



# RIGHTS OF NATURE: A MISSING LINK IN INDIA'S CLIMATE COMMITMENTS

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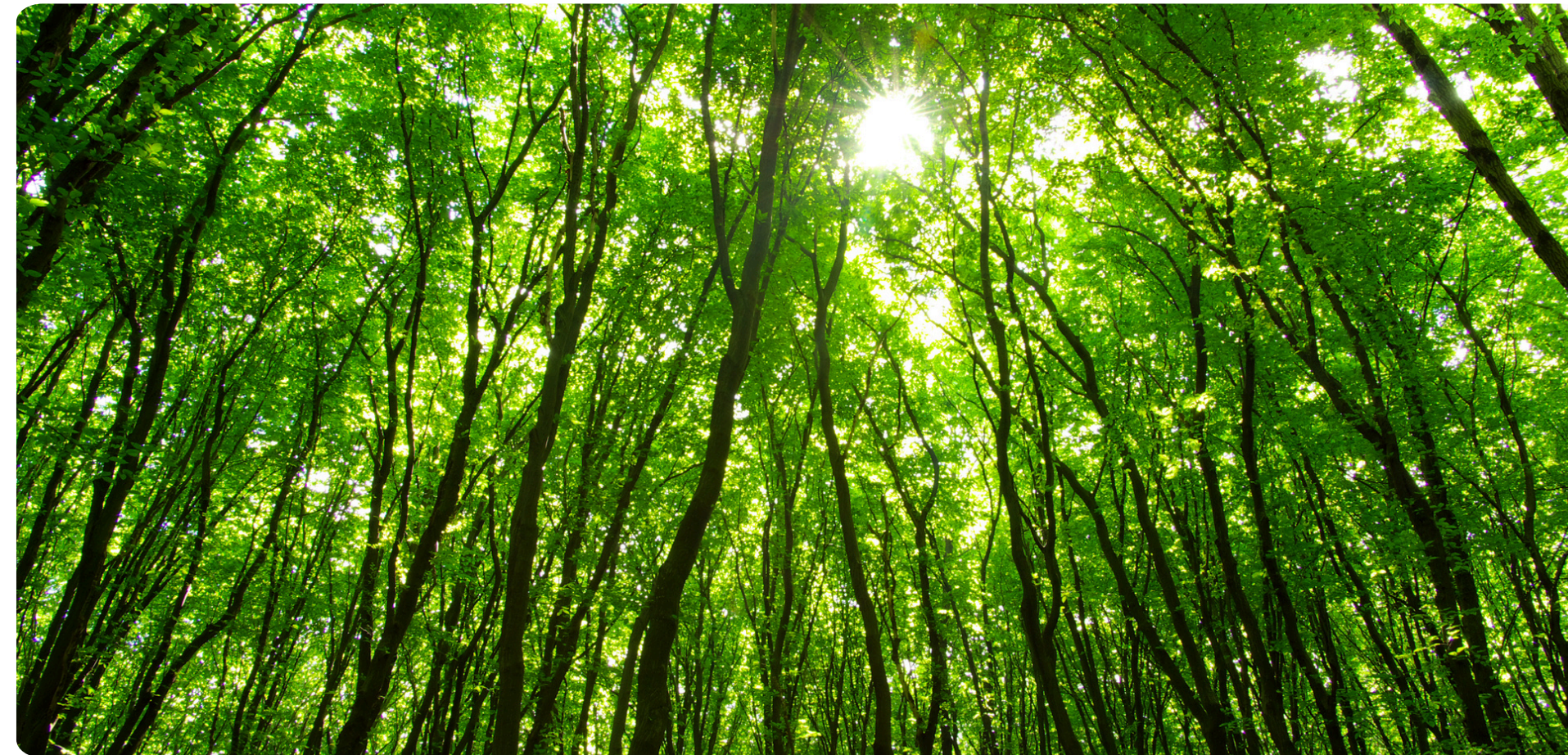
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As India aims to reduce GHG emissions by 45% by 2030, boost clean energy usage, and enhance carbon sinks, there is a rising interest in the ways of achieving these goals. On a global scale, India has promoted initiatives like Mission LiFE and the Panchamrit commitments at COP26. Beyond policies on renewable energy and efficiency, a deeper thought that is emerging is on the 'rights of nature'.

The Rights of Nature (RoN) is crucial for environmental protection, as it links legal rights to global climate action. It establishes rules on how we interact with nature by regulating resource extraction, waste disposal, and the benefits we derive from ecosystems. RoN aims to give nature a voice and reshape laws around connection and responsibility, affirming that all ecosystem components have the right to exist and thrive. This concept emphasises safeguarding air, water, soil, and biodiversity as a matter of human dignity and intergenerational equity.

## The need for RoN

The Supreme Court of India has recognised that a clean and healthy environment is a vital aspect of the right to life under Article 21. A significant



ruling in October 2024 affirmed that a pollution-free environment is a fundamental right for all citizens, and is especially important in India, where many rely on nature for their livelihoods and cultural practices.

India's rapid development often neglects environmental concerns. Mining in the Niyamgiri Hills posed a threat to the Dongria Kondh tribe and biodiversity, resulting in legal disputes. The Char Dham highway project in Uttarakhand caused significant deforestation, increasing landslide and flood risks, while mangrove destruction in Mumbai has undermined the

natural buffer against flood and sea level rise. These issues highlight the conflicts between short-term economic growth and long-term environmental sustainability. Although India has laws like the Wildlife Protection Act and the Environment Protection Act, gaps and controversial amendments, including allowing forest areas for non-forest activities, raise concerns about ecosystem loss.

On a positive note, the judiciary has taken steps to safeguard the environment. The Madras High Court recognised that nature has rights and emphasised our duty to protect it for future generations. However,

the national legal framework still remains unclear. In 2017, the Supreme Court overturned a ruling that recognised the Ganga and Yamuna rivers as legal persons, citing difficulties in assigning human-like rights to natural entities. Nevertheless, the High Courts in Uttarakhand, Punjab, and Haryana have granted legal recognition to rivers and animals, reflecting a shift toward protecting ecological rights. In these instances, individuals have been appointed to defend the rights of non-human entities, marking an emerging trend in India's environmental conservation efforts.

## International experience on RoN

The recognition of RoN has gained momentum globally, starting with a 2006 case in Tamaqua Borough, Pennsylvania, where local laws were enacted to protect natural environments by treating them as "persons." In 2008, Ecuador made history by including the RoN in its Constitution, allowing communities to challenge damaging activities in court, as seen in the ruling against road construction that threatened the Vilcabamba River. In 2016, Colombia recognised the Atrato River as a legal entity, empowering local Afro-Colombian and Indigenous communities to act as guardians,



thereby linking ecosystem protection to human rights. In 2017, New Zealand granted legal rights to the Whanganui River, recognising it as a living being in a treaty with the Māori, thereby emphasising the shared responsibility between the government and indigenous communities. For India, this global movement highlights the need for a unified national policy. While various High Courts have granted personhood to rivers and animals, the lack of a consistent framework results in uncertain protections for vital rivers, such as the Ganga and Yamuna, which hold significant cultural and spiritual significance.

### Provisions under the RoN

The RoN encompasses various rules and forms, with a focus on the natural environment. At its core, it guarantees the right to life for all living beings, with specific conditions. It acknowledges nature's functioning, such as natural predator-prey relationships, which are not seen as violations of rights. For example, when a predator catches its prey, this is a natural part of the food chain and is not considered a violation of the prey's right to life. Traditional practices by the indigenous peoples who rely on forests are also respected. RoN includes the right to rejuvenate the fundamental structures, processes, and cycles and the right to flourish and evolve. These may include the right to physical integrity, a certain degree of natural balance or equilibrium, and the ability to preserve and carry out one's unique identity and function within the community of life.

### *The next question that arises is, 'given a RoN for an ecosystem like the forest or trees, how will the rights be protected?'*

It is crucial for people to recognise the RoN, necessitating a system with guardians to uphold these rights. While the Indian government and judiciary play key roles in this, local communities also serve as effective protectors of the environment.

The Bishnoi community is a notable example; they are deeply committed to nature, with a tragic history dating back to 1730 when 363 members died protecting a Khejri tree. Today, they are the custodian of nature and promote compassionate treatment of all living beings. Other examples are the Apatani tribes in Arunachal Pradesh who employ sustainable farming methods that integrate rice and fish cultivation, the Adi tribes that focus on animal protection, and the Garasia community in Rajasthan who works to preserve sacred groves.

Developing laws supporting RoN especially in areas where traditional communities are closely connected to forests will play a crucial role in environmental conservation. A comprehensive legal framework could clarify the existing rules, ensure protection for all ecosystems, and empower these communities to share the responsibility of guarding our natural resources. From New Zealand's shared management of the Whanganui River, India could incorporate local knowledge and stewardship into its national conservation efforts.

### From Climate Commitments to Ecological Justice

Incorporating the RoN into Indian law would strengthen the country's commitments to fighting climate change. Considering forests, wetlands, rivers, and biodiversity as rights-bearing entities would lock in safeguards for natural carbon sinks and climate buffers. For instance, granting stronger legal standing to mangroves could prevent their clearance for infrastructure projects, thereby preserving critical natural defenses against cyclones and storm surges in coastal states. Additionally, acknowledging forests as rights-bearers would improve the quality of afforestation under the Green India Programme by prioritizing ecological diversity over monoculture plantations.

India's approach to addressing climate change shouldn't solely rely on technology and emission targets; it also needs to rebuild its connection with nature. By adopting a rights-based approach to our ecosystems, India can not only meet its environmental goals but also set an example for others by integrating human rights, ecological justice, and community empowerment. RoN could be the governance innovation that could anchor India's climate pathway along ecological justice and community resilience. In India's journey towards achieving net-zero emissions, recognising these rights could be the crucial piece that has been missing.

