

Please note this is to be adapted to suit individual rivers

# UNIVERSAL DECLARATION OF THE RIGHTS OF RIVERS

## PREAMBLE

*Acknowledging* that rivers are essential to all life by supporting a wondrous diversity of species and ecosystems, feeding wetlands and other aquatic habitats with abundant water, delivering life-giving nutrients to coastal estuaries and the oceans, carrying sediments to river deltas teeming with life, and performing other essential ecological functions,

*Aware* that rivers also 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,

*Recognizing* the absolute dependence of people on rivers and water-based systems, which support human life by providing us with clean and bountiful water for drinking and sanitation, fertile soil, food sources for billions of people, recreation, cultural uses, and nourishment of the human spirit, as they have done since the beginning of human civilization,

*Alarmed* that humans have caused the significant pollution of rivers worldwide, including with organic matter from wastewater and sewage, plastic waste, 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,

*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,

*Further concerned* that humans have caused widescale physical changes to rivers through dams and other infrastructure, which includes the construction of over 57,000 large dams worldwide that impact over two-thirds of all rivers, resulting in fragmented habitats, reduced biodiversity, imperiled fish populations, exacerbated climate change, and retained sediment and nutrients that are fundamental to downstream ecosystem health,

*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 of humans and other species as well as ecosystems with adequate supplies of clean water to meet their basic needs,

*Aware* that all people, including indigenous communities and other local communities of all spiritual faiths, 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,

*Cognizant* that the degradation and exploitation of rivers is not only an environmental issue, but also a rights concern for indigenous peoples and other local communities, as the destruction of rivers threatens the very existence and way of life of those who rely upon river systems for their well-being,

*Guided* by the growing number of governments worldwide that seek to reverse the ongoing trend of global environmental degradation by recognizing and enforcing nature's inherent rights, including through a constitutional amendment in Ecuador,<sup>1</sup> two national laws in the Plurinational State of Bolivia,<sup>2,3</sup> a new constitution of Mexico City,<sup>4</sup> and dozens of rights of nature ordinances in the United States<sup>5</sup>,

*Further guided* by the growing legal recognition of the inherent rights of rivers, including through a New Zealand treaty recognizing the Whanganui River (or "Te Awa Tupua") as "an indivisible and living whole" and "a legal person," with appointed guardians to represent the River's interests;<sup>6</sup> a Uttarakhand High Court decision declaring the Ganga (or "Ganges") and Yamuna Rivers as "having the status of a legal person ... in order to preserve and conserve them";<sup>7</sup> a Colombia Constitutional Court decision ruling that the Atrato River basin possesses rights to "protection, conservation, maintenance, and restoration" and a right to be free from pollution and destruction;<sup>8</sup> and an Ecuadorian Provincial Court ruling enforcing the constitutional rights of the Vilcabamba River and calling for its remediation and rehabilitation,<sup>9</sup>

*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 both

*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) *Establishes* that all rivers shall possess, at minimum, the following fundamental rights:

(This section is what we read out at the reading following a preamble)

**(1) The right to flow,<sup>10</sup>**

**(2) The right perform essential functions within its ecosystem,<sup>11</sup>**

**(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 regeneration and restoration;**

4) *Further establishes* that these rights are intended not only to ensure the health of rivers, but also the health of watersheds and river basins of which rivers are a part, as well as the health of all ecosystems and natural beings therein, all of which possess, at minimum, the fundamental rights to exist, thrive, and evolve;

5) *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 and who may represent the river in any legal proceeding or before any governmental body empowered to affect it, with at least one legal guardian being an indigenous representative for those rivers upon which indigenous communities traditionally depend;

6) *Determines* that rivers shall have their best interests, as determined by their legal guardians, assessed and taken into account by both government and private entities in all actions or decisions that concern such rivers;

7) *Resolves* that all states shall implement these rights in full within a reasonable amount of time, including by developing and acting upon an integrated assessment of watershed health according to the most recent scientific understandings and in partnership with all stakeholders,

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 a compelling social and ecological purpose that cannot be met by other reasonable means, and that in such case dam construction shall only occur upon securing the full free, prior, and informed consent of indigenous and other impacted communities, including marginalized communities, and by using the best available technologies by which to preserve ecosystem health.

<sup>1</sup>Republic of Ecuador, Constitution of 2008, Arts. 10, 71, 72, 73, and 74.

<sup>2</sup>Bolivia, Law of the Rights of Mother Earth, Law 071 (2010).

<sup>3</sup>Bolivia, Framework Law of Mother Earth and Integral Development for Living Well, Law 300 (2012).

<sup>4</sup>Constitución Política de la Ciudad de México (2017; scheduled to enter into force on 17 September 2018).

<sup>5</sup>For a partial list, see United Nations Harmony with Nature Initiative, "Rights of Nature Law and Policy," at: [www.harmonywithnatureun.org/rightsOfNature](http://www.harmonywithnatureun.org/rightsOfNature).

<sup>6</sup>Te Awa Tupua (Whanganui River Claims Settlement) Bill (2017).

<sup>7</sup>Mohd. Salim v. State of Uttarakhand & Others, High Court of Uttarakhand at Nainital, Write Petition (PIL) No. 126 of 2014 (Mar. 20, 2017) (stayed by the Supreme Court of India).

<sup>8</sup>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 Interétnico 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).

<sup>9</sup> Provincial Court of Justice of Loja, Sentence No. 11121-2011-0010 (March 30, 2011).

<sup>10</sup> Flows must, at minimum, follow natural flow patterns and be sufficient in quantity to maintain the ecosystem health of the entire river system. In addition, rivers – not people – own the water that flows within them.

<sup>11</sup> These include flooding, moving and depositing sediment, recharging groundwater, providing adequate habitat for native flora and fauna, and other essential functions.

Written by Earth Law Centre, USA.