

UNIVERSAL DECLARATION OF THE RIGHTS OF RIVERS

DRAFT

Aware that freshwater is precious and scarce, with less than 3 percent of Earth's water being freshwater, of which over two-thirds is inaccessibly located in ice caps and glaciers and nearly one-third is groundwater, with only .3 percent of freshwater existing in rivers, lakes, and swamps – and, of that amount, only 2 percent flowing in rivers, equaling a mere .006 percent of all freshwater,

Concerned that humans have caused the significant pollution of rivers worldwide, including with organic matter from industrial wastewater and sewage, pathogens and nutrients from agriculture, and contaminants from industry, in addition to many other forms and sources of pollution, with resulting declines in aquatic health and biodiversity, as well as extensive negative human health impacts,

Further concerned that humans have built over 57,000 large dams worldwide that impact over two-thirds of all rivers,¹ resulting in fragmented habitats, reduced biodiversity, imperiled fish populations, exacerbated climate change, and retained sediment and nutrients that are fundamental to downstream ecosystem health,

Further concerned that excessive waterway diversions and groundwater withdrawals have significantly reduced flows in rivers worldwide, with many waterways now running completely dry, despite scientific consensus that adequate flows are fundamental to the survival of river ecosystems and serve as the lifeblood of many river-dependent freshwater and riparian ecosystems,

Aware that rivers play a vital role in the functioning of Earth's hydrologic cycle, and that the viability of rivers to play this role depends on numerous factors, including the maintenance of surrounding river catchments, floodplains, and wetlands,

Finding that national and international laws pertaining to waterways are vastly inadequate to protect the integral health of rivers and river basins alike, and that these laws also fail to ensure current and future generations with adequate supplies of clean water to meet their basic needs,

Cognizant that the degradation and exploitation of rivers is not only an environmental issue, but also an indigenous rights concern, as the damming and destruction of rivers threatens the very existence and way of life of many indigenous peoples, and is also a human rights concern, as 3 in 10 people currently lack access to clean, readily available water at home,²

¹ International Rivers, at: <https://www.internationalrivers.org/problems-with-big-dams>.

² World Health Organization, at: www.who.int/mediacentre/news/releases/2017/water-sanitation-hygiene/en.

Aware that indigenous communities have long held through their traditions, religions, customs, and laws that nature (often called “Mother Earth”) is a rights-bearing entity, and that rivers in particular are sacred entities possessing their own fundamental rights,

Noting that governments worldwide have begun to recognize and enforce the rights of nature, including through a constitutional amendment in Ecuador,³ 2010⁴ and 2012⁵ national laws in the Plurinational State of Bolivia, a new constitution in Mexico City,⁶ and dozens of rights of nature ordinances in the United States,

Further noting that the rights of rivers in particular are being recognized across the world, including through a New Zealand treaty settlement recognizing the Whanganui River (or “Te Awa Tupua”) as “an indivisible and living whole” and “a legal person,”⁷ a Uttarakhand High Court decision declaring the Ganga (or “Ganges”) and Yamuna Rivers as “having the status of a legal person with all corresponding rights, duties and liabilities,”⁸ a Colombia Constitutional Court decision ruling that the Atrato River basin possesses rights to “protection, conservation, maintenance, and restoration,”⁹ and an Ecuadorian Provincial Court ruling enforcing the constitutional rights of the Vilcabamba River and calling for its remediation and rehabilitation,¹⁰

Convinced that recognizing the rights of nature, and in particular recognizing those river rights contained in this Declaration, will foster the creation of a new legal and social paradigm based on living in harmony with nature and respecting nature’s rights, as well human rights and the rights of indigenous peoples,

Mourning the many rivers across the globe that have already died due to human activities – including those so over-diverted as to no longer flow, those enclosed within pipes and buried under layers of concrete, and those so polluted as to no longer sustain life,

1. *Declares* that all rivers are entitled to the fundamental rights set forth in this Declaration, which arise from their very existence on our shared planet,
2. *Further declares* that all rivers are living entities that possess legal standing in a court of law,

³ Republic of Ecuador, Constitution of 2008, Arts. 10, 71, 72, 73, and 74.

⁴ Bolivia, Law of the Rights of Mother Earth, Law 071 (2010).

⁵ Bolivia, Framework Law of Mother Earth and Integral Development for Living Well, Law 300 (2012).

⁶ Constitución Política de la Ciudad de México (2017; scheduled to enter into force on 17 September 2018).

⁷ Te Awa Tupua (Whanganui River Claims Settlement) Bill (2017).

⁸ *Mohd. Salim v. State of Uttarakhand & Others*, High Court of Uttarakhand at Nainital, Write Petition (PIL) No. 126 of 2014 (Mar. 20, 2017).

⁹ *Acción de tutela interpuesta por el Centro de Estudios para la Justicia Social “Tierra Digna”, en representación del Consejo Comunitario Mayor de la Organización Popular Campesina del Alto Atrato (Cocomopoca), el Consejo Comunitario Mayor de la Asociación Campesina Integral del Atrato (Cocomacia), la Asociación de Consejos Comunitarios del Bajo Atrato (Asocoba), el Foro Inter-étnico Solidaridad Chocó (FISCH) y otros, contra la Presidencia de la República y otros*, República de Colombia, Corte Constitucional, Expediente T-5.016.242 (Nov. 10, 2016).

¹⁰ Provincial Court of Justice of Loja, Sentence No. 11121-2011-0010 (March 30, 2011).

3. *Establishes* that all rivers shall possess, at minimum, the following fundamental rights:
 - (1) The right to flow;¹¹
 - (2) The right to perform essential functions within its ecosystem;¹²
 - (3) The right to be free from pollution;
 - (4) The right to feed and be fed by sustainable aquifers;
 - (5) The right to native biodiversity; and
 - (6) The right to restoration,
4. *Further establishes* that rivers shall have their best interests assessed and taken into account as a primary consideration by both government and private entities in all actions or decisions that concern them,
5. *Asserts* that these rights are intended to ensure not only the health of rivers, but also the health of the river basins of which rivers are a part,
6. *Maintains* that in order to ensure full implementation and enforcement of these rights, each river shall be entitled to the independent appointment of one or more legal guardians that acts solely on behalf of the river's rights, with at least one legal guardian being an indigenous representative for those rivers upon which indigenous communities depend,
7. *Resolves* that all states shall implement these rights in full within a reasonable amount of time, including by developing and implementing specific metrics and thresholds according to the most recent scientific understandings of integrated ecological river health,
8. *Strongly urges* all governments to ensure prompt and adequate financial mechanisms to realize these fundamental river rights, including the right of all rivers to restoration,
9. *Asserts* that governments shall consider for decommission all dams that lack a compelling social and ecological purpose, and that new dam construction shall only occur when necessary to achieve clean water for drinking and sanitation, electricity and other compelling purposes, with such dams only built upon securing the full free, prior, and informed consent of indigenous and other impacted communities and using the best available technologies by which to preserve ecosystem health.

¹¹ Flows must, at minimum, be sufficient to maintain the ecosystem health of the entire river system. In addition, rivers – not people – own the water that flows within them.

¹² These include flooding, moving and depositing sediment, recharging groundwater, providing adequate habitat for native flora and fauna, and other essential functions.