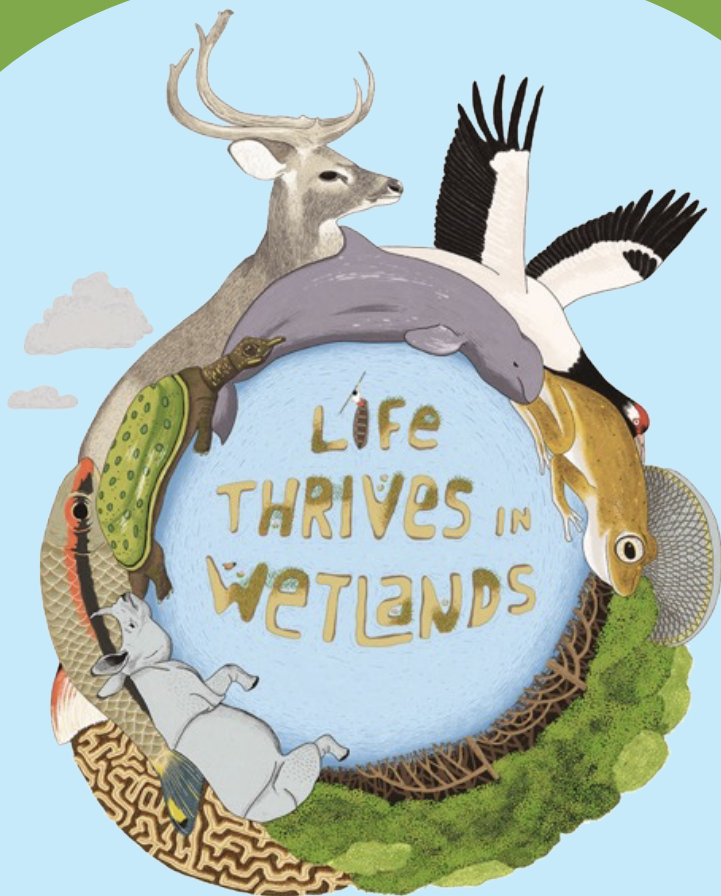


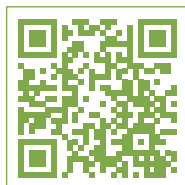
# Rights of Wetlands: Transforming Our Relationship with Wetlands



[www.rightsofwetlands.org](http://www.rightsofwetlands.org)



THE  
RIGHTS  
OF  
WETLANDS



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# Rights of Wetlands: Transforming Our Relationship with Wetlands

## **Invitation to Participate:**

This pamphlet is a primer for sharing ideas about how to implement Rights of Wetlands, with the proposed *Universal Declaration of the Rights of Wetlands (Declaration)* included in Appendix I. We humbly invite Indigenous Peoples, local communities, and others to review this pamphlet and the associated Rights of Wetlands, and would greatly appreciate any associated feedback. We recognize that development and implementation of Rights of Wetlands is an ongoing process, and that further refinement is necessary as our understanding grows, as we learn from experience, and as conditions change. The authors invite you to share your thoughts and comments on the Rights of Wetlands website: <https://www.rightsofwetlands.org/howtodeliver>



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## KEY MESSAGES

- Achieving the future well-being and sustainability of life on Earth requires rapid and transformative change.
- Recognizing, implementing and ensuring Rights of Wetlands is a critically important transformative change towards aligning human activities with ecological reality.
- Humans have an ethical duty to recognize the Rights of Wetlands, including the Rights of Wetlands and other elements of Nature to exist, to have a place to exist, and to fully participate in the Web of Life.
- The 8 Rights of Wetlands are interconnected. Wetlands can't exist without all 8 Rights.
- Indigenous Peoples and Local Communities are leaders in recognizing the Rights and living beingness of Nature and the role and responsibilities of humans as members of the Web of Life.
- Legal structures for applying Rights of Nature exist, and they apply to Rights of Wetlands.
- Local communities can themselves take, and are taking, actions to change their relationship with wetlands.
- Rights of Wetlands can be promoted and supported through cultural, educational, legal, and wetland management strategies.
- Time is of the essence.

# INTRODUCTION

## **What is the problem and why do Rights of Wetlands need to be defined and defended?**

We are at a crossroads. Despite the efforts of the Ramsar Convention on Wetlands for the past 50 years, as well as national and sub-national governments and non-governmental organisations, severe wetland loss and destruction continue, with 35% of wetlands lost since the 1970s based on data gathered thus far (Ramsar Convention on Wetlands, 2018). Wetland loss and destruction lead to climate change and biodiversity degradation and loss. Existing approaches to conservation, restoration, and sustainable development have failed to shift the human-Nature relationship or halt consumption-oriented human behaviour that has led us to the brink of catastrophic climate destabilisation and brought on the 6th mass extinction, all of which is happening more rapidly than anticipated. We have little time left to change course.

For millennia and across cultures, people have recognized the Rights of Nature and elements of Nature as members of the Web of Life (supplementary material in Davies et al., 2020). Without this recognition of the living beingness of other Nature beings, a dualistic, mechanistic view of the human-Nature relationship predominates. The separation of humans from Nature and placing of humans above Nature has led to the current wetlands, biodiversity, and climate emergencies, with destructive and extractive use of wetlands and other elements of Nature creating the emergencies. Alternatively, when humans are understood as being part of Nature, with wetlands and Nature having Rights, the human-Nature relationship is based on reciprocity, gratitude, and balance, including ethical responsibilities that people have towards Nature, as many Indigenous Peoples and Local Communities (IPLC) demonstrate and have demonstrated over time.

We understand from Intergovernmental Platform on Biodiversity and Ecosystem Services (IPBES) Chair Ana Maria Hernandez Salgar that “**Transformative change** in all parts of society and our economy is needed to stabilise our climate, stop biodiversity loss and chart a path to the sustainable future we want. This will also require us to address both crises together, in complementary ways.” Recognition of the Rights of Wetlands embodies the transformative change that is essential to re-establish a healthy, balanced, and sustainable future and to align human culture and governance with ecological reality.



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Rights of Wetlands are part of a global Rights of Nature movement, which is transformative and shifts the globally-predominant paradigm that is responsible for endangering the well-being and continued existence of wetlands and other elements of biodiversity, including humans. The Rights of Nature paradigm shifts the human-wetlands relationship from one of exploitation, extraction, and depletion to one that recognizes the Rights and living beingness of wetlands, and embodies a relationship between wetlands and humans based on reciprocity, kinship, and gratitude.

The paper *Towards a Universal Declaration of the Rights of Wetlands* (<https://doi.org/10.1071/MF20219>) and associated *Supplementary Material* prepared by the Society of Wetland Scientists Rights of Wetlands Initiative articulates the need for a *Universal Declaration of the Rights of Wetlands* and documents some of the recognition of the Rights and living beingness of elements of Nature through history and across cultures. The paper makes the case for a paradigm-shifting Rights of Wetlands approach, adding a wetlands-specific articulation of Rights that all wetlands inherently have. Many organisations and individuals have endorsed the *Declaration*, as noted on the Rights of Wetlands website: <https://www.rightsofwetlands.org/about-1>. This pamphlet is a companion document to the Declaration and articulates how each of the Rights could be implemented.

### **What are wetlands?**

The Ramsar Convention on Wetlands, the global intergovernmental treaty on wetlands, defines wetlands as, “areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres”.



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### **Understanding Rights of Wetlands:**

The proposed eight inherent Rights of Wetlands included in the *Declaration* are the Right to exist and seven supporting Rights. The eight Rights are integrally linked and should be viewed as connected, not as separate and unconnected Rights.

As stated in the *Declaration*, “Rights of Nature are inherent, rather than conferred or granted, yet corresponding duties on humans still attach.” Most would understand these Rights to be *prima facie*, rather than *absolute*, meaning that in some circumstances they can be overridden, but only for a more compelling moral reason. Hence, the governing assumption is that humans have a strong moral and legal duty to respect the Rights of Wetlands, and they must provide a compelling moral reason to justify actions that override these Rights. IPLC may not have other sources of subsistence than plants and animals living in local wetlands and hence may justifiably use these resources, and, if their population is high and the resources are dwindling, they may end up degrading such wetlands.

Because Rights of Wetlands are inherent, they are not just another way of expressing the Rights of humans to ecosystem services or benefits. Only by recognizing that wetlands and other elements of Nature have inherent Rights can we successfully shift our mental, cultural, and legal frameworks that lead to the kind of transformative change in human behaviour and changes in wetland management policy and practice that will slow down or halt the current wetland, climate, and biodiversity degradation trajectories. Rights of Wetlands encourages plurality and ecological and social diversity, thereby further supporting the transformative shift that is so badly and urgently needed.



The IPBES *Nature's Future Framework (Framework)* report (Pereira et al., 2020) focused on an “assessment of the diverse values and valuation of nature” and addressed how humans and human systems need to understand and transform their relationship with Nature. The authors argue that one way to understand the difference between the current dominant Nature-as-resource mindset and an emerging mindset that embodies a Rights of Nature value system, is to think critically of the existing dominant paradigm that views Nature as existing primarily for human use, exploitation, extraction, and depletion as a “**Living from Nature**” paradigm. The **Living from Nature** paradigm focuses only on how Nature can sustain human life, with the result that most planetary damage has been caused by this perspective. Clearly, human communities need to live from Nature, but they should strive to do so within boundaries of what sustains Nature and its interrelated ecosystems. Alternatively, “**Living with Nature**” focuses on the Rights of non-human life; “**Living in Nature**” focuses on the relationship between people, place, and identity; and “**Living as Nature**” focuses on a sense of oneness and unity between people and their environment. Notice the shifts in perspective. A Rights of Wetlands perspective proposes to live with, in, and even as Nature, rather than solely *from* Nature. The separation of people from Nature and the idea of human dominion over Nature has clouded the understanding that we are Nature.



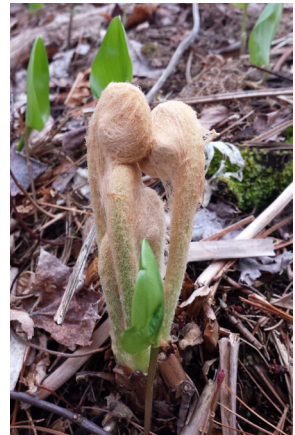
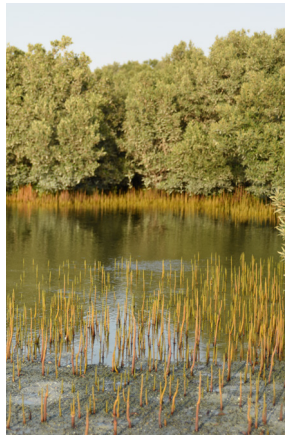
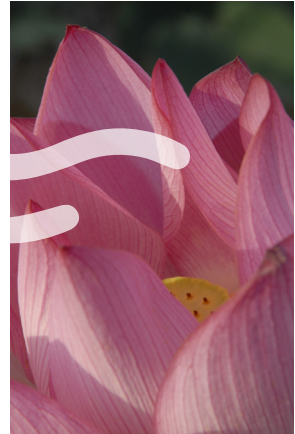
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## The Ramsar Convention on Wetlands Context

The Ramsar Convention's 'wise use' (aka sustainable use) approach to wetland conservation forms the central tenet for stemming wetland degradation and loss on a global scale. The Convention defines wise use as the "maintenance of ecological character, achieved through the implementation of ecosystem approaches, within the context of sustainable development". Ecological character provides the framework for conceptualising wetlands and for devising wise use strategies, and has been defined as, "the combination of the ecosystem components, processes, and benefits / services that characterise the wetland at a given point in time". To be able to encompass diverse worldviews and values of Nature and Nature's contributions to people, it is pertinent that wetland ecological character is defined as a holistic understanding of Nature-human interlinkages, while encompassing the multiple intrinsic, instrumental, and relational values. The narrative of wetland conservation in recent times has been built around the instrumental values (primarily the contributions wetlands make to human well-being through their ecosystem services, in particular provisioning services such as water, food, and fibres). The intrinsic and relational values, and supporting and cultural ecosystem services, while represented in some policy discourses, have not been fully implemented. The Rights of Wetlands seeks to raise the significance of the intrinsic and relational values of wetlands to inform strategies for maintaining wetland ecological character and sustainable, wise use pathways.



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*The text below provides thoughts on what each of the Rights of Wetlands means, why each is important, and how they could support and create meaningful change in the relationship between humans and wetlands. A discussion follows regarding how to secure these Rights in practice, and an appendix includes discussion of some objections to a Rights of Wetlands approach, along with responses to those objections.*



## 1. WETLANDS HAVE AN INTRINSIC RIGHT TO EXIST

### **What does this Right mean and why is it important?**

The core tenet of a wetland’s Right to exist is that this Right is inherently or intrinsically held by the wetland, irrespective of the value that a wetland might have for humans. The wetland’s Right to exist can therefore be asserted without any need to demonstrate utility, benefit or justification in any other terms whatsoever. Indigenous peoples and western philosophers show examples of lines of thinking in which the Right to exist is ascribed to a being’s membership in the Web of Life, Earth Community or the Universe, with Rights originating from that which creates existence (whatever form this creating / original source is taken to be). All wetlands have the Right to exist. What that entails may depend on the nature of the wetland and whether or not it is a “natural” wetland.

In the scheme of Rights presented in the Declaration, the “Right to exist” is the first one listed, since the others both flow from it and are important for giving it substance. A wetland must exist in order for the other Rights to be applied. In turn, each of the other Rights is implicitly bound together with the “Right to exist” as a necessary condition for their application. Irrespective of these significant practical considerations, the Right to exist stands on its own terms as an inalienable principle.



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Whether a wetland has stronger or weaker Rights according to its being more or less “natural” or “artificial” is an issue that applies to the package of Rights and is not particular to the Right to exist. In principle all the Rights apply to all wetland types, and the degree of “naturalness” or “artificiality” bears only on the manner in which they are asserted in a given case, and the degree to which “natural ecological functioning” is material / meaningful in the case concerned. In other words, a low-functioning, artificial wetland would only have Rights that reflect its level of ecological function. However, a degraded natural wetland would have the Right to restoration and regeneration, thus supporting a return to a higher level of ecological function.



## 2. WETLANDS HAVE AN INTRINSIC RIGHT TO THEIR ECOLOGICALLY DETERMINED LOCATION IN THE LANDSCAPE.

### **What does this Right mean and why is it important?**

Wetlands exist in ecologically determined locations in the landscape. A lack of recognition of the importance of ecologically determined locations to wetland functioning has resulted in such locations being converted to other uses, such as construction of infrastructure or conversion to agriculture. In most cases, such alterations to locations are irreversible, leading to wetlands being degraded and lost.

Location of wetlands in a landscape is determined by the interactions between the physical morphology and water movements across the land and the coast that enables the development of the soils or substrates that support the existence and persistence of the ecological communities. This Right is essential in ensuring their Right to exist.

Humans have a responsibility towards maintaining these ecologically determined locations in their natural state, which in turn will ensure that wetlands persist. These responsibilities include ensuring that morphology and hydrological regimes are maintained in natural condition and that wetland



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communities prevail, including the associated soil/substrate conditions and any other factors that underpin wetlands' existence, integrity, and persistence.

Maintaining wetlands in their natural ecological condition and location takes precedence over creation of wetlands in an alternative part of the landscape (for example to compensate for wetland loss due to urban development). Artificial wetlands are not a replacement for wetlands existing in their natural locations: the created wetlands do not function or support the Web of Life in the same way as the natural wetland.

Ecologically determined locations of wetlands are generally not respected and conserved within development plans. Compensation or mitigation for destruction of ecologically determined wetland locations often proposes duplication of wetland conditions in alternate, non-wetland locations. In newly created or restored wetlands, it is not possible to fully replace the biodiversity fabric of the wetland and the associated full suite of wetland functions, including their role in the landscape and Web of Life.



### 3. WETLANDS HAVE AN INTRINSIC RIGHT TO NATURAL, CONNECTED, AND SUSTAINABLE HYDROLOGIC REGIMES.

#### **What does this Right mean and why is it important?**

Ensuring wetlands' Right to natural, connected, and sustainable hydrological regimes allows wetlands to persist through time, including over inter- and intra-generational time, without being compromised by human interventions. Human-caused disruptions often lead to fundamental alterations in wetland water regimes, thereby changing wetland character, or even transforming a wetland into a non-wetland environment. Because wetlands are dependent upon maintenance of their natural, connected, and sustainable hydrologic regimes, recognition of this Right is essential in ensuring wetlands' Right to exist.

Wetlands, in their various occurrences, forms, and characteristics, including their varying wetter and drier periods, are essential elements of global to local water cycles because they regulate the quantity, quality, and reliability of water that cycles through air, land, freshwater, and the oceans through a cumulative flux of water within the wetland in time and space.

Even slight changes in natural hydrology may result in significant alteration of wetland processes, species composition, and ecological functions, and the role that these ecosystems play in the Web of Life. "Natural hydrological regimes"





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do not merely mean the hydrological regime as it existed at some point in the past, but factors in changes induced by natural processes (such as succession).

Catchments with unaltered water regimes support an interconnected array of wetlands, including streams, rivers, lakes, and ponds, as well as marshes and swamps. The unaltered connectivity of these catchments allows the transport of water, materials (e.g., nutrients, sediment, organic carbon), and biota (e.g., fish, macroinvertebrates) throughout the system. This connectivity exists in several dimensions, including lateral connections in which materials move between streams and adjacent wetlands in floodplain habitats, and longitudinal connectivity in which there is exchange of water, materials, and biota between headwater wetlands and streams and downstream waters. Connected hydrological regimes allow the physical, chemical, biological, ecological, and socio-cultural connections that contribute to a wetland's character to persist. This understanding of connected hydrologic regimes recognizes that humans are intimately connected with water, and are part of wetlands' biodiversity and character.



## 4. WETLANDS HAVE AN INTRINSIC RIGHT TO ECOLOGICALLY SUSTAINABLE CLIMATIC CONDITIONS.

### **What does this Right mean and why is it important?**

This Right supports a wetland's Right to exist because without ecologically sustainable climatic conditions, wetlands are at risk of deteriorating and at times converting to another type of ecosystem, leading to a degraded ecological condition and a loss of native biodiversity and wetland function, and increase in invasive species. While wetlands naturally release soil carbon to the atmosphere the increased release from degrading and deteriorating wetlands creates a stronger feedback loop that exacerbates climate change, which then causes further wetland degradation / loss and further release of wetland soil carbon to the atmosphere. Wetlands are particularly vulnerable to changes in climate, such as changes in rainfall and associated flows, and changes in temperature, because they reside within a narrow elevational range (see definition of wetlands at beginning of document). As a result of their landscape position, changes in water table levels that exceed natural levels of fluctuation can alter wetland structure, function, and biodiversity. Therefore, wetlands are particularly dependent upon continuity of the dynamic climatic conditions within which they have evolved, thus making a Right to ecologically sustainable climatic conditions essential to their Right to exist.

Climatic conditions significant to supporting healthy wetlands include maintenance of locally-consistent temperature and precipitation patterns that are consistent with long-term patterns and natural ranges of variability, and include associated hydrologic cycles (including storm severity), local sea levels, reliable sunlight and humidity, and avoidance of ocean acidification.



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## 5. WETLANDS HAVE AN INTRINSIC RIGHT TO HAVE NATURALLY OCCURRING BIODIVERSITY, FREE OF INTRODUCED OR INVASIVE SPECIES THAT DISRUPT THEIR ECOLOGICAL INTEGRITY.

### **What does this Right mean and why is it important?**

Biodiversity refers to the diversity of living organisms in all ecosystems on Earth, including diversity at genetic, individual, population, species, and ecosystem levels.

The Right to naturally occurring biodiversity is fundamental to the health, well-being, and survival of life on Earth, which comprises a web of diverse, interconnected life forms (of which wetlands, wildlife, and humans are part). As biodiversity is increasingly lost, species that depend on each other become less resilient, and ecosystems degrade and lose functional capacity, similar to how the loss of threads in a web or weaving leads to overall weakening of the fabric.

Wetlands are some of the most biodiverse ecosystems on earth, with approximately 40% of all known species living or breeding in wetlands, despite wetlands occupying only 6% of the Earth's land surface (Ramsar Convention on Wetlands, 2018). The Right of a wetland to naturally occurring biodiversity ensures that a wetland's character, health, and functioning are maintained through time, and that introduced or invasive species and other stressors are not able to disrupt naturally occurring biodiversity. This Right is essential in ensuring a wetland's Right to exist as the wetland's character and functional capacity are created by the fabric of naturally occurring biodiversity that interacts with abiotic factors.

In order for this Right to be fully guaranteed, other supporting Rights are needed, such as the Right to be free from pollution and degradation (Right #7), the Right to natural, connected and sustainable hydrologic regimes (Right #3), and the Right to ecologically sustainable climatic conditions (Right #4).



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## 6. WETLANDS HAVE AN INTRINSIC RIGHT TO INTEGRITY OF STRUCTURE, FUNCTION, EVOLUTIONARY PROCESSES AND THE ABILITY TO FULFIL NATURAL ECOLOGICAL ROLES IN THE EARTH'S PROCESSES.

### **What does this Right mean and why is it important?**

This Right recognizes that integrity is present when human actions have not degraded the wetland by, for example, altering water flows, introducing invasive species or pollutants, over-harvesting, or a rapidly changing climate. This is different from natural disturbance regimes and geophysical processes such as disturbance by naturally occurring flood events, storms or volcanoes. It also supports ecological processes (e.g., plant growth, carbon uptake, nutrient cycling) that occur with the frequency and intensity that are expected. This Right recognizes that wetlands are dynamic systems that vary over time and space; the species that occur in a wetland may shift as they adapt to naturally changing conditions. Over longer time periods, the adaptation and evolution of species create a holistic system where biotic and abiotic components interact and continue to evolve. Natural variation would include any sustainable use of wetlands, as humans are an integral part of wetlands.

Ultimately, if a wetland is functioning as an integrated system with a high degree of ecological integrity it will support biodiversity and function at levels typical of its type and region. Integrity implies that wetlands are self-organising and connect wetland species and processes to the global system of water, nutrient, and carbon cycling (i.e., Web of Life). Examples include regulating the flow of water in rivers, regulating water quality, or the cycling and storing of carbon. A wetland with high integrity has the biological diversity and the frequency and intensity of ecological processes that are characteristic of similar wetlands in that region.



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## 7. WETLANDS HAVE AN INTRINSIC RIGHT TO BE FREE FROM POLLUTION AND DEGRADATION.

### **What does this Right mean and why is it important?**

Human activities often result in pollution of wetlands, which compromises their form, integrity, biodiversity, and capacity to function, including compromising or ending their Right to exist. While the Right to exist asserts a wetland's fundamental Right to existence, the Right to be free from pollutants and degradation guarantees that wetlands retain their natural form, integrity, and biodiversity, including chemical, physical, and biological composition. Altering wetlands' chemical, physical, and biological composition is often done to meet outcomes relevant for humans (such as production of more food or disposal of waste), with a disregard for the natural form of wetlands. Because of the substantial harm that can result from pollution and degradation, this Right is essential in ensuring wetlands' Right to exist. Because wetlands have the Right to be free from the introduction of pollutants and other forms of degradation, the corresponding duty on humans is to refrain from activities that "create [negative] biophysical change in wetlands" (Ramsar Convention on Wetlands, 2018).

Some human-made wetlands are purpose-designed to receive pollutants and as a result tend not to experience negative biophysical change when pollutants are added, unless the design loading is exceeded or the system becomes saturated with pollutants. If not designed well, they may pollute downstream wetlands when their stored pollutants are released due to events such as floods, cyclones, hurricanes, severe storms, etc.

Pollution includes "the addition of nutrients, chemicals and solid waste, atmospheric deposition" (Ramsar Convention on Wetlands, 2018) as well as light, and noise pollution, which are introduced to a wetland as a result of human activities and at a level greater than would be expected to occur naturally.





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## 8. WETLANDS HAVE AN INTRINSIC RIGHT TO REGENERATION AND RESTORATION.

### **What does this Right mean and why is it important?**

The Right to regeneration affirms the wetland's ability to sustain itself, self-heal, and evolve through time and in response to external natural disturbances and change. The Right to restoration is the Right to recovery and to being resilient to human-induced stresses.

Wetland restoration is the process of assisting the recovery of a native wetland that has been degraded, damaged, or destroyed. Wetland restoration reinstates native wetland structure, function, processes, and health so that the wetland can maintain healthy functions and processes and the capacity to self-organise and regenerate over time. While restoration results in both social and ecological outcomes, it is negotiated socially. Restoration may set up the conditions for, or support, better regeneration. Plans for restoring a wetland must take climate change and biodiversity loss into account.

It has been the practice to consider human needs such as agriculture and development as the first priority of wetland management, without a reciprocal and fuller consideration of the needs of wetlands and other ecosystems. This has led to degradation and loss of wetlands, biodiversity, and climate such that the future of life as we know it on Earth is threatened. The Right to regeneration and restoration relates to the Right to be free from pollution and degradation because restoration and regeneration become more difficult if pollution and degradation continue apace. The Right to regeneration and restoration is essential for wetlands' Right to exist and persist, particularly given the current alarming extent of human impacts to wetlands.



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# TRANSFORMING OUR RELATIONSHIPS WITH WETLANDS - SECURING THE RIGHTS OF WETLANDS IN PRACTICE

The proposed *Universal Declaration of the Rights of Wetlands* includes the Right to exist and seven other Rights that enable wetlands to exist over time. Implementation of all of the Rights can occur in a variety of sectors, including education, culture, law, and wetland management, and at every level of society and governance, from local to international.

Implementation of the Rights of Wetlands and the associated recognition of their living beingness and role in the Web of Life can support long-held values and world views of IPLC. The example of the *Te Awa Tupua Act* in Aotearoa / New Zealand is a successful model for how recognition of Rights of Wetlands / Nature and Rights of IPLC can be mutually supportive and can bring about the kind of legal and cultural paradigm shifts that are needed to address ongoing global wetlands, biodiversity, and climate change emergencies.

Integrating the “**Precautionary Principle**” into Rights of Wetlands legal implementation can be a particularly successful strategy. The Precautionary Principle institutes legal practices that evaluate human activities **prior** to initiation of the activity through the lens of prevention or precaution in order to eliminate, or reduce to a point of non-significance, human-caused negative impacts that compromise the health and well-being of wetlands.

Due to its success, the integrity of legalizing Rights of Nature is at a crossroads. For Rights of Nature to truly succeed, efforts to institutionalize Nature of Rights, including the Rights of Wetlands, must include a cultural paradigm shift that challenges and changes, legal systems, as well as social, and moral behavior. Successful legalization of Rights of Nature transforms, rather than assimilates into, the existing extractive and exploitative nature of modern GDP-driven economic systems. Institutionalizing the legally enforceable Rights of Wetlands requires all of us to acknowledge our obligation to maintain inviolate certain basic rights inherent within and for the exclusive benefit of natural systems like wetlands, unmediated by human convenience or preference.

Below is a discussion about how to secure the eight Rights of wetlands in practice, with ideas organised by sector.

## Educational

Defence of wetland Rights can be promoted by sharing the *Universal Declaration of the Rights of Wetlands* as widely as possible, including with the Ramsar Convention on Wetlands Contracting Parties, the Convention on Biological Diversity Contracting Parties, the International Union for the Conservation of Nature, and more broadly, communities, governments, and organisations concerned with wetlands, climate change, and biodiversity.

Those interested in fostering the Rights of Wetlands can strengthen their support of IPLC who have been living sustainably with wetlands over long periods of time and whose worldview and paradigm for relating to Nature encompass an understanding of the living beingness and Rights of Wetlands and Nature and reciprocity with Nature.

## Cultural

Defence of wetland Rights can be promoted through culture. Some cultures, such as many IPLC' cultures, already recognize the Rights and living beingness of wetlands. In other cultures, a cultural and ethical shift can be promoted in support of wetland Rights. This cultural shift is occurring in many places through the global Rights of Nature movement.

A Rights of Wetlands approach should be based on multiple ways of knowing Nature, including wetlands, which will lead to a more diverse understanding of how Nature functions, such as including traditional relationships between wetlands and IPLC that support socio-ecosystem health and well-being.

## Legal

The Rights of Wetlands can be recognised, enshrined and defended in law, regulation and policy. Wetland protection laws and regulations can be developed that go beyond protection of the typical list of ecosystem services that identify the benefits to humans provided by wetlands, and as noted above, could be based on the **Precautionary Principle**.

For example, a wetland protection law could list the inherent Rights of Wetlands that are protected, including the Right to exist and all the other provisions that are necessary in order to safeguard the Right to exist.

Regulations that support such a law could place the **burden of proof** on the entity wishing to impact a wetland to demonstrate that the work or impact proposed

contributes to the continued existence of the wetland and its healthy structure, function, and native biodiversity according to the supporting Rights. Such regulations could require **alternatives analyses** and conformity with **rigorous performance standards**, such as “no net environmental harm” or requiring a positive “net environmental benefit” relative to pre-activity conditions.

Legal provisions protecting a wetland’s Right to exist can include the **guardianship model**, where guardians are chosen / appointed to act on behalf of the wetland to secure the wetland’s Rights, and always in the wetland’s best interest, similar to how guardians are chosen / appointed for minors who have rights, but do not have the capacity to represent themselves in a legal setting. The concept of a **“floor” approach** to law and regulation could be implemented at the national, regional, or state levels of regulation. This approach allows lower-tier governance entities to create more protective environmental law and regulation, but prohibits the creation of less protective law and regulation, relative to the higher-tier governance entity. The higher-tier governance entity (such as at the national level) creates laws and regulations that act as a regulatory floor, above which more stringent laws and regulations can be enacted at lower-tier governance levels (such as at the state / regional or local level).

Rights of Wetlands can be promoted at the international level through multilateral agreements such as the Ramsar Convention on Wetlands or the Convention on Biological Diversity. Contracting Parties are encouraged to approve a **Draft Resolution in support of Rights of Wetlands**.

Rights of Wetlands can provide **an approach to conflict resolution** in situations where land ownership, legal status, and/or governance is contested. A Rights of Nature approach is currently being implemented in a variety of settings as a vehicle for resolving land/territory ownership and conflicts among governments, Indigenous Peoples, and various interest groups. An example is the 2017 *Te Awa Tupua Act* passed by the New Zealand government (see page 28 for more information). In this case Nature owns itself and is legally represented by guardians who act on behalf of the Whanganui River and its watershed. The guardians include representatives from both Indigenous Peoples and the government.

Rights of Wetlands can be, and have been, integrated into contract law and within organisational and corporate structures. For example, some corporations have added Nature to their Board of Directors and have inserted specific Rights of Wetlands clauses into their contracts with suppliers and clients.

Ensuring that Rights of Wetlands laws and regulations are **enforced** is key. Effective enforcement can be tied to supporting the Rights of IPLC, supporting good governance and democracy, and ensuring that corruption is not tolerated.

### **Management Practice**

Management practices centred around wetlands' Right to exist, and the Rights that are essential in supporting that Right to exist, would integrate best available science and IPLC' traditional knowledge and cultural practices into the process of choosing management strategies and techniques for a particular wetland. Management strategies and techniques that reflect an understanding of the holistic health, well-being, and biodiversity of the wetland community (including humans) would be implemented, rather than management strategies and techniques that have a narrow focus and are associated with short-term, negative impacts on the wetland community, or downstream ecosystems. An example of a narrowly-focused management approach would be the spraying of waterways and water bodies with toxic insecticides in an effort to control mosquitoes that then leads to contamination of drinking water and negative health effects on the biodiversity (including humans and croplands) living in and around the treated waters.

Ensuring wetland Rights is more likely when wetlands are understood as socio-ecological systems, and when local communities are engaged early in the process of planning and implementing wetland management strategies, as long-term success and sustainability are most likely when local communities are engaged and steward the wetland over time.

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## **Land and Nature Acknowledgment**

We would like to acknowledge that many of the wetlands from the regions where we have prepared this document are traditional territories of Indigenous Peoples who have inhabited these socio-ecological systems for millennia in harmony with Mother Earth and often with a recognition of the living beingness and Rights of Nature including wetlands. We recognise that many IPLC have had their relationship with their lands, both wet and dry, violently disrupted by other people, and that the resulting suffering reverberates through generations to the present time. Relationships between wetlands and other elements of biodiversity are fundamental to our health and well-being, to our identities, and to planetary survival.



## GLOSSARY

### **BIODIVERSITY / BIOLOGICAL DIVERSITY:**

The Convention on Biological Diversity defines biodiversity as follows:

Biological diversity means the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.

### **ECOSYSTEM INTEGRITY:**

The Convention on Biological Diversity's Global Biodiversity Framework (2022) defines ecosystem integrity as follows:

An ecosystem is generally understood to have integrity when its dominant ecological characteristics (e.g. elements of composition, structure, function, and ecological processes) occur within their natural ranges of variation and can withstand and recover from most perturbations.

### **ECOLOGICAL RESTORATION:**

The Society for Ecological Restoration defines ecological restoration as follows:

The process of assisting the recovery of an ecosystem that has been degraded, damaged, or destroyed.

### **NATIVE ECOSYSTEMS:**

The Society for Ecological Restoration defines native ecosystems as follows:

An ecosystem comprising organisms that are known to have evolved locally or have recently migrated from neighbouring localities due to changing environmental conditions. In certain circumstances, traditional cultural ecosystems or semi-natural ecosystems are considered to be native ecosystems. Presence of nonnative species or the expansion of ruderal species in native ecosystems are forms of degradation. Adapted from Gann et al., 2019.

### **POLLUTION:**

The Convention on Biological Diversity's Global Biodiversity Framework defines pollution as follows:

The indirect or direct alteration of the biological, thermal, physical or radioactive properties of any medium in such a way as to create a hazard or potential hazard to human health or to the health, safety or welfare of any living species. Other definitions include chemical, sound, and light pollution.

## REFERENCES

Davies GT, Finlayson CM, Pritchard DE, Davidson NC, Gardner RC, Moomaw WR, Okuno E, and Whitacre JC. 2020. Towards a Universal Declaration of the Rights of Wetlands. *Marine and Freshwater Research* 72(5) 593-600. <https://doi.org/10.1071/MF20219>

Gann GD, McDonald T, Walder B, Aronson J, Nelson CR, Jonson J, Hallet JG, Eisenberg C, Guariguata MR, Liu J, Hua F, Echeverria C, Gonzales E, Shaw N, Decler K, and Dixon KW. 2019. International principles and standards for the practice of ecological restoration. Second edition. *Restoration Ecology* 27(No. S1) S1-S46.

Convention on Biological Diversity. 2022. Global Biodiversity Framework. <https://www.cbd.int/article/draft-1-global-biodiversity-framework> Accessed 29-09-2022.

Convention on Biological Diversity. 2020. Global Biodiversity Outlook 5. Montreal, Canada: Secretariat of the Convention on Biological Diversity.

Ramsar Convention on Wetlands. 2018. Global Wetland Outlook: State of the World's Wetlands and their Services to People. Gland, Switzerland: Ramsar Convention Secretariat.

McRae L, Deinet S, Marconi V, Scott-Gatty K, and Freeman R. 2020. The Freshwater Living Planet Index. In: *Living Planet Report 2020: A Deep Dive into Freshwater*. WWF.

Pereira LM, Davies KK, den Belder, E, et al. 2020. Developing multiscale and integrative nature–people scenarios using the Nature Futures Framework. *People Nat.* 2: 1172– 1195. <https://doi.org/10.1002/pan3.10146>



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# APPENDIX I: THE UNIVERSAL DECLARATION OF THE RIGHTS OF WETLANDS

*Acknowledging* that wetlands are essential to the healthy functioning of Earth processes and provision of essential ecosystem services, including climate regulation at all scales, water supply and water purification, flood storage, drought mitigation and storm damage prevention;

*Acknowledging* that wetlands have significance for the spiritual or sacred inspirations and belief systems of many people worldwide, but particularly for Indigenous peoples and local communities living in close relationship to wetlands, and that wetlands provide opportunities to learn from and about Nature, which supports scientific understanding and innovation, cultural expression and artistic creativity;

*Further acknowledging* that humans and the natural world with all of its biodiversity depend upon the healthy functioning of wetlands and the benefits that they provide, and that wetlands play a significant role in global climate regulation;

*Alarmed* that existing wetland conservation and management approaches have failed to stem the loss and degradation of wetlands of all types around the globe;

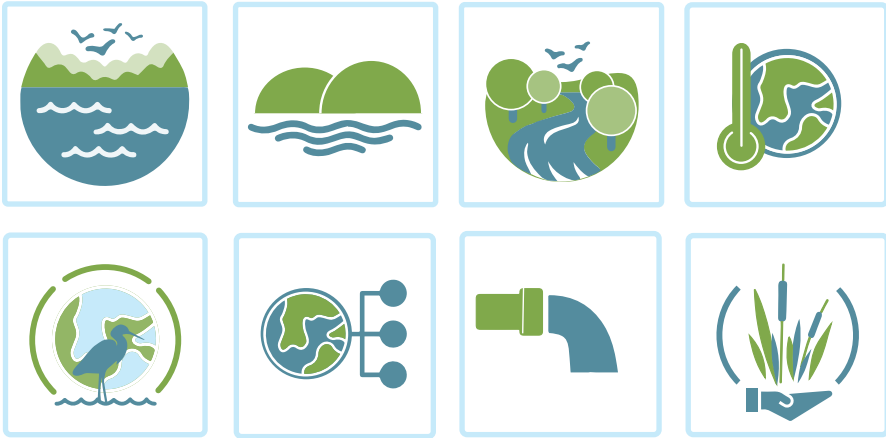
*Further alarmed* that global climate destabilization and biodiversity losses are accelerating and that efforts to reverse these trends are failing;

*Acknowledging* that peoples around the world of many cultures and faiths have recognized for millennia that Nature, or elements of Nature, are sentient living beings with inherent value and rights independent of their value to humans, and that Indigenous peoples, local communities and non-governmental organizations have been contributing to a global movement to recognize the rights of Nature;

*Aware* that continued degradation and loss of wetlands threatens the very fabric of the planetary Web of Life upon which depend the livelihoods, wellbeing, community life and spirituality of many people, particularly Indigenous peoples and local communities who live in close relationship with wetlands;

*Guided by* recent legal recognition of the inherent rights of Nature, including recognition of the entire Colombian Amazon as an “entity subject to rights” by the Colombian Supreme Court; recognition of the rights and legal and living personhood of the Whanganui River through the Te Awa Tupua Act (Whanganui River Claims Settlement Act) agreed upon by the Māori iwi and the New Zealand Parliament; and Ecuador’s first-in-the-world recognition of the rights of Nature in their Constitution;

*Convinced* that recognizing the enduring rights and the legal and living personhood of all wetlands around the world will enable a paradigm shift in the human – Nature relationship towards greater understanding, reciprocity and respect leading to a more



sustainable, harmonious and healthy global environment that supports the well-being of both human and non-human Nature;

*Further convinced* that recognizing the rights and legal and living personhood of all wetlands and the paradigm shift that this represents will lead to increased capacity to manage wetlands in a manner that contributes to reversing the destabilization of the global climate and biodiversity loss;

**WE DECLARE** that all wetlands are entities entitled to inherent and enduring rights, which derive from their existence as members of the Earth community and should possess legal standing in courts of law. These inherent rights include the following:

1. The right to exist.
2. The right to their ecologically determined location in the landscape.
3. The right to natural, connected, and sustainable hydrological regimes.
4. The right to ecologically sustainable climatic conditions.
5. The right to have naturally occurring biodiversity, free of introduced or invasive species that disrupt their ecological integrity.
6. The right to integrity of structure, function, evolutionary processes and the ability to fulfil natural ecological roles in the Earth's processes.
7. The right to be free from pollution and degradation.
8. The right to regeneration and restoration.

Source: <https://www.publish.csiro.au/mf/MF20219>

# APPENDIX II: EXAMPLES OF RIGHTS OF WETLANDS AND RIGHTS OF NATURE

## **2008 – Constitution of the Republic of Ecuador**

Ecuadorian Constitution recognizes the Rights of Nature. First Constitution in the world to recognize Rights of Nature. <http://pdba.georgetown.edu/Constitutions/Ecuador/english08.html> (29 March 2020)

### **“Preamble**

We women and men, the sovereign people of Ecuador

RECOGNIZING our age-old roots, wrought by women and men from various peoples, CELEBRATING nature, the Pacha Mama (Mother Earth), of which we are a part and which is vital to our existence,...

CALLING UPON the wisdom of all the cultures that enrich us as a society,

AS HEIRS to social liberation struggles against all forms of domination and colonialism AND with a profound commitment to the present and to the future,

Hereby decide to build

A new form of public coexistence, in diversity and in harmony with nature, to achieve the good way of living, the *sumak kawsay*;

### **Title I, Chapter Seven**

#### **Rights of nature**

Article 71. Nature, or Pacha Mama, where life is reproduced and occurs, has the right to integral respect for its existence and for the maintenance and regeneration of its life cycles, structure, functions and evolutionary processes.

Article 72. Nature has the right to be restored. This restoration shall be apart from the obligation of the State and natural persons or legal entities to compensate individuals and communities that depend on affected natural systems.”

## **2010 – The Plurinational State of Bolivia Law of the Rights of Mother Earth:**

[http://f.cl.ly/items/212y0r1ROW2k2F1M021G/Mother\\_Earth\\_Law.pdf](http://f.cl.ly/items/212y0r1ROW2k2F1M021G/Mother_Earth_Law.pdf) (29 March 2020)

## **2011 – Vilcabamba River, Ecuador Court Case:**

<https://therightsofnature.org/first-ron-case-ecuador/> (29 March 2020)

Ecuadorian Constitutional Rights of Nature are upheld.

## **2012 – Ecuadorian Kichwa Native People of Sarayaku win “Case of the Kichwa Native People of Sarayaku vs Ecuador”, Inter-American Court of Human Rights:**

<http://sarayaku.org/caso-sarayaku/> (29 March 2020)

The Inter-American Court of Human Rights decides in favor of the Kichwa Native People of Sarayaku. The case protects the rights of the Kichwa Native People of Sarayaku and the rights of the Kawsak Sacha/Living Forest, thus preventing oil industry exploitation that had been permitted by the Ecuadorian government. The Kichwa Native People declare their territory as Kawsak Sacha/Living Forest, free from exploitation.

**2016 – Ho-Chunk Nation, Wisconsin, USA**

Ho Chunk Nation, is the first USA tribe to adopt Rights of Nature in tribal constitution:  
<https://celdf.org/2016/09/press-release-ho-chunk-nation-general-council-approves-rights-nature-constitutional-amendment/> (29 March 2020)

**2017 – New Zealand Parliament passes Te Awa Tupua Act** (*Whanganui River Claims Settlement Bill*)

<http://www.legislation.govt.nz/act/public/2017/0007/latest/whole.html> (29 March 2020)  
The law grants first-in-the-world legal personhood to the Whanganui River, including its wetlands, and legally recognizes the special relationship of the Maori iwi (tribes) to the Whanganui River.

“Te Awa Tupua is an indivisible and living whole, comprising the Whanganui River from the mountains to the sea, incorporating all its physical and metaphysical elements.” – Te Awa Tupua Act, Subpart 2, Section 12

“Te Awa Tupua is a legal person and has all the rights, powers, duties, and liabilities of a legal person.” – Te Awa Tupua Act, Subpart 2, Section 14

“*Ko au te Awa, ko te Awa ko au*: I am the River and the River is me:  
The iwi and hapū of the Whanganui River have an inalienable connection with, and responsibility to, Te Awa Tupua and its health and well-being.” – Te Awa Tupua Act, Subpart 2, Section 12

“...we consider the river an ancestor, and always have.” – Gerrard Albert, Whanganui iwi lead negotiator (Albert 2017)

“We have fought to find an approximation in law so that all others can understand that from our perspective treating the river as a living entity is the correct way to approach it, as in indivisible whole, instead of the traditional model for the last 100 years of treating it from a perspective of ownership and management.” (Albert 2017)

**2017 - Atrato River, Colombia Constitutional Court**

<https://www.iucn.org/news/world-commission-environmental-law/201804/colombian-supreme-court-recognizes-rights-amazon-river-ecosystem> (29 March 2020)  
The Atrato River basin is found to possess rights to “protection, conservation, maintenance and restoration” by the Colombian Constitutional Court.

### **2018 – White Earth band of Ojibwe, Minnesota, USA**

<https://www.yesmagazine.org/environment/2019/02/01/the-white-earth-band-of-ojibwe-legally-recognized-the-rights-of-wild-rice-heres-why/> (29 March 2020)

The White Earth band of Ojibwe passes law recognizing rights of Manoomin (“wild rice”), thus protecting wild rice and freshwater resources for future generations, and is the first law recognizing rights of a plant species. The law states:

*“Manoomin, or wild rice, within all the Chippewa ceded territories, possesses inherent rights to exist, flourish, regenerate, and evolve, as well as inherent rights to restoration, recovery, and preservation. [Manoomin possesses] The right to clean water and freshwater habitat, the right to a natural environment free from industrial pollution, the right to a healthy, stable climate free from human-caused climate change impacts, the right to be free from patenting, the right to be free from contamination by genetically engineered organisms.”*

*“We understand that water is life for all living creatures and protecting abundant, clean, fresh water is essential for our ecosystems and wildlife habitats to sustain all of us and the manoomin.”* - Frank Bibeau, Executive Director of the 1855 Treaty Authority

### **2018 – Entire Colombian Amazon, Colombian Supreme Court**

<https://www.iucn.org/news/world-commission-environmental-law/201804/colombian-supreme-court-recognizes-rights-amazon-river-ecosystem> (29 March 2020)

The Colombian Amazon basin is recognized by the Colombian Supreme Court as an “entity subject of rights” in a lawsuit brought by young people responding to Amazonian deforestation and climate change. (Wilson G and Lee DM 2019)

### **2022 – Mar Menor Lagoon, Spanish Legislature**

[https://www.theguardian.com/world/2022/sep/21/endangered-mar-menor-lagoon-in-spain-granted-legal-status-as-a-person?CMP=Share\\_iOSApp\\_Other](https://www.theguardian.com/world/2022/sep/21/endangered-mar-menor-lagoon-in-spain-granted-legal-status-as-a-person?CMP=Share_iOSApp_Other)

Law passed that codifies Mar Menor Lagoon’s right “to exist as an ecosystem and to evolve naturally”. The lagoon’s right to protection, conservation, and restoration are enshrined in law. The law applies to 1,600 sq. km. (620 sq. mi.) of lagoon as well as associated Mediterranean coastline. Local citizens, officials and scientists will act as caretakers and legal representatives for the lagoon.

### **References**

Albert, G. 2017. In Roy EA. 2017. New Zealand river granted same legal rights as human being. The Guardian.

Wilson G and Lee DM. 2019. Rights of rivers enter the mainstream. The Ecological Citizen 2: 183-187.

## APPENDIX III: RESPONSES TO ARGUMENTS AGAINST RIGHTS OF WETLANDS

What are some of the arguments against Rights of Wetlands being feasible, and how might they be countered?

Some will argue that property rights and rights to extract “natural resources” supersede Rights of Wetlands and of Nature.

A response to this objection can be that the worldview that objectifies Nature and sees it only as a storehouse for humans has led to the rapidly worsening global collapse of ecosystems, wetlands, climate, and biodiversity that we are living in now. Continued blind adherence to the status quo, to the supremacy of property rights, and to extractivism will continue to accelerate the collapse of the living systems upon which all future life depends, and of which we are all a part.

Another argument against Rights of Nature could be that human economic needs and the need to provide housing, food, and poverty alleviation should take precedence over Rights of Wetlands/Nature.

A response to this is two-fold. First, humans are a part of the Web of Life too, and sustainable solutions can and should be implemented that address poverty alleviation, environmental justice, housing and food issues. In addition, if we continue on our current trajectory, food harvests and freshwater supplies will continue to dwindle (this is already happening as drought and water shortages increase) at an accelerating pace, and forests, fisheries, and other elements of the Web of Life upon which humans depend for housing and food will continue to be negatively impacted by climate change, unsustainable agricultural, water and land use, fisheries and energy practices, and biodiversity loss. The unfolding result of the current patterns of human consumption-of-Nature is that the fulfilment of human economic needs including housing, food, and clean water is deteriorating along with the deteriorating ecosystems that provide (directly or indirectly) everything to humans.



Organizational endorsements of the Universal Declaration of the Rights of Wetlands



Coalition For Wetlands & Forests



CURATING TOMORROW



GARN EUROPE



Rights of Nature Sweden



WATER CULTURE.ORG



Uniting in the Rights of Nature & Community

