

Who Speaks For The Mithi?

Ecological Victimhood, Direct River Standing, Civil Restitution and Public-Authority Liability in Indian Environmental Law

Ms. Rajashree Ingle¹, Dr Hitesh Sawant²

Department of Environmental Studies

Abstract

Indian law readily identifies victims when a human being is injured, a corporation suffers loss, public property is damaged, or minerals are unlawfully extracted. River degradation exposes a different structural problem: the ecosystem may be the immediate object of injury, yet it ordinarily has no continuous legal voice of its own. This article examines that gap through Mumbai's Mithi River. It advances the concept of an 'ecological victim': a legally protected natural entity that suffers measurable degradation of ecological structure, function, biodiversity or regenerative capacity. The article distinguishes direct river standing from citizen standing, and argues that the strongest reform would not require a fresh public-interest petitioner every time the Mithi is injured. Instead, Maharashtra could confer limited legal personality on the Mithi by statute and appoint an independent Guardian who acts only procedurally, while the substantive claim remains that of the River itself.

The article integrates four bodies of law that are usually treated separately: environmental restitution under the National Green Tribunal Act 2010; the Polluter Pays and Public Trust doctrines; criminal and public-law responsibility for unlawful acts and culpable omissions; and comparative river personhood under New Zealand's Te Awa Tupua framework. It argues that civil and restorative liability is at least as important as criminal prosecution. Pollution may destroy aquatic fauna, flora, water quality, habitat and ecological services even where no individual human claimant can quantify a private loss. Indian law already recognises restitution of the environment and compensation for aquatic fauna, flora, water and ecosystems. The article therefore proposes a Mithi River Protection, Rights and Restoration Act, a ring-fenced Restoration Fund, a statutory Seven-Factor Ecological Omission Test for public-authority responsibility, and carefully delimited direct standing for the River. The proposal does not assume that BMC is liable whenever the Mithi is polluted. Liability must follow duty, knowledge, control, capacity, causation and the applicable standard of culpability. The broader claim is institutional: if law can create corporations and protect public assets that cannot speak, it can create a legal voice for a river whose injury is scientifically measurable and whose restoration serves both ecological integrity and constitutional environmental values.

Keywords: Mithi River; ecological victimhood; legal personhood; rights of nature; civil restitution; environmental compensation; public trust doctrine; polluter pays; BMC; municipal liability; Whanganui River; river guardianship; ecocide.

I. Introduction: The Silent Victim Problem

Law ordinarily asks who has been injured. When a person is assaulted, the victim is identifiable. When a company suffers a legal wrong, the company sues through authorised human agents. When State property is damaged, the

public authority can prosecute or recover loss. When minerals are illegally removed, legislation can protect the resource without requiring the mountain to speak. River degradation reveals a conceptual asymmetry: the river may be the physical locus of the injury, but it normally appears in court only through the interests of humans, regulators or governments.

The Mithi River provides a particularly useful urban case study. Maharashtra Pollution Control Board material for 2024-25 identifies the Powai-to-Dharavi stretch of the Mithi as a Priority-I polluted river stretch and reports BOD at 80 mg/L.¹

The river is also institutionally fragmented. MMRDA records that the Mithi is about 17.84 km long, with 11.84 km under MCGM jurisdiction and 6 km under MMRDA jurisdiction, while the Mithi River Development and Protection Authority operates as a coordinating agency among implementing bodies.²

The central question of this article is therefore not whether environmental law exists. It plainly does. The deeper question is whether an ecosystem that can suffer scientifically demonstrable harm should remain dependent on a new human claimant every time its legal interests require protection. The article argues for a shift from *citizen standing to protect nature* toward *nature standing through representation*.

II. Research Questions, Thesis and Method

The primary research question is whether the Mithi River can be constituted as a limited legal ecological person with continuous standing to seek injunctions, restitution, compensation and other remedies in its own name, acting procedurally through an independent Guardian. A second question concerns public-authority liability: when pollution is directly caused by residents, industries, contractors or other actors, can BMC or another authority nevertheless bear separate civil, public-law or criminal responsibility for a legally actionable failure to perform a mandatory duty?

The article advances three propositions. First, substantial ecosystem degradation should be recognised as an injury capable of existing independently of immediate private economic loss. Second, direct river standing is conceptually different from vesting the claim in a development corporation: the River should own the claim; the Guardian should only exercise it. Third, governmental responsibility should neither be presumed nor immunised. It should be tested through function, duty, knowledge, control, capacity, causation and culpability.

Methodologically, the article is doctrinal, comparative and normative. It analyses constitutional environmental jurisprudence, the National Green Tribunal Act 2010, the Water (Prevention and Control of Pollution) Act 1974, the Bharatiya Nyaya Sanhita 2023, public-trust and restoration jurisprudence, Indian experiments with river personhood, and New Zealand's Te Awa Tupua statute. It then develops model legislation for Maharashtra.

¹ Maharashtra Pollution Control Board, Water Quality Status of Polluted River Stretches in Maharashtra (2024-2025), entry for Mithi River (Powai to Dharavi), reporting BOD 80 mg/L and Priority I classification (MPCB, 2025).

² Mumbai Metropolitan Region Development Authority, Implementation of the Mithi River Clean-Up Project (MRDPA, 2 September 2020) 1; MMRDA, citizen-services material describing MRDPA as a coordinating agency between MMRDA, MCGM and other institutions.

III. The Jurisprudential Move: From Environmental Object to Ecological Victim

A. Legal personality is functional, not biological

The objection that 'a river is not a person' is biologically correct but legally incomplete. Juristic personality is a legal technique. Companies do not breathe, yet they own property and sue. Statutory boards are artificial entities but may have perpetual succession and litigation capacity. Indian law has also long used juristic personality in religious-endowment contexts.³

The serious inquiry is therefore not whether a river is human. It is whether the legal system has a sufficient reason to attribute a defined bundle of rights, powers and procedural capacities to the river. Christopher Stone's classic standing argument made the same structural point: legal systems historically expand the category of rights-bearing entities by providing representatives to interests that cannot speak in court by themselves.⁴

B. Defining the ecological victim

This article defines an ecological victim as a legally protected natural entity or ecosystem that suffers substantial and measurable degradation of its ecological structure, function, integrity, biodiversity or regenerative capacity as a result of an unlawful act or legally actionable omission. The concept does not anthropomorphise the river. It identifies the River as the focal point of an environmental claim whose object is restoration rather than compensation for human pain and suffering.

A river is not merely a quantity of water. It includes water chemistry, sediment, microbial communities, aquatic fauna and flora, riparian habitat, wetlands, hydrological connectivity and ecological services. A toxic discharge can therefore injure multiple components simultaneously. Fish mortality is not only evidence that a licence condition may have been breached; it can be evidence of ecosystem injury.

IV. Existing Indian Law Already Recognises Ecological Injury

A. Restitution of the environment under the NGT Act

The proposed theory is not built on an empty doctrinal field. Section 15 of the National Green Tribunal Act 2010 expressly authorises relief, compensation and restitution, including restitution of the environment.⁵

Schedule II is even more important. It identifies claims for harm to fauna including aquatic fauna, harm to flora including aquatic flora, and the cost of restoration for damage to the environment including pollution of water and ecosystems.⁶

These provisions demonstrate that Indian legislation already recognises a category of loss that is not reducible to private property damage. The conceptual step proposed here is narrower than it first appears: where the law

³See generally *Shiromani Gurdwara Prabandhak Committee v Som Nath Dass* (2000) 4 SCC 146 (discussing juristic personality as a legal creation).

⁴Christopher D Stone, 'Should Trees Have Standing?—Toward Legal Rights for Natural Objects' (1972) 45 *Southern California Law Review* 450.

⁵National Green Tribunal Act 2010, s 15.

⁶National Green Tribunal Act 2010, sch II paras (i)-(k).

already recognises ecosystem restoration as a remedy, it should also consider whether the ecosystem can have a permanent representative authorised to seek that remedy.

B. Polluter Pays is a restoration principle

The Supreme Court has repeatedly held that Polluter Pays extends beyond compensation to human victims to the cost of reversing environmental degradation.⁷

The Court's 2025 decision in *Vellore District Environment Monitoring Committee v District Collector, Vellore District* is particularly important for the present thesis. It reiterated that polluter liability continues until ecological damage is reversed and stated that governments and local authorities have a bounden duty to prevent, protect and preserve natural resources.⁸

That judgment also warned against allowing Polluter Pays to degenerate into a 'right to pollute' for actors able to afford compensation. Restoration is continuing rather than transactional.⁹

C. Public Trust and the State as steward

The State's relationship with a river should not be reduced to ownership. The stronger doctrinal vocabulary is trusteeship. In *M C Mehta v Kamal Nath*, the Supreme Court treated the Public Trust Doctrine as part of Indian law and described the State as trustee of natural resources such as running waters.¹⁰

The doctrine matters because ownership theory generates a conflict when the State itself is alleged to have contributed to environmental injury. Trusteeship permits a more coherent structure: the State may manage and regulate the resource, yet its own acts and omissions remain reviewable against the duties of stewardship.

V. A Recent Doctrinal Opening: Government Responsibility and Ecocide

The 2025 *Vellore District Environment Monitoring Committee* judgment is unusually relevant because it expressly separates direct polluter liability from governmental enforcement responsibility. Under the heading 'Government Pay Principle vis-à-vis Responsibility of the Government', the Court stated that governments share significant responsibility to prevent degradation and ensure effective remedial action, and observed that regulatory failure can generate a form of shared responsibility.¹¹

⁷Indian Council for Enviro-Legal Action v Union of India (1996) 3 SCC 212; Vellore Citizens Welfare Forum v Union of India (1996) 5 SCC 647.

⁸Vellore District Environment Monitoring Committee v District Collector, Vellore District 2025 INSC 131, paras 71-73, 91.1.

⁹ibid paras 74-78.

¹⁰M C Mehta v Kamal Nath (1997) 1 SCC 388.

¹¹Vellore District Environment Monitoring Committee 2025 INSC 131, paras 82-83.

The same judgment also discussed the emerging concept of ecocide and identified, by way of illustration, pollution of rivers with untreated sewage, illegal sand mining and large-scale deforestation as conduct capable of falling within the stated ecocide definition.¹²

These passages do not establish automatic criminal liability for BMC, nor do they create a general offence of ecocide. Their significance is doctrinal: the Supreme Court has expressly articulated (i) continuing ecological restoration obligations, (ii) governmental responsibility for enforcement failure, and (iii) the seriousness of large-scale ecosystem destruction. Together, they create a contemporary legal setting in which direct ecological standing is no longer a purely theoretical question.

VI. Why Direct River Standing Is Stronger Than Requiring a New Human Petitioner

The practical weakness of traditional public-interest litigation is episodic representation. A resident, NGO or public-spirited individual must identify the problem, obtain evidence, secure legal assistance and maintain proceedings. If that petitioner withdraws, dies, lacks funds or loses standing, the River does not retain an institutional advocate merely because the ecological injury continues.

Direct standing changes the architecture. Once legislation recognises the Mithi as a legal ecological entity, the River remains the rights-holder continuously. Its Guardian performs procedural acts - retaining counsel, signing pleadings, obtaining expert reports and making litigation decisions - but those procedural functions do not transfer the substantive claim away from the River.

This distinction can be expressed by analogy. A shareholder does not become a corporation before the corporation can sue. The guardian of a minor does not become the minor. Similarly, a Mithi River Guardian need not own the River's rights; it should exercise them *on behalf of and in the name of the Mithi*.

VII. Indian River Personhood: Conceptual Opening, Institutional Weakness

The Uttarakhand High Court's 2017 decision in *Mohd Salim v State of Uttarakhand* declared the Ganga and Yamuna to be juristic/legal persons and designated officials to protect them.¹³

The decision is important as a jurisprudential demonstration that an Indian court regarded river personality as conceptually possible. But it is not safe to treat river personhood as settled national law: the Supreme Court stayed the operation of the High Court judgment on 7 July 2017.¹⁴

The episode also demonstrates the institutional weakness of judicial personhood without legislative architecture. Questions immediately arise about territorial extent, liabilities, the identity and independence of guardians, conflicts of interest and the relationship between river rights and existing administrative law. The lesson is not that personhood is impossible. It is that personhood should be legislatively designed.

¹²ibid para 92. The Court described ecocide as an emerging concept; the passage should not be read as creating a standalone Indian criminal offence of ecocide.

¹³*Mohd Salim v State of Uttarakhand*, WPPIL No 126 of 2014 (Uttarakhand High Court, 20 March 2017).

¹⁴*State of Uttarakhand v Mohd Salim*, SLP (C) No 16879 of 2017, order dated 7 July 2017 (Supreme Court of India).

VIII. Comparative Model: Te Awa Tupua and the Whanganui River

New Zealand provides a more complete statutory model. Section 14 of the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 declares Te Awa Tupua to be a legal person with the rights, powers, duties and liabilities of a legal person. Critically, those rights and powers are exercised by Te Pou Tupua 'on behalf of, and in the name of' Te Awa Tupua.¹⁵

The distinction is exactly the one required for Mithi: the representative is not substituted for the River as claimant. The statute makes the River the legal subject and the guardian the procedural actor.

The Whanganui model must nevertheless not be transplanted mechanically. It emerges from a distinctive settlement with Whanganui iwi and embodies relationships, histories and Indigenous legal understandings that do not map directly onto Mumbai.¹⁶

Its value for Indian reform is narrower but powerful: it proves that a legislature can create a river as a legal subject, delimit the effects of that status, and establish representatives who act in the river's name.

IX. Civil and Environmental Liability: The River Must Be Restored, Not Merely Vindicated

A person-focused account of environmental litigation can overvalue punishment and undervalue repair. If untreated sewage or toxic effluent causes oxygen collapse, sediment contamination and mass mortality of aquatic organisms, imprisonment of an offender does not itself restore ecological function.

Civil and environmental liability should therefore occupy the centre of the Mithi model. The principal remedy should be cessation, remediation, restoration, monitoring and compensation calculated by reference to ecological loss. Criminal prosecution is additional where an offence is established.

A. Proposed heads of ecological damages

A Mithi-specific restoration award could include: immediate containment and clean-up; water-quality restoration; sediment remediation; habitat reconstruction; aquatic-fauna and flora recovery; interim loss of ecological services; independent scientific monitoring; future-risk mitigation; and long-term adaptive restoration management.

The objective is not to pretend that every ecological loss is perfectly commensurable with money. Monetary assessment is an instrument for funding restoration, not a claim that an ecosystem is replaceable at market price.

B. Ring-fencing compensation

Where compensation is assessed specifically for ecological injury to Mithi, it should not simply disappear into general revenue. A statutory Mithi River Restoration Fund should hold such sums exclusively for ecological remediation and prevention. Section 24 of the NGT Act already reflects the principle that amounts payable for environmental damage may be dealt with as directed for restoration purposes.¹⁷

X. Criminal Law: Why 'Pollution Exists, Therefore FIR Against BMC' Is Too Simple

Direct river standing does not eliminate the legality principle in criminal law. An FIR cannot properly be demanded against BMC merely because a river is polluted. Criminal proceedings require information disclosing

¹⁵Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ), s 14.

¹⁶Te Awa Tupua Act 2017 (NZ), ss 12-13, including Tupua te Kawa and the recognition of Te Awa Tupua as an indivisible living whole.

¹⁷National Green Tribunal Act 2010, s 24.

a cognizable offence and attribution to persons or entities against whom the statutory ingredients can be established.

The Bharatiya Nyaya Sanhita 2023 defines public nuisance in section 270 to include an act or an *illegal omission* causing common injury, danger or annoyance.¹⁸

Section 279 separately addresses voluntary fouling of water of a public spring or reservoir.¹⁹

These provisions show that water pollution and harmful omission are not conceptually alien to general criminal law. But environmental statutes also have their own procedures. The Water Act, for example, contains a specialised cognizance mechanism in section 49 and statutory provisions addressing contraventions by government departments.²⁰

The intellectually defensible proposition is therefore narrower: if a public officer has a clear mandatory duty concerning an identified pollution source, knows of continuing substantial harm, possesses authority and reasonable capacity to intervene, and culpably fails to perform the duty, the omission should be capable of attracting the civil, public-law, regulatory or criminal consequence provided by the applicable law.

XI. BMC, Third-Party Pollution and the Problem of Concurrent Responsibility

One of the most common defences to municipal responsibility is causal displacement: residents throw waste; industries release effluent; therefore the municipal corporation did not pollute the River. That argument may identify direct polluters, but it does not necessarily answer the separate question whether a public authority breached an independent statutory duty.

Environmental responsibility can be concurrent. An industry may be directly liable for an unlawful discharge. A contractor may be liable for waste-management failure. A municipal operator may be responsible for untreated municipal sewage. A land authority may have duties concerning an identified encroachment. A regulator may be reviewable for unlawful non-enforcement. The existence of one wrongdoer does not automatically erase the independently established responsibility of another.

A. The function-duty-causation matrix

For every allegation against BMC or another public authority, the Guardian should identify: (1) the pollution source; (2) the statutory or binding duty; (3) the responsible department or officer; (4) notice or knowledge; (5) legal control; (6) reasonable capacity; (7) the omission or act; and (8) the ecological consequence. This sequence prevents river rights from collapsing into generalised institutional blame.

XII. Encroachments: Jurisdiction First, Liability Second

Encroachment along the Mithi may contribute to waste dumping, sewage discharge, channel narrowing, loss of riparian habitat and flood obstruction. But the word 'encroachment' cannot itself determine liability. Land

¹⁸Bharatiya Nyaya Sanhita 2023, s 270.

¹⁹Bharatiya Nyaya Sanhita 2023, s 279. Whether a particular river pollution event falls within the precise statutory language is a fact- and interpretation-specific question.

²⁰Water (Prevention and Control of Pollution) Act 1974, ss 48-49, as amended. The procedural route under the Water Act must be distinguished from an ordinary FIR under general criminal law.

ownership, planning jurisdiction, rehabilitation obligations, court orders and the authority legally empowered to act must first be established.

Where BMC or another authority has jurisdiction over an identified unlawful encroachment, possesses a mandatory enforcement or sanitation duty, has notice of material environmental consequences and unjustifiably fails to act, that omission may become relevant to public-law or environmental-compensation analysis. Personal criminal liability would require the additional ingredients of the applicable offence.

A rights-of-river model must also avoid environmental injustice. Vulnerable communities living without adequate sewerage, toilets, waste collection or lawful rehabilitation cannot simply be treated as equivalent to an industry deliberately discharging toxic waste. Ecological rights and human constitutional rights must be designed to coexist.

XIII. The Seven-Factor Ecological Omission Test

To discipline public-authority liability, this article proposes a Seven-Factor Ecological Omission Test. It is intended as a legislative and adjudicatory framework rather than a claim that current criminal law already incorporates this test.

Factor	Question
1. Duty	Was there a clear statutory, judicial, regulatory or other binding obligation?
2. Knowledge	Did the responsible authority or officer know, or was knowledge legally attributable, that substantial pollution was continuing?
3. Control	Did the respondent have legal authority over the relevant function or source?
4. Capacity	Were reasonable institutional means available to act?
5. Culpability	Was the failure intentional, reckless, grossly negligent, or otherwise actionable under the relevant law?
6. Causation	Did the omission materially contribute to the continuation, scale or consequences of the ecological injury?
7. Seriousness	Did the environmental harm cross a scientifically defined threshold?

The test separates institutional failure from strict personal blame. It also addresses the recurring objection that municipal agencies would face criminal cases simply because pollution exists. Under this proposal, responsibility follows evidence, not office.

XIV. A Hybrid Legislative Model for Maharashtra

The strongest reform is neither a mere development corporation nor an unstructured declaration that the River is ‘alive’. It is a hybrid: the Mithi becomes the legal ecological person; an independent Authority becomes its statutory Guardian.

A. Proposed legal status

A Mithi River Protection, Rights and Restoration Act could provide:

“The Mithi River, comprising its waters, riverbed, banks, connected tributary systems, wetlands and ecological components identified under this Act, is hereby recognised as a protected legal ecological person possessing the rights, powers and legal interests expressly conferred by this Act.”

B. Proposed direct standing

“The Mithi River may institute, defend or intervene in legal proceedings in its own name. All procedural acts required for such proceedings shall be undertaken by the Chief Mithi River Guardian on behalf of, and in the name of, the Mithi River.”

This is deliberately stronger than giving the claim to a ‘Mithi River Development Corporation’. The corporation or Guardian is not the ecological victim. The River is.

C. Proposed guardianship authority

“The Mithi River Conservation and Guardianship Authority shall be a body corporate having perpetual succession, an independent budget, legal capacity to sue and be sued, and the statutory duty to represent the ecological interests of the Mithi River.”

D. Conflict-of-interest rule

“No public authority that is the subject of a proposed investigation or proceeding shall control or veto the Guardian’s decision whether to investigate, commence, continue, settle or discontinue that proceeding.”

This provision is essential. A body controlled by BMC cannot provide independent representation in a case alleging BMC wrongdoing; nor should a State-controlled board be able to extinguish claims against the State.

XV. What Rights Should the Mithi Have?

Direct legal personality should be limited and ecological rather than anthropomorphic. The Act need not give the River every right or liability of a human being. It should confer only those capacities necessary for ecosystem protection.

Proposed right	Legal function
Ecological existence	Protection against unlawful destruction of the River as an ecological system.
Freedom from unlawful pollution	Standing to challenge unlawful sewage, effluent, waste and toxic contamination.
Hydrological integrity	Protection against unlawful obstruction, diversion or alteration materially impairing river function.
Habitat and biodiversity	Protection and restoration of aquatic and riparian habitat.
Regeneration	A positive entitlement to restoration after proven ecological injury.
Information	Access through the Guardian to monitoring, discharge, consent and infrastructure data necessary for enforcement.
Representation and remedy	Capacity to seek injunctions, restitution, compensation, judicial review and other lawful remedies.

XVI. The Mithi Restoration Fund and Ecological Beneficial Ownership

A direct-standing model should also answer where compensation goes. The Act should establish a ring-fenced Restoration Fund. Amounts awarded specifically for ecological injury to the Mithi should be held for the River's restoration rather than treated as unrestricted municipal or State revenue.

“Any amount recovered specifically on account of ecological injury to the Mithi River shall be credited to the Mithi River Restoration Fund and shall be applied exclusively to prevention, remediation, habitat and biodiversity restoration, ecological monitoring, scientific research and other purposes directly connected with the health of the Mithi.”

This creates a form of ecological beneficial ownership: the money is administered by humans, but the legal purpose belongs to the River.

XVII. Proposed Civil Liability Clause

“Any person, company, corporation, public authority or other legal entity whose unlawful act or legally actionable omission causes substantial ecological injury to the Mithi River shall, without prejudice to any other liability, be liable for the reasonable costs of prevention, remediation, restoration, ecological rehabilitation and long-term monitoring.”

The phrase ‘legally actionable omission’ is important. It avoids transforming every imperfect administrative response into damages liability while preserving consequences for proven failure to perform mandatory duties.

XVIII. Should Maharashtra Create an Ecological Offence?

Current statutes can address many forms of pollution, but they do not necessarily organise environmental criminality around the ecosystem as victim. The 2025 Supreme Court discussion of ecocide makes a carefully drafted legislative debate more plausible, though ecocide is not presently a general standalone offence under Indian criminal law.²¹

A future statute could create a narrowly defined offence of Culpable Ecological Damage to a Protected River for intentional, knowing, reckless or statutorily defined grossly negligent conduct causing substantial ecological damage. Serious tiers could be made cognizable, with environmental-forensic safeguards. But the article's principal proposal does not depend on criminalisation: direct standing and civil restitution are independently justified.

XIX. Environmental Forensics: Making River Rights Evidentiary Rather Than Symbolic

Rights without evidence risk becoming slogans. Every major outfall into the Mithi should therefore receive a unique identifier and a monitoring history. Relevant variables may include flow, BOD, COD, dissolved oxygen, ammonia, faecal indicators, toxic contaminants where relevant, rainfall, tidal conditions, sewer connections, industrial sources and treatment status.

Where litigation is contemplated, the Guardian should secure legally defensible evidence through certified sampling, chain of custody, accredited laboratory testing, sewer and drainage mapping, hydrological analysis, inspection records, discharge records and expert causal analysis. This transforms the question from ‘Who is politically responsible?’ to ‘What source caused what ecological injury, under whose legal duty and control?’

XX. Objections and Responses

A. “The River cannot decide when to sue.”

Neither can a corporation. Law solves the problem through authorised representatives. The question is institutional independence, not biological cognition.

²¹Vellore District Environment Monitoring Committee 2025 INSC 131, para 92.

B. “Personhood creates unlimited liability.”

Only if drafted badly. The statute can confer limited rights and expressly delimit liabilities, just as the Te Awa Tupua Act addresses the legal effect and limits of status.²²

C. “Existing agencies are enough.”

Existing agencies regulate, implement projects or coordinate functions. Guardianship answers a different problem: who represents the River when an implementing or regulating agency itself is alleged to have failed? MMRDA material describes MRDPA as a coordinating agency, underscoring the institutional distinction.²³

D. “This will produce endless litigation against government.”

The Seven-Factor Test, notice requirements, scientific thresholds, independent expert review and cost consequences for abusive proceedings can discipline litigation. The purpose is not to make government an insurer of every environmental event. It is to prevent governmental status from operating as a blanket immunity where a legally actionable omission is proven.

E. “River rights conflict with poor communities.”

They need not. A rights-of-nature statute can require sanitation provision, rehabilitation, procedural fairness and proportionality alongside ecological restoration. The law should distinguish poverty-linked infrastructure failure from deliberate commercial pollution and organised dumping.

XXI. Conclusion: A River Does Not Need to Become Human to Become a Plaintiff

The most important objection to direct river standing is also the easiest to answer: the Mithi cannot speak. Neither can a company, a statutory corporation or any other artificial legal person. Law supplies representation whenever it considers an interest important enough to protect.

The real challenge is therefore institutional. If Mithi's rights belong only to a citizen petitioner, the River's legal voice remains episodic. If they belong only to a government-controlled development corporation, a conflict arises whenever government is the alleged wrongdoer. If, however, legislation recognises the River as the substantive rights-holder and appoints an independent Guardian merely to exercise those rights, the legal architecture becomes coherent.

Indian environmental law already recognises restitution of the environment, compensation for aquatic fauna and flora, restoration of water and ecosystems, Polluter Pays, Public Trust and continuing ecological liability. The Supreme Court's 2025 jurisprudence goes further by emphasising governmental enforcement responsibility and discussing ecocide as an emerging concept.²⁴

None of this proves that Mithi is already a legal person. It proves something more useful for reform: Indian law already contains most of the conceptual building blocks needed to make such status workable.

²²Te Awa Tupua Act 2017 (NZ), ss 15-17.

²³MMRDA, MRDPA citizen-services material, describing MRDPA as a coordinating agency between implementing agencies including MMRDA and MCGM.

²⁴National Green Tribunal Act 2010, s 15 and sch II; Vellore District Environment Monitoring Committee 2025 INSC 131, paras 82-83, 91.1-92.

A river does not need human consciousness in order to suffer measurable ecological injury. It does not need a human voice in order to be represented. And it should not require a new individual to reinvent standing every time its water is contaminated, its habitat destroyed or its ecological function impaired.

The future question for Indian environmental jurisprudence is therefore not simply whether nature can possess rights. It is whether the legal system is willing to create a permanent institutional duty to enforce them. For the Mithi, that shift can be stated in a single proposition:

“The Guardian speaks; the River owns the claim.”

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