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## RIGHTS OF NATURE: Evolving the Law towards an Ecologically Thriving World<sup>1</sup> November 2024

### Summary: Law in the Web of Life

U.S. environmental statutes, adopted over 50 years ago in a different scientific era, are showing their age and limits. They have had some success around acute challenges, but struggle to address chronic decline. For example, despite the Clean Water Act's 1985 deadline to eliminate pollutant discharges into navigable waters, contamination continues with no new goal in sight. Of an even larger concern are chronic, global threats like climate change and biodiversity loss. Indeed, as the risk of Earth's climate system switching to a catastrophic state accelerates, "more scientists have begun to research the possibility of societal collapse."<sup>2</sup>

The half-century experiment with U.S. environmental statutes demonstrates that current laws can help slow degradation and create important pockets of success. However, they are not equipped to stop, let alone permanently reverse, the overall downward ecological slide. This result arises in large part because they are grounded in fundamentally flawed systems of law and economics, which assume the natural world is property rather than partner. By contrast, systems-based science definitively demonstrates we are fundamentally interconnected with nature – *and the law should follow*. Modern socio-ecological challenges demand vision and action consistent with modern science to safeguard human rights and nature's own, interconnected rights to exist, thrive, and evolve.

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*Initiatives that advance the rights of nature, integrated with protection of human rights and the rights of Indigenous peoples, are essential to ensuring shared well-being.*

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Governments, civil society, scholars, and communities worldwide are taking action to help forge this new way forward, through nature's rights law and jurisprudence, as well as ecological economics and holistic science and technology. Nature's rights to date have been recognized in the law of at least 18 countries, including over 60 cities and counties across 13 U.S. states.<sup>3</sup>

This white paper provides a brief background on the nature's rights movement and offers some ideas for action, based on the expanding efforts of governments, practitioners, and communities worldwide.

## Introduction

We live on a small, shared planet. Nature's rules ultimately steer us. Our actions and governance systems must shift to recognize that fact if we are to survive and thrive. However, rather than guide humanity to act as responsible members of the community of life, contemporary governance systems entrench legal rights to exploit and degrade nature. After decades of effort to implement environmental laws, we are witnessing escalating threats to the fundamental well-being of people and nature, including climate change, biodiversity loss, habitat destruction, and waterway drainage.

The burgeoning rights of nature movement seeks to build new legal and economic systems that recognize the inherent rights of ecosystems and species – including humans – to exist, thrive, and evolve. The movement is critical not only to ending environmental degradation, but also to reversing it, towards thriving relationships between people and the natural world.

## Current Law Ensures Continued Ecological Degradation

A half century after Earth Day and the passage of groundbreaking environmental laws, we have yet to protect the basic structure and integrity of Earth's ecosystems. Commonly blamed culprits include industry lobbying, under-funded and captured administrative agencies, a struggling NGO community, few meaningful opportunities for public engagement, and overworked courts. We must continue efforts to implement and enforce existing environmental laws, address funding and other gaps, advance the science needed to support sound positions, and educate about needed changes.

But even full implementation of environmental laws will fail to ensure an ecologically flourishing planet, because *the fundamental premise underlying them is that nature is ours to degrade.*

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*The economic foundation of our environmental laws ensures nature's continued degradation.*

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Current legal and economic systems assume at their core that that the natural world is something to own, control, and degrade for human profit. This governance frame prioritizes an economic system that degrades nature. Environmental laws slow extraction and contamination, but they cannot stop or reverse the trend. The language we use to describe our environmental goals demonstrates our bias. "Natural capital," "green economy," "sustainable development" – each focuses on the economic noun: capital, economy, development. Natural, green, and sustainable are mere modifiers.

The creation of U.S. environmental agencies at the turn of the 20<sup>th</sup> century further illustrates this point. Gifford Pinchot, the first U.S. Forest Service Chief, articulated his mission as to "produc[e] from the forest whatever it can yield for the service of man." This frames the purpose of the natural world as serving human economic use, with its own, inherent well-being tangential.

By contrast, Pinchot's contemporary John Muir embraced a frame of everything "hitched to everything else in the universe." He recognized nature not as object, but as interconnected subject of a larger whole, observing that "the rivers flow not past, but through us." American cultural historian Thomas Berry contributed to this frame, articulating that Earth is a "communion of subjects, not a collection of

objects.”<sup>4</sup> Under this worldview, nature is not merely an object existing to serve humans. Instead, all beings are subjects of what Berry termed the Great Jurisprudence,<sup>5</sup> an overarching legal philosophy that grounds laws recognizing the inherent rights of nature and its fellow human creatures.

## Evolving Law and Economics to Reflect the Science and Ethics of Interconnection

Ecological and systems science has evolved dramatically in the half century since our major environmental laws were enacted. Scientists demonstrate clearly the deep interconnections among humans, other species, and natural systems, and they have been calling for years for policies consistent with this science of connection.<sup>6</sup>

Evolving economic models such as ecological economics are beginning to reflect this science, “ground[ing] the global economy within a larger ecological reality” rather than the reverse.<sup>7</sup> They purposefully seek to maximize interconnected social and ecological well-being, rather than short-term wealth generation for the relative few.

Such scientific and economic developments are generating new frames for our legal and governance systems. Rather than a vision of “sustainable development,” we can seek to achieve goals such as “thriving communities,” where “communities” includes nature as a full subject. Laws developed pursuant to such a frame would be more likely to improve relationships among humans and the natural world than those grounded in “nature as object.”

Such ethical and legal evolutions are not new. Human rights for example have been “found” over time and even declared “self-evident.” As observed by Charles Darwin, human moral development has involved a continual extension of our “social instincts and sympathies.” We are poised now to widen our circle of community once again, to include all life as subjects holding moral and legal worth. Aldo Leopold predicted this expansion, writing, “when we see land as a community to which we belong,” rather than “a commodity belonging to us,” we can then “begin to use it with love and respect.”

By contrast, the current frame of “nature as economic resource” pushes back on environmental well-being if economic interests are threatened. For example, the U.S Endangered Species Act protects existing economic interests by activating only when species populations are headed toward extinction. Even then, a “God Squad” loophole protects those economic interests that enjoy political clout, at the risk of extinguishing species forever. Rather than an Endangered Species Act, recognition of the moral worth of the natural world would produce a “Healthy Species Act,” with a goal of achieving flourishing species populations rather than merely avoiding extinctions.

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*Laws have always evolved. They can shift again to better incorporate the science and ethics of interconnection. The nature’s rights movement is a response to this challenge.*

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Rights-based laws implement the growing recognition of the moral worth of nature. They are better tailored toward preventing – rather than reacting to – the dangers we and nature collectively face, and they are designed to reverse the damage more effectively and aggressively. Further, by de-prioritizing profit-forward economic systems, the nature’s rights revolution also better protects human rights.<sup>8</sup>

Recognition of rights in the rightless always appears incredible at the start, as past movements for human rights illustrate.<sup>9</sup> The success of such movements provides lessons for the current effort to widen the circle of community to include natural systems and species as rights-bearing entities.

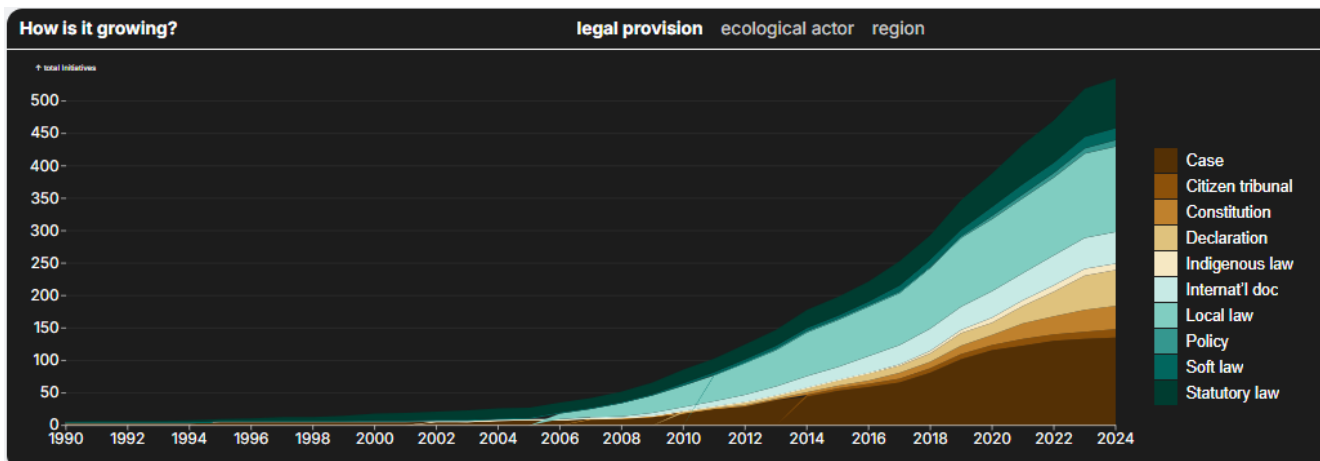
## A Brief History of Nature's Rights Law

In 1948, the United Nations passed the Universal Declaration of Human Rights (UDHR), with its drafters affirming that the "supreme value of the human person" does "not originate in the decision of a worldly power, but . . . in the fact of existing."<sup>10</sup> The logic that fundamental rights arise from existence applies equally well to recognition of nature's own inherent rights. Decades later, University of Southern California law professor Christopher Stone acknowledged this logic in calling for the rights of the natural world. In his seminal essay "Should Trees Have Standing," Prof. Stone described nature's participation in human legal systems as including:

- Injuries subject to redress by a public body;
- Standing to institute legal actions (where guardians would act on behalf of nature);
- Redress calculated for nature's *own* damages; and
- Relief running to the benefit of injured ecosystems or species, rather than solely their owners.

Drawing on the UDHR and Stone's work, advocates developed a Universal Declaration of the Rights of Mother Earth (UDRME), adopted by representatives of 130 nations in 2010. Like the UDHR, the UDRME finds that the "inherent rights of Mother Earth are inalienable in that they arise from the same source as existence."<sup>11</sup> Work is underway to advance U.N. adoption of the UDRME or a similar Declaration, as was done for human rights over 75 years ago.<sup>12</sup>

While nature's rights scholarship continued after Stone's seminal work,<sup>13</sup> it has been over the last decade that the rights of nature movement has expanded well beyond theory into establishment and practice worldwide. Law in the form of constitutional provisions, treaty agreements, statutes, local ordinances, and court decisions now exists at least 17 nations,<sup>14</sup> including over 60 cities<sup>15</sup> and counties across 13 U.S. states,<sup>16</sup> with numerous other nations in the wings. Researchers credit the dramatic increase in attention to the rights of nature to "a decade of network activation and mobilization."<sup>17</sup>



Growth of ecological law. <https://ecojurisprudence.org>; see also <http://www.harmonywithnatureun.org/rightsOfNature/>

The International Union for Conservation of Nature (IUCN), the world's largest and most diverse environmental network, approved support for rights of nature in 2012,<sup>18</sup> with the IUCN's World Commission on Environmental Law similarly expressing support for nature's rights in 2017.<sup>19</sup> The nature's rights movement has increasingly been recognized before the U.N. General Assembly<sup>20</sup> and examined at legal tribunals held in conjunction with the UNFCCC climate change conferences.<sup>21</sup>

A 2020 landscape analysis identified almost 1,300 organizations and experts working in some fashion on rights of nature, a remarkable growth pattern over the past 15 years.<sup>22</sup> While the movement has expanded rapidly, escalating ecological threats call for even greater investment in such efforts.

## Worldwide Actions Advancing the Nature's Rights Movement

While work continues to enforce current environmental laws, efforts to intensify research, education, and advocacy for the nature's rights movement can expand in parallel. Targeted action supporting the accelerating nature's rights movement can generate enormous returns at this early stage.

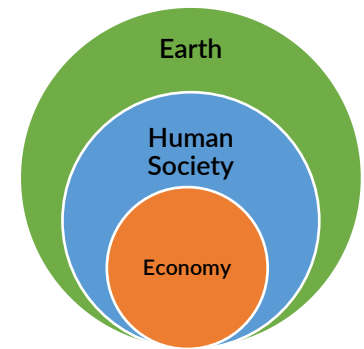
The sample activities listed below are only a start. As the movement advances, new ideas and strategies will arise and be implemented worldwide, with demonstrable benefits.

### *Rights-Based Law*

- Develop and adopt laws and legal systems that recognize the rights of nature at the local to national levels globally.
- Implement nature's rights-based laws and demonstrate the benefits of a rights-based approach. Ecuador has been a leader, but other governing bodies are moving forward as well. Santa Monica's groundwater ordinance, for example, cites the City's nature's rights law as support for local protective action that far exceeds state groundwater law.<sup>23</sup>
- Create opportunities to give public recognition, visibility, and voice to the people and natural systems suffering violations of their fundamental rights and marginalized in the law. An example includes the International Rights of Nature Tribunals, coordinated by the Global Alliance for the Rights of Nature. The Tribunals bring together experts in rights of nature, human rights, and rights of Indigenous peoples, in a process similar to the Permanent Peoples' Tribunals.<sup>24</sup>
- Develop and disseminate model standards, criteria, and guidance grounded in nature's right to exist, thrive, and evolve.
- Research, and litigate as needed, cases that advance nature's rights. For example, the successful 2018 Amazon climate rights case in Colombia found violations of nature's rights, human rights, and the rights of future generations.<sup>25</sup> The constitutional provision on which it was based, a *tutela* action, exists in some form in every Latin American country except Cuba, and may provide significant potential opportunities for advancement of similar rights-based claims.
- Draft and submit amicus briefs to provide expert support for nature's rights.
- Conduct trainings for judges that may address nature's rights claims. Judicial trainings by the IUCN World Commission on Environmental Law and Global Judicial Institute on the Environment may provide a useful model.

### *Ecological Economics*

Ecological economics provides a crucial and timely answer to growing critiques of the role of neoclassical economics and neoliberal philosophies<sup>26</sup> in injuring both human and nature's rights. Work continues to expand research and action towards a global economic system nested within and serving the larger ecological reality.<sup>27</sup>



### *Holistic Science*

Current scientific investigation is largely reductionist, though shifts are occurring in considering the proverbial forest as opposed to merely the trees. Ecology was a relatively new discipline when our current environmental laws were passed a half century ago, as demonstrated by the laws' siloing of affected systems by media and species. Developments since then in ecology, systems science, modeling, and now AI can be applied to help answer such questions as, "What does a 'thriving ecosystem' look like?" Further research is needed to develop the tools needed to implement nature's rights laws most effectively.

### *Indigenous Leadership*

- Lend support to Indigenous leadership, including Indigenous environmental defenders.
- Provide legal support to help inform development of the rights of nature movement with lessons from Indigenous customary law (noting that the concept of "rights" itself can be colonialist).
- Highlight other Indigenous perspectives in refining the nature's rights movement and its implementation, including: "rights of relationships," heightened focus on responsibility as opposed to rights, and increased attention to the wisdom of Indigenous cosmology.
- Advance Indigenous voices and power in administrative, legislative, and judicial actions.

### *United Nations/International Community Leadership*

- Promote adoption of a Declaration on the Rights of Nature by the U.N. General Assembly, along with recognition of the Rights of Antarctica specifically.
- Advance and disseminate information through other U.N. General Assembly Dialogues and forums, Resolutions, and other pre-Declaration activities supporting nature's rights, including discussion of model national and subnational legislation and implementation actions.
- Develop and enhance partnerships with international social movements in support of shared global struggles for rights. Examples include groups working on the human right to a healthy environment and the human right to water, and environmental defender groups fighting injurious extraction and contamination activities.

### *Education*

- Train the next generation of lawyers, economists, scientists, philosophers, political scientists, and others in thought and research consistent with nature's rights, through development of undergraduate and graduate programs and legal clinics. Programs have begun already throughout the world and can provide examples.<sup>28</sup>
- Support and disseminate the results of research across disciplines that examines, identifies challenges to, and highlights opportunities to effectively advance the rights of nature.

## Capacity Building

- Create and expand new organizations, leaders, campaigners, researchers, communicators, and others to advance the movement globally. Particularly ensure support for Indigenous and frontline communities seeking bold, effective tools to safeguard and restore Earth's natural systems.
- Ensure the continued well-being of existing NGOs taking action related to the movement.
- Organize and support convenings of rights of nature researchers and advocates globally to allow for better information exchange and planning.<sup>29</sup>
- Develop and support regional and other hubs of action, such as those developed by the Global Alliance for the Rights of Nature,<sup>30</sup> to improve collaboration among those taking action.
- Develop and disseminate tools for community organizers around nature's rights, and train civil society in rights-based movement building, leadership, and other techniques needed for success.

## Solutions Development

- Accelerate technical, policy, and other solutions to practical questions such as "What does a world where humans live according to nature's rights look like?"
- Ensure that nature's voice is actively considered and incorporated into solution development, so that nature is an actual (rather than assumed) direct, net beneficiary.

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## ENDNOTES

<sup>1</sup> [Environment Now](#) was founded in 1999 to advance measurably effective efforts to protect and restore California's environment, with [groundbreaking successes](#) achieved by partners around coastal, inland waterway, forest, and air issues.

<sup>2</sup> Ripple, William J. *et al.*, "The 2024 state of the climate report: Perilous times on planet Earth," *BioScience* (2024); at: <https://academic.oup.com/bioscience/advance-article/doi/10.1093/biosci/biae087/7808595>.

<sup>3</sup> See <https://ecojurisprudence.org>; see also <http://www.harmonywithnatureun.org/rightsOfNature/> and <https://www.garn.org/rights-of-nature-map/>. Countries with approved rights of nature laws (in the form of constitutional provisions, statutes, court decisions, local laws, and/or regulations) include Bangladesh, Bolivia, Brazil, Canada, Colombia, Ecuador, France (New Caledonia), Germany, India, Mexico, New Zealand, Pakistan, Panama, Peru, Philippines, Spain, Uganda, and the United States. See also Kauffman, Craig, "Global Patterns and Trends in Rights of Nature Legal Provisions: Insights from the Eco Jurisprudence Monitor," chapter in *More Than Human Rights: An Ecology of Law, Thought, and Narrative for Earthly Flourishing*, César Rodríguez-Garavito, ed. (New York: NYU Law, 2024).

<sup>4</sup> <http://thomasberry.org/life-and-thought/brief-bio>.

<sup>5</sup> See, e.g., <https://www.gaiafoundation.org/areas-of-work/earth-jurisprudence/>.

<sup>6</sup> See, e.g., Rapport, David *et al.* (eds) (1998), *Ecosystem Health* (Blackwell Science) (achieving ecosystem health requires decisionmakers to "identify the societal goals that are compatible with sustainable life systems, to identify and validate indicators of ecosystem function that are essential to its evolution and perpetuation, and to merge goals (societal values) with biophysical realities"). See also Chapron, Guillaume *et al.*, (March 14, 2019), "A Rights Revolution for Nature," *Science* 363:1392-93, at: <https://www.science.org/doi/10.1126/science.aav5601>.

<sup>7</sup> See, e.g., <https://www.uvm.edu/gund/ecological-economics>.

<sup>8</sup> See, e.g., reports on co-violations of rights at: <https://www.earthlawcenter.org/co-violations-of-rights>.

<sup>9</sup> Stone, Christopher D. (rev'd 2010 ed.), *Should Trees Have Standing? And Other Essays on Law, Morals, and the Environment* (Oxford University Press).

<sup>10</sup> <https://www.un.org/en/about-us/udhr/history-of-the-declaration>.

<sup>11</sup> <http://pwccc.wordpress.com/programa/>.

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- <sup>12</sup> Recognition of fundamental rights in such “soft law” offers numerous practical results: nations and sub-national governments worldwide have developed statutes, court decisions, regulations, and other bodies of law out of the UDHR that reflect and implement the human rights it champions.
- <sup>13</sup> See, e.g., Nash, Roderick (1989), *The Rights of Nature: A History of Environmental Ethics* (Univ. of Wis. Press).
- <sup>14</sup> <https://ecojurisprudence.org> and <http://www.harmonywithnatureun.org/rightsOfNature/>.
- <sup>15</sup> <https://ecojurisprudence.org>. For example, the City of Santa Monica, California’s Sustainability Rights Ordinance (2013) was the first such ordinance on the West Coast (<https://bit.ly/2MOGwjO>). Implementation began shortly afterward through new City law and policy.
- <sup>16</sup> California, Colorado, Florida, Maine, Maryland, New Hampshire, New Mexico, New York, Ohio, Oregon, Pennsylvania, Vermont, and Virginia. <https://ecojurisprudence.org>.
- <sup>17</sup> Kauffman, Craig (March 2020), “Mapping Transnational Rights of Nature Networks & Laws: New Global Governance Structures for More Sustainable Development,” at: <http://files.harmonywithnatureun.org/uploads/upload924.pdf>.
- <sup>18</sup> <https://portals.iucn.org/library/node/44067>.
- <sup>19</sup> IUCN (2017), “World Declaration on the Environmental Rule of Law,” at: <https://www.iucn.org/our-union/commissions/world-commission-environmental-law/our-work/history/foundational-documents-4>.
- <sup>20</sup> <http://www.harmonywithnatureun.org/dialogues/>.
- <sup>21</sup> <https://www.rightsofnaturetribunal.org/>.
- <sup>22</sup> See *supra* n. 15.
- <sup>23</sup> See Sheehan, Linda (Winter 2019), “Implementing Nature’s Rights through Regulatory Standards,” *Vermont Journal of Environmental Law* 20(3), at: <http://files.harmonywithnatureun.org/uploads/upload926.pdf>.
- <sup>24</sup> <https://www.rightsofnaturetribunal.org/>.
- <sup>25</sup> Dejusticia (April 13, 2018), “Climate Change and Future Generations Lawsuit in Colombia: Key Excerpts from the Supreme Court’s Decision,” at: <https://www.dejusticia.org/en/climate-change-and-future-generations-lawsuit-in-colombia-key-excerpts-from-the-supreme-courts-decision/>.
- <sup>26</sup> See, e.g., Snower, Denis (Jan. 2021), “Economics Nears a New Paradigm,” *Economics*; at: <https://evonomics.com/why-behavioral-economics-cant-fix-a-broken-discipline/>.
- <sup>27</sup> See, e.g., Partners for a New Economy, <https://p4ne.org/about/our-story/>. See also Hewlett Foundation (Feb. 16, 2022), “Reimagining Capitalism: Major Philanthropies Launch Effort at Leading Academic Institutions,” at: <https://hewlett.org/newsroom/major-philanthropies-launch-effort-to-establish-multidisciplinary-centers-at-leading-academic-institutions/>. See also <https://www.opc.ca.gov/2014/10/healthy-ocean-california/> on defining a “healthy ocean.”
- <sup>28</sup> See, e.g., <https://www.mothcourse.org/>, <https://www.l4ecozoic.org/>, and <https://www.earthlawcenter.org/earthlaweducation>.
- <sup>29</sup> See, e.g., <https://www.garn.org/global-gathering-2022/>.
- <sup>30</sup> <https://www.garn.org/hubs/>.