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BALANCING FAITH AND RIVER CONSERVATION: REASSESSING RELIGIOUS FREEDOM AND THE LEGAL PERSONHOOD OF RIVERS UNDER THE INDIAN LEGAL FRAMEWORK

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Abstract

In India, rivers are generally regarded as motherly figures. They are not only a source of water but also symbols of religious faith and an integral part of the country's cultural heritage. The Indian Constitution recognizes both religious freedom and environmental protection, but under different constitutional provisions. Religious freedom is guaranteed as a Fundamental Right, whereas environmental protection is provided under the Directive Principles of State Policy and the Fundamental Duties. Activities such as idol immersion, disposal of religious offering and mass religious gatherings contribute significantly to river pollution. As a result, there is an increasing need to balance the constitutional right to religious freedom with the responsibility to conserve and protect river ecosystems. This article attempts to examine this constitutional balance by critically analysing Articles 21, 25, 26, 48A and 51A (g) of the Constitution of India. It also explores the concept of the legal personhood of rivers and examines whether granting rivers the status of legal persons can provide stronger legal protection for their conservation. It highlights that religion and environmental conservation should not be viewed as conflicting interests; instead, they should coexist in a manner that promotes both religious traditions and ecological sustainability. This article, in the end, concludes that a proper constitutional balance must be maintained between religious freedom and environmental responsibilities through an effective legal framework and policy reforms to ensure the long-term protection, restoration and sustainable management of India's rivers.

Keywords: Legal personhood, River Conservation, Religion, Constitution, Indian Law.

1. Introduction

India is often described as the land of rivers. According to Vedic literature, rivers are regarded as sacred and are revered as symbols of purity, life and divinity rather than being viewed merely as geographical features. They occupy a significant place in India's religious and cultural traditions and are closely associated with various forms of worship, religious rituals, festivals and other cultural practices.¹ The reverence accorded to rivers in the Vedic tradition reflects their enduring spiritual and cultural importance in Indian society. These traditional beliefs continue to influence contemporary perceptions of rivers and strengthen the view that they deserve not only religious respect but also legal and environmental protection.

A surprising aspect of this issue is that, although the river Ganga is physically polluted, devotees continue to regard it as spiritually pure.² This distinction between the physical condition of the river and its religious significance highlights the complexity of the issue. It demonstrates that, despite visible environmental degradation, the spiritual belief in the purity of the Ganga remains largely unchanged among its devotees. This is not just a case of the Ganga alone; it is equally applicable to other rivers in India. These rivers have historically served as sources of life, spirituality and religious identity and despite the influence of modernity and scientific rationality; they continue to retain their sacred significance in everyday religious practices. This enduring spiritual relationship underscores the continuing relevance of faith in river conservation.³ The sacred status of rivers reinforces the need for their preservation, emphasizing that conserving these water bodies is essential for protecting both India's cultural heritage and its ecological sustainability. Balancing religious beliefs with effective legal and environmental protection remains a significant challenge, despite initiatives such as the proposal to recognise the rivers as a legal person.⁴

¹Anshul Dubey, "Rivers in Vedic Literature: Symbolism, Significance, and Cultural Impact" 7(4) *Gyanshauryam: International Scientific Refereed Research Journal* 33, 38 (2024).

²Deepsikha Dasgupta, "Faith and Filth: Waste, Water and Rituals on the Banks of India's Ganga", *The Sociological Review Magazine*, Aug. 9, 2022, available at: <https://www.thesociologicalreview.org/magazine/august-2022/water/faith-and-filth/> (last visited July 15, 2026).

³Wiwit Kurniawan and Tri Hidayati, "River, Modernity, and Everyday Religion: An Investigation on the New Spiritual Engagement between Society and River" 2(6) *International Journal of Educational Research and Social Sciences* 1632, 1632 (2021).

⁴*Hinduism Case Study – Climate Change* (Harvard Divinity School, 2018), available at: <https://rpl.hds.harvard.edu/religion-in-context/case-studies/climate-change/pollution-indias-living-river> (last visited July 15, 2026).

2. Constitutional Framework for the Protection of Sacred Rivers

In India, river protection initially emerged through colonial-era laws governing forests, fisheries and public health,⁵ but over time it has evolved into a constitutional concern. As environmental degradation became a serious issue, river conservation gradually received constitutional recognition through law and judicial interpretation. This transformation occurred through the insertion of Article 48A,⁶ and Article 51A(g),⁷ by creating a duty for every citizen regarding protection and improvement of the natural environment. It was further strengthened by the expansion of Article 21 by apex court in the form right to a clean and healthy environment.⁸ Consequently, river conservation is no longer merely a policy objective but has become an important constitutional obligation.⁹

Having examined the constitutional evolution of river conservation, it is now necessary to examine the constitutional guarantee of religious freedom and its relationship with river conservation. Religious freedom given in Indian Constitution allows each individual to have spiritual awakening and the liberty to propagate and practise religious customs without restriction and grants religious denominations the autonomy to manage their religious affairs.¹⁰ However, the Supreme Court has consistently reiterated that these rights are not unrestricted, as they cannot override considerations of health, morality, public order and the other provisions of the fundamental rights.¹¹ That is why, where religious practices contribute to river pollution or environmental degradation, the State is constitutionally empowered to control such things in favour of environmental protection and public welfare.

Article 48A recognizes environmental protection as a constitutional obligation of the State and assures that the environment including flora and fauna must be protected and improved by it.¹² Although it forms part of the State Policy under the head of Directive Principles and have not enforceability in courts, yet it has become a pivotal constitutional foundation for pollution free environment. The Indian apex court has frequently relied upon this Article under the guidance

⁵The Indian Fisheries Act, 1897 (Act 4 of 1897); The Indian Forest Act, 1927 (Act 16 of 1927); The Factories Act, 1948 (Act 63 of 1948); The Constitution (Forty-second Amendment) Act, 1976 (Act 101 of 1976).

⁶ The Constitution (Forty-second Amendment) Act, 1976 (Act 101 of 1976), s. 10.

⁷ The Constitution (Forty-second Amendment) Act, 1976 (Act 101 of 1976), s. 11.

⁸ *M.C. Mehta v. Union of India*, (1987) 1 SCC 395; *Subhash Kumar v. State of Bihar*, (1991) 1 SCC 598.

⁹ *Virender Gaur v. State of Haryana*, (1995) 2 SCC 577.

¹⁰ The Constitution of India, arts. 25 and 26.

¹¹ The Constitution of India, art. 25(1); *The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*, AIR 1954 SC 282.

¹² The Constitution of India, art. 48A.

of Article 21 by connecting it to the right to a clean and safe environment.¹³ Over time, it has performed a significant function in shaping the judicial approach towards, ecological preservation and the conservation of resources given by nature, including rivers.¹⁴ Article 51A(g) mandates that every citizen has a fundamental responsibility to conserve and enhance the natural environment, encompassing woodlands, waterways, rivers, fauna and to have empathy for all forms of life.¹⁵ Although, it does have directly enforceability under the courts, it reflects the combined duty of both the State and citizens under the constitutional expectations of environmental conservation.¹⁶

Article 51A(g) is not directly enforceable by the courts.¹⁷ Consequently, its effectiveness in ensuring river conservation remains limited because it creates a moral obligation rather than a legally enforceable duty. Despite this constitutional mandate, environmentally harmful practices, including the disposal of religious offerings, idol immersion and other activities contributing to river pollution, continue to persist.¹⁸ This highlights the disparity between the constitution's ideals and their effective application in practice. These constitutional provisions show that religious freedom and environmental protection are meant to exist together. Therefore, while religious practices connected with sacred rivers deserve constitutional respect, they should not be carried out in a way that harms the rivers or interferes with the right to an ecologically balanced environment. The balanced construction of these provisions requires that religious faith and river conservation support each other rather than come into conflict.

3. Statutory and Judicial Framework

In India, the body of law covering river conservation comprises a combination of statutory enactments and judicially evolved environmental principles. These laws and doctrines seek to protect and preserve river ecosystems while accommodating constitutionally guaranteed religious freedoms. The growing challenge of river pollution arising from certain religious

¹³ *M.C. Mehta v. Union of India*, *supra* note 8; *Subhash Kumar v. State of Bihar*, *supra* note 8.

¹⁴ *Virender Gaur v. State of Haryana*, *supra* note 9; *M.C. Mehta v. Kamal Nath*, (1997) 1 SCC 388.

¹⁵ The Constitution of India, art. 51A(g).

¹⁶ The Constitution of India, art. 48A; *AIIMS Students' Union v. AIIMS*, (2002) 1 SCC 428.

¹⁷ The Constitution of India, art. 51A(g); *AIIMS Students' Union v. AIIMS*, *supra* note 16.

¹⁸ Ministry of Jal Shakti, Government of India, Press Information Bureau, Controlling Increasing Pollution of Water in Yamuna, Press Release, Nov. 29, 2021, available at: <https://pib.gov.in/PressReleasePage.aspx?PRID=1776190> (last visited July 15, 2026); Central Pollution Control Board, Revised Guidelines for Idol Immersion (May 12, 2020), available at: <https://www.mpcb.gov.in/sites/default/files/water-quality/water-quality-status/RevisedGuidelines09092021.pdf> (last visited July 15, 2026).

practices, together with the evolving debate on the lawful identity of rivers, makes it necessary to examine the laws and judicial principles that govern environmental protection while respecting religious freedom. The Water (Prevention and Control of Pollution) Act,¹⁹ 1974, serves as the principal law for restraining and regulating water pollution in India.²⁰ It established boards for curbing pollution at the centre and state levels. The major duty of these boards is to regulate and protect the ecological health of water resources in the country.²¹

In the context of religious practices, activities such as the disposal of idols and associated religious offerings into water bodies contribute to river pollution.²² Although these practices are secured under the name of religious freedom in the Constitution, such protection is subject to constitutional limitations.²³ This Act empowers the authorities to regulate activities that pollute rivers.²⁴ However, its effective implementation often becomes challenging where environmental concerns intersect with religious beliefs and sentiments. The Environment (Protection) Act, 1986 confers wide-ranging powers on the board that is constituted at the Central level to preserve and enhance the environmental conditions by prescribing related standards and regulating activities that cause pollution.²⁵ In the context of river conservation, the Act lays down the statutory framework for controlling activities that damage river ecosystems, including pollution caused by certain religious practices.²⁶ However, the issue is not the non-existence of legal powers, but in their fair and effective implementation while respecting genuine religious beliefs.

While the statutory framework provides the legal basis for river conservation, it has been significantly strengthened by the judicial system of India through the development of environmental principles.²⁷ Over the years, the courts have evolved foundational doctrines,

¹⁹ The Water (Prevention and Control of Pollution) Act, 1974 (Act 6 of 1974).

²⁰ *Ibid.*

²¹ *Id.*, ss. 3–4, 16–17.

²² Ministry of Jal Shakti, Government of India, Press Information Bureau, *Pollution in Rivers*, Press Release, Feb. 3, 2022, available at: <https://pib.gov.in/PressReleasePage.aspx?PRID=1795525> (last visited July 15, 2026); Central Pollution Control Board, *Revised Guidelines for Idol Immersion*, *supra* note 18.

²³ The Constitution of India, art. 25(1); *The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*, *supra* note 11.

²⁴ The Water (Prevention and Control of Pollution) Act, *supra* note 19, ss. 24 and 33A.

²⁵ The Environment (Protection) Act, 1986 (Act 29 of 1986), ss. 3 and 6.

²⁶ *Id.*, ss. 3 and 5

²⁷ *M.C. Mehta v. Kamal Nath*, *supra* note 14; *Vellore Citizens' Welfare Forum v. Union of India*, (1996) 5 SCC 647.

namely the Public Trust Doctrine,²⁸ the Polluter Pays Principle²⁹ and the Precautionary Principle³⁰. Which are now forming the backbone of Indian environmental jurisprudence.³¹ These principles require the State to protect rivers as resources held in trust for the public, ensure that persons responsible for pollution must be accountable for damage, encourage preventive action against ecological harm and promote development that preserves the health and sustainability of river ecosystems. Together, these principles provide a strong legal foundation for conserving rivers, protecting biodiversity, securing water resources and safeguarding the welfare of current and succeeding generations.

4. India and International views on the Legal Personhood of Rivers

The concept of legal personhood of rivers represents an important development in environmental jurisprudence. Traditionally, rivers have been viewed as natural resources that could be owned, used and regulated for human benefit. The idea of legal personhood, however, shifts this perspective by recognising rivers as beings with independent statutory rights and interests deserving protection. Inspired by the internationally recognised Rights of Nature movement, this approach seeks to strengthen river conservation by enabling rivers to be represented before courts through designated guardians and by imposing corresponding duties on public authorities to safeguard their ecological integrity.³² The concept of legal personhood is not new. The law has long recognised legal personality not just for natural persons as well as for legal entities including corporations, trusts, universities and religious institutions. Extending this concept to rivers reflects a broader shift in environmental thinking from treating nature merely as property for human use to recognising its intrinsic value and ecological importance. Rather than protecting rivers only because they serve human interests, this approach recognises that rivers deserve legal protection in their own right.

This approach has gradually gained recognition in several foreign jurisdictions through constitutional provisions, legislation and judicial decisions.³³ Although the legal models differ, they share a common objective of strengthening environmental governance by enabling legal

²⁸ *M.C. Mehta v. Kamal Nath*, *supra* note 14.

²⁹ *Indian Council for Enviro-Legal Action v. Union of India*, (1996) 3 SCC 212.

³⁰ *Vellore Citizens' Welfare Forum v. Union of India*, *supra* note 27.

³¹ *Indian Council for Enviro-Legal Action v. Union of India*, *supra* note 29.

³² *Te Awa Tupua (Whanganui River Claims Settlement) Act 2017* (New Zealand).

³³ *Te Awa Tupua (Whanganui River Claims Settlement) Act 2017*, *supra* note 32; *Constitution of Ecuador* (2008), arts. 71–74.

action to be taken on behalf of rivers and ensuring their long-term protection, restoration and sustainable management. These developments reflect a gradual shift from an anthropocentric approach, which prioritises human interests, to a more ecocentric approach that recognises the value of nature itself. India's engagement with the legal personhood of rivers has followed a different path. Instead of legislative recognition, the concept emerged through judicial innovation. In India, while granting the status of personhood to the rivers the Ganga and the Yamuna, the Uttarakhand High Court declared them to be living beings.³⁴ Drawing inspiration from the New Zealand's efforts regarding the Wanganui River, the Court emphasised that the river's conservation is covered under the constitutional obligations. Shortly thereafter, the same High Court granted personhood to lakes, glaciers, wetlands, forests and other natural resources.³⁵ However, the Supreme Court subsequently stayed the operation of both judgments, leaving the legal status of rivers unresolved in India.³⁶

Although these decisions marked a difference from the conventional perception of rivers as objects of regulation, they also raised several practical and constitutional concerns. The judgments did not clearly address issues relating to guardianship, legal liability, institutional accountability, enforcement mechanisms or the sharing of responsibilities between the Centre and the States. Notably, they provided little guidance on how the rights of rivers would operate where they came into conflict with existing constitutional rights, especially those related to religion. From the perspective of river conservation, legal personhood should therefore be measured not as an end in itself but as a possible statutory mechanism for strengthening environmental governance. Its effectiveness depends upon a clear legislative framework defining the claims of rivers, the liabilities and accountability of guardians, effective institutional coordination, public participation and practical enforcement mechanisms.

In India, where rivers possess profound religious, cultural and ecological significance, any proposal to recognise rivers as legal persons must carefully balance environmental protection with constitutionally protected religious freedom. The experience of foreign jurisdictions offers valuable guidance, but it cannot be adopted without considering India's unique constitutional and social context. Consequently, if legal personhood is to become part of Indian

³⁴ *Mohd. Salim v. State of Uttarakhand*, W.P. (PIL) No. 126 of 2014, (Uttarakhand High Court).

³⁵ *Lalit Miglani v. State of Uttarakhand*, W.P. (PIL) No. 140 of 2015, (Uttarakhand High Court).

³⁶ *State of Uttarakhand v. Mohd. Salim*, SLP (Civil) Diary No. 16879 of 2017, order dated 7 July 2017 (Supreme Court of India).

environmental law, it would be more appropriate for such recognition to be introduced through comprehensive legislation rather than judicial innovation alone.

5. Balancing Religious Freedom and River Conservation

The protection of sacred rivers presents among the most leading constitutional issues in India because it requires balancing two equally important constitutional values: the freedom of religion and environmental protection. Rivers such as the Ganga, the Yamuna, the Godavari, the Narmada, the Kaveri and many more, are deeply revered in Indian society and continue to serve as a key factor in religious rituals and cultural traditions. Meanwhile, certain practices associated with these rivers, including idol immersion, the disposal of ritual offerings and mass religious gatherings, may contribute to pollution and ecological degradation.³⁷ This creates a continuing need to reconcile religious practices with the constitutional commitment to environmental conservation. The constitutional framework itself lays the foundation for achieving this balance. Although, the Constitution ensures every person the freedom to profess and practise religion, it is not absolute and remains conditioned upon public order, morality, health and other fundamental rights given in the Constitution.³⁸ Similarly, Articles 21, 48A and 51A(g)³⁹ collectively recognise environmental safeguarding as a constitutional responsibility shared by the State together with its citizens. Consequently, neither religious freedom nor environmental protection can be treated as superior to the other. Instead, both constitutional values must be interpreted in a manner that allows them to coexist.

In this context, the concept of legal personhood offers an additional perspective for strengthening river conservation. By recognising rivers as legal entities, the law may provide greater institutional responsibility and facilitate legal action for their protection. However, legal personhood cannot, by itself, resolve the practical challenges surrounding river conservation. Its effectiveness ultimately depends upon a clear legislative framework, accountable guardianship, institutional coordination and effective implementation. Without these safeguards, the recognition of rivers as legal persons risks remaining largely symbolic rather than producing meaningful environmental outcomes. A balanced constitutional approach therefore requires that environmental protection and religious freedom should reinforce rather

³⁷ Ministry of Jal Shakti, Government of India, Press Information Bureau, *Pollution in Rivers*, Press Release, 3 February 2022; Central Pollution Control Board, *Revised Guidelines for Idol Immersion*, *supra* note 22.

³⁸ *The Constitution of India*, art. 25(1); *The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*, *supra* note 11.

³⁹ *The Constitution of India*, arts. 21, 48A and 51A(g).

than undermine one another. The objective should not be to prohibit genuine religious practices but to ensure that they are carried out in environmentally responsible ways consistent with constitutional values. Such an approach preserves the religious significance of rivers while recognising their ecological importance and provides a stronger foundation for sustainable river governance.

6. Recommendations

In light of the issues examined in this study, the following recommendations are offered to strengthen river conservation while maintaining an appropriate balance between religious freedom and environmental protection:

1. A comprehensive legislative framework for river conservation may be considered to clearly define institutional responsibilities, strengthen enforcement mechanisms and integrate constitutional and environmental obligations.
2. Greater emphasis may be placed on environmentally sustainable religious practices, including the use of eco-friendly idols, biodegradable ritual materials, designated immersion facilities and scientific disposal of religious offerings.
3. The implementation of existing environmental framework, specially the Water Act⁴⁰ and the Environment Act⁴¹ may be strengthened through regular monitoring and effective enforcement.
4. Improved coordination among governmental authorities, Pollution Control Boards, local bodies, religious organisations and civil society may contribute to more effective river conservation and environmental governance.
5. Public awareness initiatives and community participation may be encouraged to promote environmentally responsible religious practices and foster a greater sense of collective responsibility towards river protection.
6. Judicial oversight may remain instrumental in ensuring the effective implementation of environmental laws while maintaining an appropriate balance between religious freedom and environmental protection.
7. River-specific conservation strategies may be developed by taking into account the ecological, cultural and religious significance of individual rivers and their local conditions.

8. Waste management infrastructure around major pilgrimage sites and riverbanks may be improved to minimise the direct discharge of ritual materials, solid waste and untreated sewage into rivers.
9. Periodic scientific assessments and interdisciplinary research may be encouraged to support evidence-based policymaking and strengthen long-term river conservation efforts.
10. The legal personhood of rivers, if adopted in India, may be supported through legislative intervention that explicitly recognises the rights of rivers, role as well as accountability of representatives and effective mechanisms for implementation.

The effective protection of India's rivers requires a collaborative approach involving the State, judicial institutions, religious organisations, local communities and the public. These recommendations are intended to contribute towards a balanced legal framework that respects religious freedom while promoting the sustainable conservation of river ecosystems.

7. Conclusion

The study demonstrates that the relationship between religious freedom and river conservation is not one of constitutional conflict but of constitutional balance. While rivers occupy a sacred place in India's religious and cultural traditions, they are equally indispensable ecological systems that sustain biodiversity, public health and human livelihoods. The Constitution does not require one value to prevail over the other; rather, it requires both to be interpreted so as to provide meaningful effect to each. The analysis further shows that the existing constitutional and statutory framework provides a substantial legal foundation for river protection through constitutional guarantees, the environmental legal framework and judicially evolved environmental principles. However, effective river conservation ultimately depends upon consistent implementation, institutional accountability and a balanced interpretation of constitutional rights.

The study also finds that legal personhood has expanded contemporary environmental jurisprudence by encouraging a rights-oriented model to river protection. Nevertheless, Indian history indicates that judicial recognition alone is insufficient to ensure meaningful conservation. As there is no comprehensive legislation that defines the legal status of rivers, the rights and responsibilities of guardians and effective enforcement mechanisms, legal

personhood remains of limited practical value. The central question addressed in this article is how India can reconcile religious freedom with river conservation. The answer lies not in restricting genuine religious practices or treating environmental protection as an overriding value, but in adopting a constitutional approach that harmonises both. Religious freedom must be used in harmony with environmental sustainability, while conservation measures should respect the legitimate exercise of religious beliefs.

Ultimately, the long-term protection of India's sacred rivers requires an integrated legal framework that combines constitutional values, statutory safeguards, judicial principles and effective governance. Such an approach recognises rivers not only as objects of faith but also as living ecological systems the preservation of which is indispensable to the interests of present and succeeding generations.

