



Question & Answer:

Universal Declaration of River Rights

Available online for feedback and signatures

(1) English: <https://goo.gl/forms/r27VHealIAa37rqN2>

(2) Spanish: <https://goo.gl/forms/f3Zr2sbpOdyQ6ksq1>

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I. INTRODUCTION TO RIGHTS OF NATURE

- **What is “rights of nature?”**

Rights of nature is a growing movement to recognize the Earth’s inherent rights. Rather than treating nature as “property” for human consumption, nature is recognized as a legal entity with rights that are enforceable in a court of law. Nature's rights are not “given” by humans, but rather are inherent to nature’s existence – just as humans possess inherent rights to life, liberty and the pursuit of happiness.

- **What are some examples of rights of nature in practice?**

Ecuador became the first nation to amend its constitution to include rights of nature in 2008. In 2012, Bolivia passed the first of two national rights of nature laws, and Mexico City followed in 2017 by including rights of nature in its new constitution. Rights of nature has already won in the courts, too, beginning with a 2011 case in which Ecuador’s Provincial Court of Loja ruled on the Vilcabamba River, calling for its restoration after it was harmed by a road project.

II. BACKGROUND ON THE RIGHTS OF RIVERS

- **Which rivers already have recognized legal rights?**

In 2017, four rivers gained legal rights recognition. First, a New Zealand treaty agreement recognized the Whanganui as a legal person with fundamental rights, including the right to sue. This made it the first river in the world to gain recognized legal rights. Just five days later, the Uttarakhand High Court in India recognized two rivers (the Ganga and Yamuna) as “living entities” with fundamental rights, also allowing humans to file complaints on the rivers’ behalf. Most recently, in May 2017, Colombia’s Constitutional Court granted rights to the Atrato River and ordered the government to clean up its waters.

- **What is the Universal Declaration of River Rights?**

In partnership with experts from across the world, Earth Law Center (ELC) drafted a common set of rights that are fundamental to all rivers. These rights are based on the precedent set by global victories for the rights of rivers (see above), as well as ecological principles of river health. The outcome document is the “Universal Declaration of the Rights of Rivers” (Declaration). ELC is still seeking feedback on the Declaration from additional stakeholders in order to achieve global consensus.

- **What rights are included in the Declaration?**

The Declaration currently includes the following fundamental rights for all rivers:

- (1) The right to flow¹
- (2) The right to perform essential functions within its ecosystem²
- (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
- (6) The right to restoration

These rights are applicable not only to rivers themselves, but also to the “river basins of which rivers are a part.” Also, the Declaration calls for the appointment of one or more legal guardians to act on behalf of a river’s rights. In areas where indigenous communities depend on a river, at least one guardian should be an indigenous representative.

- **What does the “right to flow” mean?**

Flow is a fundamental process of waterways, and is elemental to waterways’ integrity and health. Therefore, consistent with the concept of the inherent rights of the rivers, waterways have a fundamental right to flow. When determining the size, timing and nature of flows that are needed to protect this fundamental right, the integrity and health of the entire waterway system should be used as the benchmark.

- **Does the Declaration speak to dams?**

Yes. The Declaration 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.” It also requires the “full, free, prior, and informed consent of indigenous and other impacted communities” if dams are otherwise permissible.

- **Does the Declaration support indigenous rights?**

Yes. Indigenous rights are frequently violated concurrent to nature’s rights violations. In the context of rivers, this includes violence perpetrated against defenders of rivers, negative health impacts from polluted water, food system degradation, and the flooding of indigenous villages and sacred sites from dams – to name a few. The Declaration emphasizes the rights of indigenous peoples and honors their role in protecting rivers, and also protects aquatic species (e.g. salmon) that are sacred to many cultures.

¹ 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.

² These include flooding, moving and depositing sediment, recharging groundwater, providing adequate habitat for native flora and fauna, and other essential functions.

- **Do the rights of rivers infringe upon the human right to water?**

The goal of safeguarding the health of waterways is not at odds with protecting human water needs. We rely on waterways for drinking water, irrigation, manufacturing, hiking, fishing, recreation and so forth – all uses that benefit from healthy waterway systems. Ensuring the health of waterway systems may require phasing out unsustainable water uses that are based on profit maximization rather than need – including development of mega-dams that typically cause more harm than good.³ A shift in how we view waterways will benefit humans because we live as part of the larger natural system.

III. IMPLEMENTING THE RIGHTS OF RIVERS

- **Can the Declaration be adapted to domestic (e.g. national) laws?**

The Declaration is intended to serve as a blueprint for governments to pass laws that recognize the rights of rivers within their own jurisdictions. While it will need to be adapted to each unique legal system, it provides a necessary starting point and baseline standard for domestic river rights laws. Ensuring that different countries recognize a similar set of rights will also help establish customary international law for river rights.

- **Does Earth Law Center also work to establish rights of rivers in practice?**

ELC works to establish rights for rivers across North America and internationally. As one example, we are working to establish rights for three rivers in Mexico. This project is being conducted in coordination with a coalition of local (e.g. Puebla and Mexico City), national and international advocates. The rivers for which the coalition seeks legal rights are:

- (1) *Magdalena River*: The last free-flowing river in Mexico City. Forty-five other “invisible rivers” are trapped under concrete in this megacity. Mexico City already included rights of nature in its new constitution.
- (2) *Atoyac River*: One of Mexico’s most polluted rivers, with 146 tonnes of organic waste and 14 kilograms of heavy metals dumped into it daily. There is a strong local campaign to permanently protect the Atoyac River.
- (3) *San Pedro Mezquital River*: The last free-flowing river in the western Sierra Madre. Its biodiversity is under threat from the Las Cruces dam project, which would threaten the health of both the river and the Wixárika people, to whom the river is sacred.

³ Dam impacts include reduced biodiversity, reduced water quality, impeded sediment flow, harm to fish species, global warming, community displacement, water-borne illnesses, and more.



Save our Rivers!

1. Sign the Declaration as an individual or organization ([English](#); [Spanish](#))
2. Provide your expert feedback on the Declaration ([English](#); [Spanish](#))
3. Work with ELC to implement the Declaration worldwide, such as by seeking new national, regional and local laws recognizing the rights of rivers
4. Argue for the rights of your local rivers based on the Declaration, such as in opposition to destructive dam projects
5. Conduct outreach to spread awareness