



Book Review

Environmental Personhood: New Trajectories in Law

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Legal Personhood has been one of the contentious, if not the most, contentious ideas that has brought about a paradigm shift in the way in which legal systems work, around the globe. Ever since humans devised a mechanism to solve their disputes, the question as to 'who could approach the dispute resolving body/authority', assumed a high level of significance. The earliest trysts that the concept of justice - as regards the entities who could approach the said authority- did have were surely limited. If one were to delve into these ideas, one would definitely notice the gradual shift which led to more inclusivity. Professor Christopher Stone's seminal work, *Should Trees Have Standing?*¹, traces the historical development of this concept and lays down that there was a time when women and blacks were not given a legal status². The aftermath is definitely huge, if one were to look at this from a current day perspective. That is exactly where the importance of this book lies. Coming especially at a time when there is a dearth of literature in the specific area of environmental justice,

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¹ Christopher D Stone, *Should Trees Have Standing?* – Toward Legal Rights for Natural Objects (1972) 45 Southern California Law Review 450

² *Id*

and more importantly, a void which exists in providing much needed answers to questions that have plagued the legal system across the globe, this book tries to be a game-changer in the field of environmental justice.

The development of 'Environmental Personhood' intends to create newer avenues to afford better legal protection to the environment and its constituents, and various jurisdictions have had trysts - with varying degrees of success- with this extension of *rights*. The book tries to encapsulate the idea, and through case studies tries to strengthen the same. The development of the movement, its highs and lows, the trajectory of its growth and the impact that it has had in creating a more nuanced, complex legal system is sought to be put across in simplified terms for the reader - which definitely is a complex and herculean task, given the fact that not many are open or even keen to this idea. The author clearly mentions as to what it is not about - thereby providing the much-needed clarity for the reader. Upfront it is mentioned that the book does not deal with political positions, philosophical aspects or a review of the concept of personhood in every legal system. This caveat, it is felt, clearly outlines the book's premise and provides the reader the exact agenda that the book seeks to achieve. It however aims at falling back on the Critical Legal Studies movement, prevalent in the 1970s and tries to analyze, identify and critique injustice in the current legal systems. The comparisons and its take aways that are sought to be discussed in the book add much value to the jurisprudence related to this highly nuanced area of law

The author has been careful enough to highlight the various issues and trace the historical evolution of the critical legal studies (CLS) movement in the US, and connect it to the utopian view that we have at present- providing legal personhood to non-human entities. By identifying the intricate connection that the CLS movement did have with the Marxist movement, the author delves into 'cultural Marxism' (3) and

connects it with environmental personhood. This part also establishes the connection between personhood and its extension being treated as a catalyst to better environmental protection. The author has also carefully woven litigation into the larger picture – with the obvious idea that if litigation takes into its ambit environmental personhood, it would be easier to create an eco-centric law. The author also lucidly puts across the problems that plague the environment in general and the legal systems in particular, and builds a case for a paradigm change – articulated and embellished by providing rights to nature. To inculcate interest, the book tries exploring the concept of ‘standing for nature’ and the case for providing personhood. With an intricately woven take on a developing, not-so-popular topic, the introduction has been able to instill in the reader a sense of curiosity as to what is in store, which surely is a positive sign. References too are provided at the end of the write-up for those interested in going deeper into the subject area.

Chapter 2 details the idea that one attaches to a legal person. By looking into the conceptions of personhood, rights and obligations, this part, touches the very essence of the topic. Quite a lot of people have written extensively on what it feels like to attach a legal personality to a non-human; but this book tries to take it a notch above the rest by detailing the various complexities that the legal systems would face if such an extension of rights were provided for. It also tries to explore the same differently by delving into aspects relating to science, religion, politics as well as philosophy. This chapter tries to compare and bridge the multiple meanings that one would attach to ‘extending standing’ (31) and obviously include the extension of personhood to non-human entities. The chapter has been able to put across various trajectories that the concept of standing/personhood has taken and falls back on international laws and treaties, as well as domestic laws. The inclusion of various indigenous systems adds a fresh take on

the topic too. By tracing the history of the concept of a 'person', this part tries to incorporate the changes that have been present ever since, and also the impact that it has had on the legal system. The author, to his advantage, falls back on various jurists and, is to a large extent successful in putting together a closely knit analysis of the concept.

This chapter also explores, successfully, the differential treatment of 'rights' in international law, and how it is to be construed to extent 'standing'. By relying on the concept, as has been present in a number of international documents, this chapter traces the shift in the idea of sovereignty over the last few decades. It has also been able to bring about the dichotomy of law- as has been present through the eyes of a domestic lawyer as opposed to an international lawyer. Further the chapter discusses persons in law and takes forth numerous examples from various jurisdictions which have considered extending 'legal personality'. The addition of 'artificial legal persons' (34) is a worthy one, which is a niche area of law that is oft overlooked – especially in books dealing in this area. By a near-perfect blend of legislations, case laws and opinions, this part establishes in the mind of the reader a need to extend personhood and to further drive home the point, specifically delves into the concept from a non-human animal perspective. Rich with examples this is yet another distinguishing feature. Artificial intelligence, commons and related aspects too are looked into, and at the very end a specific reference to the environment and a case for extending legal standing is made for.

Chapter 3 provides a wonderful insight through case studies. Earth Jurisprudence translates into action, rather than remaining a mere paper tiger, thanks to such instances around the globe. The case studies are curated and picked in such a way that it covers the modern incidents of extending environmental personhood. It starts with a peek into the first country to provide rights to Mother Nature – Ecuador. By

tracing the country's history and slant towards providing Nature, rights, this chapter is a wonderful read – interspersed with actual provisions from the Constitution of Ecuador and various other laws that are present as well as traditional approaches and ideas that prevail in the country. The comparisons made with Bolivia and Colombia – two other countries which have carved a niche for themselves in the area of Earth Jurisprudence- takes the reader on an enjoyable and insightful journey. The chapter progresses and gives the reader an astute understanding of the nation, and how it has been able to align itself with the environmental movements since 1972. The reader is also treated with a detailed analysis of the Constitutional provisions, and the inclusion of case laws is definitely the icing that one yearns for. Recent and updated references and discussions also are galore, and surely does have its own charm.

The reader is also taken on a journey to the other side of the world, wherein the book delves into New Zealand – yet another nation which has provided rights to specific entities – and ensures that the reader is hooked on to the subject. The New Zealand case study too, quite similar to the Ecuadorian one, traces the historical developments and provides an analysis of the rights specifically given to the Te Urewara. The legal history is astutely laid down – given the fact that it is quite a challenge to trace and details a 200-year-old legal development and ensures that the reader is, provided with all the relevant facts and circumstances. Detailed notes on the age-old laws, customs and traditions too been provided. The author then proceeds to India and looks into the rights given to the Ganga and Yamuna rivers and analyses the decisions rendered by the courts. The book successfully incorporates ancient Indian wisdom in re environment protection and tries to juxtapose religion and law- and to a large extent is successful. Quite similar to the method used to describe the New Zealand approach, the Indian approach too details laws,

cases and other relevant legislations. The case of Manoomin or wild rice in the US and the Yarra river in Australia is also dealt with in a similar fashion and the reader surely is bound to get a lot of valuable information – both in terms of the historical significance as well as the legal umbrella.

Chapter 4 deals with the themes and contradictions, and is able to paint a clear picture, in the minds of the reader, as regards the challenges and hurdles that one would face if one were to subscribe to this paradigm shift in re legal standing. Discussions about ‘legal pluralism’ (71) and how it caters to a better understanding of the law forms the crux of the chapter. Ecuador is pointed out as a wonderful example of ‘legal pluralism’ and through legal provisions and case laws, this chapter strikes the right chord with the reader. Tracing history, right from the Roman times to the current day and connecting the dots with the legal systems in various countries, across the globe, is yet another highlight of this chapter. By delving into the indigenous customs and traditions which are present, this part of the book also is able to convincingly put across the need to incorporate not just the dominant worldviews, but also the non-dominant ones too. Differential approaches, and the way in which they are considered and put across by various jurists have been succinctly put across and adds value and depth to one’s understanding of the topic.

The conflict that was brought about by the advent of colonialism- with a sudden change and obliteration of indigenous customs and traditions – too have been looked into. This part predominantly puts across the profound impact that the colonial masters had on the legal landscape of the colonies, and tries to connect the different approaches that followed during their rule. Anti-colonialism too is discussed and provides a neutral take on the whole mis-conception of how not all traditional/indigenous methods augur well for environment protection. By adding this discussion, the book has been able to provide a much-needed balanced approach.

This chapter also tries to highlight the dichotomy between natural resource protection and marketisation - and this concept if dealt with through the lens of indigenous relationship with nature. The book is able to convincingly create an intricate relationship between indigenous ways of life and its profound impact over environment protection, whilst at the same time launch a silent, yet scathing attack on the marketisation of the environment.

In a direct attack to those questioning the feasibility of a non-human entity approaching the court, the book silently, yet solidly makes a case for human representation of environmental interests. By proficiently dealing with questions - who, why, what - in re human representation, the book stitches together various ideas that had been present over a long period of time, and while doing so, does away with certain misconceptions as well - especially with relation to 'unity of interests' (81). This part deals with resource co-management and puts across the case studies discussed earlier, especially, Australia and New Zealand. The last part of this chapter deals with the legitimacy of legal institutions, around the world, and innately points out the anthropogenic constructs of modern Western legal systems. The multitude of challenges that Earth Jurists face and the inability of the litigants to convince courts, across the globe, to adhere to their stand, has been discussed, and provides an insightful read. Embellished with various cases, this part, provides a down-to-earth picture of what the grim reality is.

Chapter 5 details the conclusions drawn, and the book, succinctly puts across the thoughts of the author and the rationale for providing legal personhood to the environment. The book delves into the growing stature of 'Nature Rights', and discusses the developments which have taken place, thanks to the actions taken by the United Nations- specifically the resolutions and the Harmony with Nature programme. This chapter also mentions the need to treat the right to

environment as a basic human right, and the implications that extending legal personality would have on it. Complex philosophical constructions are delved into and made clear to the reader, and the book shines at its brightest, in this section. The reader is treated to answers which might have troubled him, at the outset, and by now he would have definitely let a sigh of relief – having construed the intricacies of the subject and arriving at certain conclusions. The conclusions drawn by the author acknowledges the developments that have happened in this area and advocates for a paradigm shift – one which is an absolute necessity in these trying times. One of the key takeaways for the reader is treated to, in this part, is the way in which the book expertly steers through the various topics that it had discussed earlier, and is able to seamlessly connect the dots – questions which were raised at various points- and answer them convincingly, thereby treating the reader to a unique experience.

The topic which has been discussed in this book is of high relevance, but yet is one which has seldom seen light, especially in legal systems. The articulations put forward in this enjoyable read, would surely go a long way in charting a course for the future of ‘Nature Rights’ and this book would act as a beacon light for those interested in pursuing further research. The importance that one has to attach to this book can also stem from the fact that changing concepts of ‘standing’ is an area that has not yet become ‘mainstream’. Hurdles galore, block its path. This book, however, through its astute argument, encourages the reader to break free from the shackles that bind him or the legal system and allows him to carve a new path, which is less travelled, but one worth travelling.

The book has been able to interestingly space out these ideas in a fashion in which it strikes the right chord with the reader. By infusing not just the theoretical aspects, which might be a mundane exercise for some, but by including

excerpts from legislations and case laws, the book is able to create and shape its arguments in a way which is more convincing thereby leading the reader to believe that this change of approach is definitely an achievable one. Jurisprudential thoughts, certainly is not everyone's piece of cake, and the way in which the book is able to navigate these ideas, especially in the initial chapters itself. The author delves into 'conceptualising rights', which is definitely a rarity, given the fact that 'rights' and 'right holders' are terms which have been laid down with utmost conviction and certainty in almost every legal system across the world and is able to back his stance by discussing in detail, and at the same time capturing the very essence of certain laws that exist in specific jurisdictions. The book is definitely a must read and acts as a stepping stone for those loyalists who want to extend 'legal standing' to non-human as well as inanimate entities, and it is felt for sure that this book provides them with a much-needed reinforcement of ammunition to support their cause.