

Heritage trees need legal rights

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Harini Nagendra. Credit: DH Illustration

'Rights to Nature' is a concept that is gaining momentum across the world. According to this principle, elements of nature – such as a lake or river, a forest or wetland – has legal rights of its own, similar to the rights that humans enjoy. This is not just an abstract philosophical concept about whether nature has a right to be protected for her own sake. It has concrete, practical, everyday implications.

If an ecosystem has the right to nature, it has the right to appeal to a court of law for protection, against deforestation by a mining or oil exploration company for instance, or against pollution of wetlands and rivers by a nearby industry or city.

A growing number of climate cases in court, in countries as far flung from each other as Peru, Pakistan and the US, have used principles of the 'Rights to Nature' to argue for the protection of vulnerable ecosystems such as the Peruvian Amazon forest, fragile wetlands in the Kahoon Valley, and the Colorado River respectively. Many countries have started to give legal rights to rivers. This includes India, where both the Ganga and Yamuna – and all their tributaries and streams -- have the right to be treated as legal persons, with corresponding rights.

Getting legal personhood does not guarantee protection, but it is an important first step that can help. While forests, rivers and wetlands have been recognised legally, trees have rarely been given legal rights. Heritage trees are very important, even integral to our

culture and way of live. They are a tangible connection to the past, which reminds us that there was a different way to do things once upon a not-so-far-away time – a way that allowed humans to coexist with nature.

The big banyan tree in Ramohalli, and the tamarind trees at the Nallur Amaroy tope lie within an hour's drive from Bengaluru. These trees are centuries old, and have witnessed the battles between the Marathas and the Kempegowda kings, between Tipu and the British, and the struggle for independent India. They have seen the rise of Bengaluru to become one of the largest cities in India, with the rise of the IT and BPO industries even spawning a new word called 'Bangalored' that is now part of the English language. These trees have been mute witness to the destruction of many of their fellow trees, unable to hold their ground against the merciless expansion of concrete. Although the Dodda Alada Mara, the Big Banyan Tree, is ostensibly protected, in reality so much concrete has been poured around its roots that its stability is now at risk.

A heritage tree status would help ensure the long-term survival of these giants. A recent law passed in Italy provides 22,000 ancient trees with the same kinds of legal protection as heritage monuments have. Activists in England, incensed about the destruction of hundreds of heritage trees in Plymouth and Sheffield, are seeking to get the same kind of legal protection for trees in the UK. In India, too, some states and Union Territories, including Uttar Pradesh and Chandigarh, have passed orders to protect heritage trees.

Bengaluru, with its plans to cut down hundreds of thousands of trees in the coming years, seems to be going the route of Plymouth and Sheffield, where trees were cut down in the middle of the night to sidestep opposition by local communities. Trees that are hundreds of years old, that lined the Sarjapura highways, have been lost overnight – without giving people the chance to protest or save these trees. The recent protests to save trees around Sankey Lake demonstrate the growing frustration of the city's residents with these short-sighted plans.

Bengaluru needs a heritage tree law. Trees that are decades and centuries old must have the same legal status as our heritage buildings, recognising their cultural significance. They are simply irreplaceable by tiny saplings – to think they are, is hubris, unmitigated folly.