A White Paper prepared for the United Nations Framework Convention on Climate Change (UNFCCC) COP27

Sharm El Sheik, Egypt | November 2022

# Rights of Nature

## REDEFINING GLOBAL CLIMATE SOLUTIONS & ENVIRONMENTAL PROTECTION FOR SYSTEMIC CHANGE



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GARN GLOBAL ALLIANCE FOR THE RIGHTS OF NATURE

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## About the Authors

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**The Academic Hub** of the Global Alliance for the Rights of Nature (GARN) was founded to harness the extensive and multidisciplinary scholarship that has developed, particularly over the last decade, around GARN's core commitment to the support, adoption and implementation of legal structures that respect and enforce Rights of Nature.

Data for the map of Rights of Nature laws was compiled by: Kauffman, Craig, Shrishtee Bajpai, Kelsey Leonard, Elizabeth Macpherson, Pamela Martin, Alessandro Pelizzon, Alex Putzer, and Linda Sheehan. Eco Jurisprudence Tracker. V1. 2022. Distributed by the Eco Jurisprudence Monitor.

# Introduction

Catastrophic climate disruption is the direct result of human activities pushing beyond the livable limits of the natural world. A core factor in the current incongruent human/nature relationship is that the dominant, over-extractive global economy fails to sustain and regenerate life. So-called “market-based solutions” at the center of most climate responses rely on two false assumptions: 1) that we can solve climate change by putting a price tag on nature’s vital processes and then offset polluting activities; and 2) that we can continue to perpetuate an economic system based on endless extraction and material production on a finite planet.

If we are to exist and even thrive as a species and hopefully return to a healthy and interconnected relationship with the natural world, we will need to redefine “wealth” away from financial accumulation towards regeneration and well-being. To support such a cultural shift will require a new body of human law to codify and implement these values. Rights of Nature provides such an alternative framework, and it is quickly gaining favor, with laws expressed in 23 countries in the last 15 years and many others under consideration.

Rights of Nature (or Rights of Mother Earth and other terminology) seeks to define legal rights for ecosystems to exist, flourish, and regenerate their natural capacities. Recognizing these rights places obligations on humans to live within, rather than as owners of, the natural world, and to protect and replenish the ecosystems upon which our mutual well-being depends. In essence, it is necessary to transform our human relationship with nature from a property-based system to one of reciprocity that includes recognizing ecosystems as rights-bearing entities.

## Why the system “as is” will see the planet burn

Almost everywhere on Earth, human law—with its attendant impact on and relationship with politics and culture—treats nature as human property to be owned and consumed for profit. A global economy whose jurisprudence places property rights above all else; recognizes corporate rights as the most sacred of property rights; subordinates Indigenous and human rights to corporate rights; and where Nature is not recognized as having any intrinsic rights at all is clearly unviable. Worldwide, environmental regulatory laws, government agencies, and UNFCCC efforts have failed to stop the acceleration of climate chaos and mass extinction primarily because they are not rooted in the economics of the biosphere—the actual carrying capacity of Earth. This flawed thinking

is embedded in the DNA of trade deals, environmental policies and treaties around the world—including the COP 21 Paris Agreement.

The subordination of the web of life to the chains of the markets and growth of the corporate-led system erodes the primary means of existence on this planet, which is rooted in the diversity of life itself. Current dominant economic and governance systems fail to recognize that the laws of the natural world cannot be superseded by market mechanisms or techno-fixes.

For example, four main areas of discussion for COP 27 in Egypt include climate finance, adaptation, loss and damage, and a call for more ambitious national climate plans. On climate finance, developed nations have yet to meet the $100 billion annual pledge issued at COP 15 in Copenhagen. National adaptation, loss and damage strategies rely on appealing to financiers, based on market strategies that further the commodification of nature, while also falling woefully short on climate justice. This includes the extreme inequities experienced by Global South countries and those least responsible for the climate crisis who are most impacted.The same hubris that places humankind as owners of the natural world has led us to the brink of mass extinction, with frontline communities already suffering severe consequences from record temperatures, hurricanes, floods, droughts, and fires.

## The promise of the Rights of Nature

To protect humanity for generations to come, we must acknowledge what Indigenous peoples have always known, that the Earth is a living system of which humans are not masters, but merely one small part. As humanity fast-tracks towards the collapse of our planetary systems, the Rights of Nature movement seeks to articulate a vision toward a new economy and legal framework based on living in balance with natural systems; where the rights of humans do not extend to the domination of nature.The Rights of Nature, one of the fastest growing global environmental movements in history, offers a systemic framework for change. In just over a decade, the Rights of Nature has become law in more than 20 countries, with several more under consideration. When implemented, these laws have been used to stop fossil fuel extraction, mining, dams, and other harmful development projects.

Our survival depends on our ability to place human activities within the boundaries of the Earth's ability to absorb our impacts. Indigenous wisdom understands the deep responsibilities and relationships that are needed for a flourishing Earth, and it is no coincidence that over 80% of the world's remaining biodiversity is protected by Indigenous peoples. To truly create systemic change, a culture shift around our human relationship with the Earth is also necessary. Rights of Nature is part of that culture shift.




**Countries with Rights of Nature laws in place (2022):** Argentina, Australia, Bangladesh, Belgium, Bolivia, Brazil, Canada, Colombia, Ecuador, France, Holy See (Vatican), India, Ireland, Mexico, Netherlands, New Zealand (Aotearoa), Pakistan, Panama, Peru, Philippines, Spain, Uganda, United States of America

Map by Movement Rights. Data from Eco Jurisprudence Monitor.

## History and Origin of This Rapidly Growing Environmental Movement

For thousands of years Indigenous peoples lived in balance with the Earth's offerings. While it is true that the human population was far smaller than today's overcrowded planet, our Indigenous ancestors did not accumulate more than they needed to sustain life, nor did they "own" the Earth, rather they belonged to the Earth.

European colonization was well underway when a papal edict called the "Doctrine of Discovery" was implemented in 1493, one year after Christoper Columbus became lost on the shores of what Indigenous people of the area called "Turtle Island," or North America. The doctrine of discovery was the first international law to declare "terra nullius," or the legal expropriation and

occupation of land that belonged to“no one”. It has been used for centuries to justify the theft of Indigenous lands and the perpetual enslavement of peoples worldwide. It justified the global expansion of the notion of “property rights,” the genocide of Indigenous peoples, and the dismantling of traditional cultures that continues. To this day, Canadian judges routinely base their country’s sovereignty claims on this doctrine.

In the centuries that followed, the rights of property became firmly entrenched in the western legal tradition. But unjust laws change—even those that codify entire economic structures. Humans who were once horrifically enslaved and women who were once considered property in law, struggled for rights and challenged the system—ultimately rewriting unjust laws.

If all humans possess natural rights by virtue of being born, logically it follows that the system of life itself has rights to exist and thrive. In the case of Rights of Nature, while still embedded in a western legal tradition of rights, the roots remain planted in Indigenous cosmology. The legal inspiration for Rights of Nature is generally attributed to the 1972 law review article, *Should Trees Have Standing*, by University of Southern California law professor Christopher Stone. He posited that despite being unable to bring suit in a court of law without a legal advocate, children have recognized rights. Similarly, the rights of ecosystems could be represented in legal proceedings.

The question of law becomes, “what does the ecosystem require to remain intact and able to regenerate its vital cycles?” This does not stop development, but it does stop the kind of development that would further accelerate climate change and ecosystem destruction. Current national climate commitments will lead to a catastrophic global temperature rise of 2.7°C by the end of the century, an outcome that will dwarf the ravages of recent record-breaking hurricanes, fires and droughts. We must do better than the promises of the UN Paris Agreement. Unlike the Paris Accord, Rights of Nature offers an alternative that is legally binding.

In 2006 the first municipal law recognizing Rights of Nature was passed in Tamaqua Borough, Pennsylvania (USA). There, citizens banned the dumping of toxic sewage sludge as a violation of the Rights of Nature. Many other municipalities and counties across the United States have since recognized the Rights of Nature.

In 2008, Ecuador became the first country in the world to recognize the Rights of Nature in its national constitution. In 2011, the first Rights of Nature court decision was issued in the Vilcabamba River case in Ecuador, upholding the Rights of Nature constitutional provisions. That same year, Bolivia recognized the Rights of Nature in state law, and held the World People’s Conference on Climate Change and the Rights of Mother Earth. At

this conference, thousands of Indigenous peoples and global advocates gathered to draft the Universal Declaration on the Rights of Mother Earth, which was subsequently submitted to the United Nations for consideration.

With Rights of Nature laws in place in 23 countries to date, the movement for Rights of Nature is undeniable and globalized, emboldened in part by the tragedies of climate change, pollution, deforestation, species extinction, drought, famine and extreme weather. In just 15 years, the recognition of Rights of Nature has gone from an idealistic notion to a urgently realistic and viable solution to the extinction of humanity and a necessary reframing at a systemic level of our human relationship with nature.

Just in the last two years alone, 2021-22, there has been significant growth in the RIghts of Nature movement, and we share below some of that very practical progress. These examples serve as a roadmap and inspiration that governments around the world can change course at this defining moment for the human species. There is no time to lose. Nature has made it perfectly clear that we cannot buy or negotiate our way out of the climate crisis, but instead we must change the very way we relate to the systems of life. Rights of Nature charts the way forward, and we encourage all governments from the local, national to international levels to immediately engage in this vital Earth jurisprudence framework.

## Rights of Nature Progress in 2021

- **Peru:** In Peru, a bill was presented to recognize Rights of Nature, endorsed by congressman Lenin Bazán and presented by Indigenous groups such as ONAMIAP, with collaborations from constitutionalists Juan Carlos Ruiz and Mario Melo. It proposes that the “Law recognizes the Rights of Nature, ecosystems, and species” as a subject of rights deserving protection of the State and explicitly declares that Nature is a living being, having intrinsic and universal value, with the right to exist, naturally flourish and entitled to regeneration, restoration, and evolution.” More information.
- **United Kingdom:** At the One Planet Summit in Paris on January 11 2021, (then) Prince Charles of Wales presented the ”Terra Carta”, which aims to reunite people and planet, by recognizing fundamental rights to Nature, ensuring a lasting impact and tangible legacy for future generations. More information.
- **EU Parliament:** The study, “Can Nature get it Right? A Study on Rights of Nature in the European Context” is published, commissioned by the European Parliament’s Policy Department for Citizens’ Rights and Constitutional Affairs at the request of the JURI Committee. It explores the concept of Rights of Nature and its different aspects in legal philosophy and international agreements, as well as in legislation and case-law on different levels. More information.

- **Switzerland:** On March 19, national councilors from Switzerland representing five different political parties presented an Initiative for the Rights of Nature to the Swiss Parliament requesting the recognition of the human right to a healthy environment and the Rights of Nature. The initiative further requests that the Federal Constitution be amended to recognize Nature as a legal entity.
- **Bolivia:** On 25 March, David Choquehuanca, Acting President of the Plurinational State of Bolivia, launched the initiative "Reencuentro con la Pachamama" (Re-establishing our Connection with Mother Earth/Pachamama) calling the national and international communities to protect her.
- **Mexico:** Deputies in Oaxaca, México, introduced a state constitutional amendment that would recognize the Rights of Nature and establish a legal guardianship body to enforce those rights.
- **Ekuanitshit Nation (Canada)**: Rights of the Muteshekau Shipu (or Magpie River) were recognized by the Innu Council of Ekuanitshit and the Minganie Regional County Municipality (RCM) in Canada. More information.
- **Uganda:** Uganda goes one step further in protecting the Rights of Nature. Indigenous Bagungu communities pioneered legislation to protect sacred natural sites and recognize the customary laws of the Bagungu People, safeguarding Nature's rights to exist, thrive, and evolve. More information.
- **Switzerland:** Five Members of Parliament in Switzerland submitted an initiative to the federal government requesting that the government draft a constitutional amendment to enshrine the human right to a healthy environment and the Rights of Nature in the Swiss Constitution. More information.
- **California (USA):** The City Council of Berkeley, California approved a recommendation to "recognize that the natural living world has a right to exist, thrive, regenerate and evolve its life cycles," with the proposed resolution now moving to the full City Council for consideration.
- **Australia:** The Blue Mountains City Council became the first Local Council and first government entity in Australia to adopt the Rights of Nature as a foundational principle for its policies and planning. More information.
- **Florida (USA):** In April 2021, the first U.S. Rights of Nature case was filed. The lawsuit was brought by waterways to enforce their legal rights against a developer's proposal to destroy wetlands and streams. More information.
- **Ecuador:** A new Action for Protection legal case was won in Ecuador against mining – evoking Rights of Nature articles 71 and 72 in the Constitution. The judge ruled mining activities caused environmental damage in El Oro province. More information.
- **Colorado (USA):** On 14 May, the Town of Crestone, Colorado, became the world's first International Dark-Sky Association (IDA) community to acknowledge the Rights of Nature. More information.
- **Brazil:** On 20 May, lawyers and researchers from the research group "Direito Ambiental e Ecologia Política na Sociedade de Risco (GPDA)" filed a lawsuit in Florianópolis, Brazil, seeking the recognition of Lagoa da Conceição as a subject of rights. Watch the video.

- **European Parliament:** On May 20, the European Parliament passed a resolution on the liability of companies for environmental damage. More information [link one], [link two].
- **Colombia:** On May 20, the First Criminal Circuit Court with Knowledge Functions Neiva, declared the Fortalecillas River in Colombia "a subject with rights to protection, conservation, maintenance and restoration by the State and the community." More information.
- **Chile:** Thirty-two independent constituents in Chile issued a letter for the protection of the environment and for an ecological Constitution that enshrines the Rights of Nature. More information.
- **Northern Ireland (UK):** Northern Ireland councils for Derry City and Strabane and the Fermanagh & Omagh District Council recognize the Rights of Nature, in a first for these islands. More information.
- **Peru:** On July 5th, a coalition of organizations filed an Amicus Curiae brief with a Peruvian court requesting the recognition of the rights of the Marañón River, the hydrological source of the Amazon. More information.
- **Colorado (USA):** In the first week of July, Nederland became the first community in Colorado, U.S., to approve a resolution to recognize the Rights of Nature for Boulder Creek. More information.
- **Mexico:** The Mexican Congress voted to include the Rights of Nature in their Magna Carta. The commissions of Governance and Constitutional Points and Agricultural and Forestry Development of Congress unanimously approved the initiative to elevate the Rights of Nature to constitutional rank and return the principle of land distribution to the original meaning and text of the 1917 Constitution. More information.
- **France:** Corsican citizens recognize the rights of the Tavignanu River, a first in France. More information.
- **White Earth Nation of Ojibwe (USA):** On August 5, the White Earth Nation of Ojibwe sues the Minnesota Department of Natural Resources in tribal court on behalf of wild rice, making it the first Rights of Nature lawsuit filed in tribal court. More information.
- **Chile:** On August 18, the Commission on Environment and Rights of Nature was established in the Chilean Constitutional Convention, which made it possible to introduce the Rights of Nature in Chile's constitutional debate.
- **Ecuador:** The Ecuadorian Constitutional Court selected six cases to further develop the Rights of Nature in Ecuador: Río Dulcepamba case; Cuenca Río Nangaritza; Bosque Protector Los Cedros; Caso Piatúa; Primate Estrellita; Caso Private Property vs. Petroecuador.
- **Argentina:** Asociación Argentina de Abogados Ambientalistas and GARN Latinoamérica presented a Bill to recognize the Rights of Nature in the Province of Mendoza, Argentina. This project is of utmost importance, as Mendoza is one of the Argentinian provinces most affected by climate change and drought, where mining and fracking projects are seriously impacting ecosystem health and the quality of life of its inhabitants. More information.

- **Canada:** On September 7, MP Alexandre Boulerice, from the House of Commons of Canada, in partnership with the International Observatory of Nature Rights, announced that the New Democratic Party (NDP), is fully committed to recognizing the inherent rights of the fauna and flora of the Saint-Laurent River. More information.
- **The International Union for the Conservation of Nature (IUCN):** The IUCN 2021 Congress was held in Marseille, France, September 3-11. As the world's largest and most diverse environmental network, the IUCN is a global authority on the status of Nature and the measures needed to safeguard the planet. Civil society groups pushed Rights of Nature at the Congress to ensure it remains at the top of the agenda. Download GARN's press release.
- **Peru:** The Huaynakana Kamatahuara Kana, a Peruvian Kukama women's organization, filed an injunction requesting that the government recognize the rights of the Marañón River as a living being and guarantee its protection. More information.
- **Ecuador:** On 8 September, Ecuador's Constitutional Court ruled in favor of Rights of Nature on an article that could allow logging and extractive use of mangroves, which was declared unconstitutional. More information.
- **England and Wales:** The Green Party of England and Wales has introduced a "Rights of Nature Act" to give nature legal rights. The Green Party has called for ecosystems to be provided legal protection. The 'Rights of Nature Act' would extend legal rights to wildlife and habitats and would establish an independent commission to oversee enforcement. More information.
- **International Rights of Nature Tribunal:** The 5th International Rights of Nature Tribunal was held in Glasgow, Scotland, parallel to COP 26 on November 4th and 5th. The Tribunal heard the Amazon as a threatened living entity case and the False solutions to the climate crisis case. Download the Tribunal judges' decision here.
- **Colorado (USA):** The Ridgway town council in Colorado approved a resolution to recognize the rights of the Uncompahgre River. More information here.
- **Ecuador:** On December 1, the Constitutional Court of Ecuador used the constitutional provision on the "Rights of Nature" to safeguard the Los Cedros protected forest from mining concessions. More information here.
- **Republic of Ireland:** On December 13, Donegal County became the first council area in the Republic of Ireland to recognize the Rights of Nature. Read more here.

## Rights of Nature Progress in 2022

- **Washington (USA):** On January 6, the Sauk-Suiattle Indian Tribe sued the city of Seattle, Washington on behalf of the salmon species, following the city's construction and operation of off-reservation hydroelectric dams on the Skagit River. The suit alleges that dams preventing salmon migration are a violation of the fish's "inherent rights to exist, flourish, regenerate, & evolve". More information. Read the complaint here.

- **Chile:** On January 18, the popular initiative “For water, Rights of Nature and glaciers” reached more than 15,000 signatures, and thus was presented for discussion at the Constitutional Convention. More information.
- **Panama:** On February 24, Laurentino Cortizo, President of Panama, signed Rights of Nature into national law. The law requires the state and all persons, whether natural or legal (such as corporations), to respect and protect Nature’s rights.The Rights of Nature bill was previously approved by the National Assembly in three debates constitutionally required to create a law. More information.
- **New York (USA):** On March 2nd, a New York state assemblyman introduced legislation to create a Great Lakes Bill of Rights with the goal of securing legal rights for the entire ecosystem. More information.
- **The Netherlands:** On March 29, the Maas Cleanup (Netherlands) presented the petition ”Maas in de Wet” to the House of Representatives together with Harmony With Nature expert Jessica den Outer. The petition asks for the recognition of the rights of the river Maas. More information.
- **Spain:** On April 5, the Iniciativa Legislativa Popular (ILP) recognized Mar Menor and its entire basin (Murcia, Spain), the largest saltwater lake in Europe, as a subject with rights. It was overwhelmingly voted in the Congress of Deputies. This approved the process of initiation and expedition of a law so that it will have legal personality, thus becoming the first ecosystem in Europe to be a subject of rights. More information.
- **India:** India’s High Court of Madras declared Mother Earth as a subject of rights and a living entity in a recent judgment. Download the High Court resolution.
- **Quebec (Canada):** On May 5, 2022, a bill entitled “Act to confer Rights on the St. Lawrence River” was proposed in Quebec, Canada. This law would give the St Lawrence River a special legal status allowing it to be defended in court when its rights are violated. More information.
- **Mexico:** On May 5, commissions in the State of Mexico’s local Congress drafted the bill on “Promotion and Protection of Native Corn in the State of Mexico” recognizing corn’s intrinsic value and inherent rights to exist, flourish, regenerate and evolve. Its rights to restoration, recovery and preservation were also included. More information.
- **Goldman Environmental Prize (USA):** Two Ecuadorian Rights of Nature activists were awarded the prestigious Goldman Environmental Prize after winning a Rights of Nature case defending the Ecuadorian Sinangoe territory from pollution from mining camps and heavy machinery, which were destroying the forest and the Aguarico river, one of the most important rivers in the region. More information. Read the decision.
- **Brazil:** On June 3, the Serro municipality in Minas Gerais, Brazil, recognized the Rights of Nature, according to MAPAS NGO.
- **World Council of Churches:** In September, the World Council of Churches, the largest ecumenical organization in the world, representing over 580 million Christians worldwide, issued a statement at their last Assembly calling for support of the Rights of Nature. More information.

- **Ponca Nation of Oklahoma (USA):** On July 6, the Ponca Band of Indians of Oklahoma made history for the protection of water by unanimously adopting a new statute recognizing the Rights of Rivers for two rivers and other water bodies that flow through their territory,including Ní'skà, (the Arkansas River) and Ni'ží'dè, (the Salt Fork River). More information.
- **Spain:** On July 13, the Commission of Ecological Transition and Demographic Challenge of the Congress of Deputies ruled that the Mar Menor lagoon (Spain) and its basin are a legal personality. Once the legislative process is complete this will be the first ecosystem in Europe to be granted rights as a legal entity. More information.

## Download the White Paper and learn more:



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