a modern-day "El Dorado."<sup>170</sup> Unlike the mining practices of the Afro-descendant and Indigenous communities, the modern mining rights included the riverbed, leading to a type of extraction that was much more environmentally and socially harmful.<sup>171</sup> The mining industry used mercury and cyanide to extract gold more efficiently, and the resulting pollution made Colombia the world's worst mercury polluter per capita.<sup>172</sup>

Local residents soon faced two major consequences: (1) a polluted ecosystem and (2) forced displacement. The soil and rivers were filled with toxic byproducts, disrupting natural ecological processes.<sup>173</sup> In the following few years, military and paramilitary groups forced the displacement of thousands of Afro-Colombians, Indigenous peoples, and campesinos.<sup>174</sup> However, the displacement was not only about the mining, as it opened the door to palm oil corporations to replace traditional agricultural crops with large swaths of palm oil plantations.<sup>175</sup>

Beyond mere environmental cleanup, any sustainable solutions need to take into consideration that the Atrato River region has also been home

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166. *Defense of the Atrato*, *supra* note 163.

167. *Id.*

168. *Id.*

169. *Id.*

170. *Id.*

171. *Id.*

172. *Id.*

173. *Id.*

174. *Id.*

175. *Id.*

to Indigenous and Afro-descendant communities for centuries.<sup>176</sup> In the Choco region, approximately ninety-six percent of the land is subject to collective land titles that belong to Indigenous and Afro-descendant communities.<sup>177</sup> For centuries these communities have struggled for the survival of their way of life, but that necessitates “a fight for the rights of their surrounding nature,” which ultimately has led to legal personhood for the Atrato.<sup>178</sup>

## 2. Guardians of the River Commission and the Effects of Legal Personhood

Ultimately, it is this invasive mining causing “significant degradation of the Atrato” that resulted in the Constitutional Court of Colombia granting the Atrato legal personhood by deeming the river a “recognized rights-holding subject” specifically with rights to protection, conservation, maintenance, and restoration.<sup>179</sup> Terra Digna, a Colombian NGO; Afro-Colombian organizations; and an Indigenous platform composed of representatives of Indigenous organizations filed suit, asserting that the Colombian government violated their human rights and their constitutional right to a healthy environment by allowing the continued illegal mining and degradation of the Choco biome.<sup>180</sup> The Court applied an ecocentric approach, ultimately ordering the protection of the Atrato as an “autonomous entity subject to rights”<sup>181</sup> and held the Colombian government responsible for human rights violations related to

176. SINFONIA TROPICO, *supra* note 162.

177. *Colombia: Ethnic Communities Guard Rights of Atrato River*, LUTHERAN WORLD FED’N, (Dec. 18, 2020), <https://www.lutheranworld.org/news/colombia-ethnic-communities-guard-rights-atrato-river>.

178. Tatiana Acevedo Guerrero, *Canción del Atrato: A Journey of Water, Dispossession and Resistance*, HYPOTHESES FLOWS (last updated Apr. 22, 2019), <https://flows.hypotheses.org/3530>.

179. Curtis Kline, *Recognizing the Rights of a River: Challenges and Opportunity from Colombia to Colorado*, COLO. STATE UNIV. SCH. OF GLOB. ENV’T SUSTAINABILITY, (Nov. 5, 2021), <https://sustainability.colostate.edu/humannature/rights-of-a-river-colombia-to-colorado/>.

180. Bran Ebus, *Colombia’s Constitutional Court Grants Rights to the Atrato River and Orders the Government to Clean up Its Waters*, MONGABAY (May 22, 2017), <https://news.mongabay.com/2017/05/colombias-constitutional-court-grants-rights-to-the-atrato-river-and-orders-the-government-to-clean-up-its-waters/>; Brian Roewe, *In Colombia’s Choco Region, ‘River Guardians’ Protect the Rights of the Rio Atrato*, EARTHBEAT, (Jan. 28, 2022), <https://www.nronline.org/news/earthbeat/colombias-choc-region-river-guardians-protect-rights-rio-atrato>.

181. T-622/16 *The Atrato River as a “Subject of Rights,”* <https://www.corteconstitucional.gov.co/english/Decision.php?IdPublicacion=9336>.



rights to “life water, health, food security, and a healthy environment” as well as the communities’ right to “free, prior and informed consent.”<sup>182</sup>

Apart from granting rights, the court ruling’s fourth order created a commission of guardians of the river which, after community feedback, now consists of fourteen people representing seven organizations spanning the length of the river.<sup>183</sup> The ruling, which acknowledges the river as a “legal entity,” also acknowledges the interconnectedness of the local communities and the environment and protects the “biocultural rights” of the Indigenous and Afro-Colombian communities.<sup>184</sup> Simply put, the “biocultural rights” are “the rights of ethnic communities to autonomously administer and protect their territories—in accordance with their own laws and customs—as well as the natural resources that constitute their habitat, where their culture, traditions, and way of life are developed based on their special relationship with the environment and biodiversity” and these rights result from “the recognition of the profound and intrinsic connection that exists between nature, its resources, and the culture of ethnic communities,” which are “interdependent and cannot be understood in isolation.”<sup>185</sup>

However, the ruling is neither an immediate nor a perfect solution. This is a region plagued by over fifty years of armed conflict, which has led to the displacement of over seven million people within the country, not to mention 350,000 refugees.<sup>186</sup> Legal personhood does not solve all problems. Even after personhood, there is still violence and displacement in the area and environmental defenders complain about a lack of state action and protection, fearing for their safety as they do their work.<sup>187</sup> Further, a 2020 study showed that in the years immediately following legal personhood, there has been no real judicial enforcement of rights from guardianship.<sup>188</sup> However, as bleak as it seems, this does not mean that there have been no positive effects—the newfound status has resulted in a plan to restore the river’s ecosystem with the Ministry of the Environment taking a more “proactive and participatory approach” to

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182. *Defense of the Atrato*, *supra* note 163.

183. *Id.*

184. Tatiana Acevedo Guerrero, *Canción del Atrato: A Journey of Water, Dispossession and Resistance*, HYPOTHESES FLOWS (last updated Apr. 22, 2019), <https://flows.hypotheses.org/3530>.

185. Philipp Wesche, *Rights of Nature in Practice: A Case Study on the Impacts of the Colombian Atrato River Decision*, 33 J. ENV’T L. 531 (2021), <https://academic.oup.com/jel/article/33/3/531/6359472>.

186. *Defense of the Atrato River*, *supra* note 163.

187. Gillingham & Valenzuela, *supra* note 161.

188. Wesche, *supra* note 185.

governance.<sup>189</sup> Additionally, local communities in the Atrato region have been given a stronger voice in policymaking to ensure that new plans reflect their perspectives as well.<sup>190</sup>

#### IV. A LEGISLATIVE PROPOSAL FOR LEGAL PERSONHOOD FOR THE GANGES

Despite the novelty of environmental personhood, there are already benefits to conferring this status on rivers. With the precedents set with the Atrato and Whanganui, it would be beneficial to confer similar status on the Ganges and implement a similar governing body. The Chennai High Court in Tamil Nadu in South India has already named natural resources “Mother Nature” and afforded her rights and, similarly, it is time for Mother Ganga to be afforded rights of her own.<sup>191</sup> However, unlike the Atrato and Whanganui, the Ganges is not located entirely in one country—it flows through both India and Bangladesh. However, in this circumstance, what may seem like a hurdle is only further incentive to confer environmental personhood on the Ganges in India, since Bangladesh has already done the same.<sup>192</sup> Additionally, given that the river flows from India to Bangladesh before emptying into the Bay of Bengal, the proposed solution protects the river in its entirety.<sup>193</sup>

When reversing the Uttarakhand state court’s decision in granting legal personhood, the Supreme Court cited concerns regarding implementation and sustainability.<sup>194</sup> By combining lessons learned from the different paths to personhood for rivers in Colombia and New Zealand, a new approach can be taken in India that both protects the river and quells the Supreme Court’s concerns. The proposed approach would grant the river personhood at the federal level to avoid any discrepancies between states’ recognition of the new status. Further, the proposed solution creates a body responsible for the guardianship of the river once personhood has been granted.

##### A. *Legal Personhood and Guardianship for the Ganges*

The proposed legal personhood would be a legislative act introduced at the federal level. At the time, the Supreme Court’s major concerns were

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189. *Id.*

190. *Id.*

191. Shanthi Van Zeebroeck, *supra* note 118; Mukesh Kumar Shukla et al., *supra* note 46.

192. Bajpai, *supra* note 94.

193. *Id.*

194. *Id.*

that: (1) the environment itself could be sued, (2) there needed to be more clarity on who would enforce the rights, and (3) the river flows through multiple states.<sup>195</sup> The first concern could be addressed in the legislative proposal itself. Like New Zealand's law where the river itself cannot be sued,<sup>196</sup> the legislative proposal granting the river rights could establish limitations in a similar way. Further, as in general guardianship agreements where the guardian is not responsible for acts of the ward as provided in many statutes,<sup>197</sup> the legislation could use similar language to absolve the guardians of liability for accidents and weather events caused by the river.

The next question is who is responsible for the guardianship itself, which would borrow from both the Colombia and New Zealand models.<sup>198</sup> Like the New Zealand model, the Ganges River plan would have two groups. The smaller body would take legal action on behalf of the river to address an alleged violation, whereas the larger body would act proactively to protect the river's future. However, the structure of the guardian body itself would bear more resemblance to the River Guardians in Colombia. The smaller guardian body would have one individual per state through which the river flows (Uttarakhand, Uttar Pradesh, Jharkhand, Bihar, and West Bengal).<sup>199</sup> Though the basin covers eleven states, what is being granted is legal personhood for the river itself and the Supreme Court's concern at the time was regulating protection for the river in all the states through which it passes.<sup>200</sup>

Each state would choose their own representative with a final representative from the federal government. It is imperative that states choose their own representatives given that they have different interests reflecting the different environment, resources, and languages. Like the system in Colombia, having state-by-state representatives would allow individuals from along the river representing different interests to be represented in the governing board. Decisions about lawsuits would be made as a joint committee decision with all six individuals, and with the federal government appointee serving as the head of the committee and the "individual" who acts on behalf of the river.

The second prong of the New Zealand approach proposed to be used here is the strategy group taking proactive action. This group would not

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195. *Mohd. Salim v. State of Uttarakhand and Others*, *supra* note 102.

196. Perry, *supra* note 145.

197. See, e.g., § 21-2047, *supra* note 84.

198. *Id.*

199. *Location*, *supra* note 9.

200. *Mohd. Salim v. State of Uttarakhand and Others*, *supra* note 102.

be established from scratch—the Namami Ganga already exists with action plans and a tiered system.<sup>201</sup> The strategy group made up of Namami Ganga at its various levels would address the economic and environmental interests of the river. Ultimately, with religious interests, as already established, and much like the United States, India guarantees religious freedom and cannot enforce existing laws or create new laws that would unfairly burden or limit religious practices. While the legislation can include a provision to ensure that no future lawsuits taken on behalf of the river will burden Hindus performing rituals, the legislation could not be interpreted or implemented in such a way pursuant to the constitution itself.<sup>202</sup>

### B. *The Potential of Personhood for the Ganges*

Ultimately, despite having had legal personhood since 2017, there has not been major judicial action on behalf of the rivers in New Zealand and Colombia. However, this does not mean that there was no positive action taken. There is no way to predict the future, especially given that if legal personhood were secured for the Ganges now, it would be at a time when the concept has become more popularized among the general public and the legal community.

While personhood generally seems effective in protecting wildlife and ecosystems, the importance of an unbiased governing board is essential, as the same river has had mixed results with personhood in Bangladesh.<sup>203</sup> Soon after granting personhood, authorities began to evict informal settlements along the riverbanks.<sup>204</sup> However, an example has been set in New Zealand that can prevent a similar issue arising in India, as New Zealand recognized communities as stakeholders.<sup>205</sup> As the fertile river region is also home to some of the poorest sections of India's population,<sup>206</sup> community representation will be crucial to ensuring that populations with nowhere else to go do not get displaced under the guise of environmentalism and enforcing personhood.

201. *About NMCG*, *supra* note 20.

202. INDIA CONST., India Const., art III, cl. 25.

203. See Rina Chandran, *Fears of Evictions as Bangladesh Gives Rivers Legal Rights*, REUTERS (July 4, 2019), <https://www.reuters.com/article/us-bangladesh-landrights-rivers/fears-of-evictions-as-bangladesh-gives-rivers-legal-rights-idUSKCN1TZ1ZR>.

204. *Id.*

205. *Id.*

206. *The National Ganga River Basin Project*, WORLD BANK (Mar. 23, 2015), <https://www.worldbank.org/en/news/feature/2015/03/23/india-the-national-ganga-river-basin-project#:~:text=Paradoxically%2C%20this%20fertile%20region%20is,far%20transcends%20the%20basin%27s%20boundaries>.

Similarly, as people would be permitted to continue living in the river basin, personhood would not affect the daily realities for those depending on the river for drinking water, work, or religious practice. The ultimate goal of personhood would be to enforce large-scale conservation efforts and cleanup efforts.

## V. CONCLUSION

Legal personhood is a legal fiction that is not an instant solution. Unfortunately, given its novelty, it is unclear how effective legal personhood will be in the long run. However, the potential benefits outweigh any uncertainty. Despite Christopher Stone proposing the idea in the 1970s, it took until well into the 2000s for the concept to be genuinely implemented.<sup>207</sup> The lack of more aggressive or quick positive progress should not deter governments from adopting legal personhood in the environmental context. Given the threat of climate change, it seems as though every weapon in the arsenal in the fight for the health of our planet must be deployed, and legal personhood is no different. The Atrato and Whanganui rivers show clear examples of how legal personhood can be implemented, and how best to get the affected communities involved with enforcing personhood and protecting the rivers.

The Ganges River gets more and more polluted each year as populations grow. Even if there have been no explicit examples of lawsuits brought on behalf of resources in Colombia and New Zealand, the legal personhood in each country has brought about other positive change, whether that be heightened awareness, an added level of consideration in the decision making process, funding in the name of the environment, or the increased involvement of Indigenous populations to preserve cultural practices. All of these are ultimately positive effects and, given that creating legal personhood in a legislative action would resolve the concerns the Supreme Court had back in 2017 regarding personhood for the Ganges, now is the time to pursue the status for the Ganges River.

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207. Stone, *supra* note 84.