

SENATE

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S.B. No. 1097

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INTRODUCED BY SENATOR RISA HONTIVEROS

**AN ACT RECOGNIZING THE RIGHTS OF NATURAL ECOSYSTEMS, POPULATIONS, AND
PROCESSES AND PROVIDING MECHANISMS FOR THE PROTECTION AND
ENFORCEMENT THEREOF**

EXPLANATORY NOTE

The Earth's average temperature has risen about 0.9 degrees Celsius since the late 19th century, largely driven by increased levels of carbon dioxide in the atmosphere. While climate change has occurred throughout, and even prior to, recorded history, this was mostly due to variations in the amount of solar energy received by the planet. However, with respect to recent global warming trends, the scientific consensus is that it has been caused by human activity.

This global warming has caused sea levels to rise 8 inches in the last century, the Greenland and Antarctic ice sheets to decrease in mass, the retreat of glaciers around the world, an increase in the number of record-high temperatures, and the acidification of surface ocean waters.

Humans have also converted around half of the world's habitable land to agriculture. This massive conversion of forests, wetlands, grasslands, and other terrestrial ecosystems has produced an alarming decline in the planet's biodiversity. In 2019, a report by the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services noted that up to one million plant and animal species are facing extinction due to human activity.

Habitat loss is also being accelerated by my massive fires – largely set by humans - that have engulfed forests from the Amazon to central Africa. According to Global Forest Watch, the tropics overall lost some 8.9 million acres of primary rain forest last year, an area equal to the size of Belgium.

The Institute for Economics and Peace has also reported that 971 million people live in areas with high or very high exposure to hazards such as cyclones, floods, bushfires, and rising sea levels. A substantial number of those at-risk individuals are from the Asia-Pacific region. Thus, it is not surprising that the top nine countries facing the highest risk from climate change are all Asian.

Among these countries, the Philippines is at the greatest risk of experiencing multiple climate hazards out of any other country on Earth. Moreover, these hazards affect not only the environment but also the peace and order situation within a country. Not only are conflict-prone countries more vulnerable to natural disasters, those disasters themselves can also trigger further internal unrest.

Today, environmental laws regulate the use and exploitation of nature by humans. They legalize fracking, drilling, and open-pit mining. The consequences have proven catastrophic. Perhaps a new way of looking at the relationship between humanity and the natural world

offers a way to avert disaster.

In 1972, law professor Christopher Stone published a seminal article "Should Trees Have Standing?" that explored the possibility of recognizing natural ecosystems and processes as legal entities. He described how women and slaves had long been treated as rightless in law and suggested that, just as they had eventually attained rights, so should trees and other nonhuman living things.

Existing legal systems force us to think of nature anthropocentrically: in terms of human concerns rather than what concerns nature. In the midst of a climate and biodiversity crisis, there is a growing consensus that it is time secure the highest form of legal protection for nature by recognizing that natural ecosystems and processes possess certain inherent and inalienable rights. Worldwide, legislation and jurisprudence have begun to accumulate in this new area of law.

In 2006, the first law recognizing the legal rights of nature was enacted in the borough of Tamaqua, Pennsylvania. The community sought to prevent dredging sludge laden with PCBs (polychlorinated biphenyl) being dumped in an abandoned coalmine. Communities across more than 10 US states have now followed suit, including New Hampshire, Colorado and Pittsburgh.

In 2008, Ecuador enshrined the rights of nature – or *Pachamama* or Mother Earth – in its constitution, the first country to do so. Since then, Bolivia has enacted a law defining the earth as "a collective subject of public interest," and declaring both the planet and the life-systems inhabiting it as titleholders of inherent rights specified in the law.

Nepalese environmental advocates are developing a constitutional amendment that would, if adopted, recognize the right of the Himalayas to be free from pollution. In Mexico, Pakistan, Australia and other countries, frameworks for extending legal rights to natural systems are being proposed and legislated.

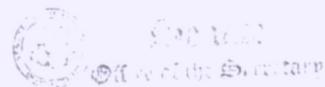
Courts have also ruled that ecosystems are capable of possessing rights under law.

Colombia's Supreme Court was recently asked to consider the impact of deforestation in a lawsuit that led to a groundbreaking ruling declaring the Amazon an entity "subject to rights," and entitled to conservation, maintenance, and restoration. In 2017, the state high court in Uttarakhand, India, ruled that in order to protect the Ganges and Yamuna rivers, they should be considered legal persons with all corresponding rights, duties and liabilities.

As the planet teeters on the edge of an irreversible catastrophe, it is time to make a fundamental shift in humanity's relationship with nature before it is too late. Environmental survival is human survival

Thus, the proposed bill seeks to recognize natural ecosystems, populations, and processes as legal entities *sui generis* entitled to certain inherent and inalienable rights, such as those related to their existence, regeneration and restoration. Furthermore, as nature cannot do so directly, the bill also vests environmental advocates with the standing necessary to petition our courts on its behalf. However, in all such proceedings, nature shall be considered the real party-in-interest and all damages and monetary claims awarded by the court shall be held in trust by a conservation committee and used for its restoration and renewal. Hence, the immediate passage of this measure is earnestly sought.


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**AN ACT RECOGNIZING THE RIGHTS OF NATURAL ECOSYSTEMS,
POPULATIONS, AND PROCESSES AND PROVIDING MECHANISMS FOR THE
PROTECTION AND ENFORCEMENT THEREOF**

***Be it enacted by the Senate and the House of Representatives of the
Philippines in Congress assembled:***

1 **Section 1. Short Title.** - This Act shall be known as the "Rights of Nature Act of
2 2019."

3 **Section 2. Declaration of Policy.** - It is hereby declared the policy of the State to
4 recognize natural ecosystems and processes, or distinct and identifiable portions
5 thereof, including populations of plant and animal species, as legal entities *sui generis*
6 possessing certain fundamental and inalienable rights. The State shall provide simple,
7 effective and expeditious mechanisms for the protection and enforcement of these
8 rights.

9 **Section 3. The Fundamental Rights of Nature.** - Natural ecosystems, populations,
10 and processes shall have the right to exist; to the maintenance of the vital cycles,
11 functions and processes that ensure their continued sustainability and well-being; to the
12 conditions necessary for their renewal and restoration; and to adequate and effective
13 representation *vis-à-vis* the protection and enforcement of these rights. These rights
14 shall be in addition to, and shall not impair or limit, any other right or remedy available
15 under existing law, administrative regulation or jurisprudence. A violation of any existing
16 environmental law or regulation shall be deemed a *prima facie* violation of these rights.

17 The State likewise recognizes that there are limits on the ability of natural
18 ecosystems, populations, and processes to regenerate as well as on the ability of
19 humanity to undo and reverse any damage it has caused. Where there are threats of
20 serious or irreversible damage, lack of full scientific certainty shall not be used as a
21 reason for postponing cost-effective measures to prevent environmental degradation

22 Thus, all human development that alters, affects or modifies natural ecosystems,
23 populations or processes must be sustainable, ensure the maintenance of critical
24 ecosystem services, allow for renewal and restoration, and respect intra- and
25 intergenerational equity.

26 **Section 4. Construction.** - This Act shall be liberally construed for the purpose of
27 promoting, enhancing and protecting the rights of natural ecosystems, populations and
28 processes recognized herein. When human activity may lead to serious and irreversible
29 harm that is scientifically plausible but uncertain, immediate action shall be taken to

1 avoid or diminish the threat or occurrence thereof.

2 **Section 5. Obligations of the Government.** - The Government shall take all
3 necessary action to protect and enforce the rights recognized by this law including, but
4 not limited to, the following:

5 (a) Develop and implement policies and regulations for prevention, early
6 warning, protection, and precaution to prevent human activity from
7 causing the extinction of living populations, the alteration of the cycles and
8 processes that ensure life, and the destruction of livelihoods and cultural
9 systems that are intertwined with natural ecosystems, populations, and
10 processes;

11 (b) Promote balanced forms of production and patterns of consumption that,
12 while satisfying the needs of the people, safe-guard the regenerative
13 capacity and integrity of natural ecosystems, populations, and processes;

14 (c) Protect natural ecosystems, populations, and processes from the
15 exploitation of its components, the commodification of living systems or
16 the processes that support them, and the structural causes and effects of
17 global climate change;

18 (d) Ensure long-term energy sovereignty, increased efficiency and the gradual
19 incorporation of clean and renewable alternative sources into the energy
20 matrix;

21 (e) Demand international recognition of ecological debt through the financing
22 and transfer of clean technology compatible with the rights recognized in
23 this Act;

24 (f) Promote peace and the elimination of all weapons of mass destruction;
25 and

26 (g) Promote the recognition of the rights of natural ecosystems, populations,
27 and processes in multilateral, regional and bilateral international relations.

28 **Section 6. Legal Personality of Natural Ecosystems, Populations & Processes.**

29 - The legal personality of natural ecosystems, populations, and processes, including all
30 of their living and non-living elements, as well as any distinct and identifiable portions,
31 aggregations or components thereof, shall be recognized under law. In any action for
32 the protection or enforcement of the rights recognized herein, the natural ecosystem or
33 process involved shall be considered the real party-in-interest.

34 **Section 7. Representation & Standing.** - Any Philippine resident may file an action
35 to enforce the rights or obligations recognized under this Act on behalf of the natural
36 ecosystem, population, or process concerned, which shall be the real party-in-interest.
37 Upon the filing of any such action, the Court shall issue an order which shall contain a
38 brief description of the cause of action and the reliefs prayed for, requiring all interested
39 parties to manifest their interest to intervene in the case within a reasonable amount of
40 time from notice thereof.

1 **Section 8. Reliefs.** - If warranted, the court shall issue a judgment in favor of the
2 natural ecosystem, population, or process on whose behalf an action for the protection
3 and enforcement of the rights recognized herein was filed, which shall include measures
4 for its continuing protection, preservation, restoration, or renewal. Monetary damages
5 to be awarded shall be those necessary to support the continuous and complete
6 rectification or repair of the damage done to natural ecosystems, populations or
7 processes by the defendant. Attorney's fees, costs of suit and other litigation expenses
8 shall be awarded to the party or parties who instituted the action for the protection and
9 enforcement of the rights recognized herein.

10 **Section 9. Trust Fund.** - Fines, damages or any other monetary awards imposed
11 upon the defendant shall be held and administered in trust by the conservation
12 committee provided for in this Act on behalf of the natural ecosystem, population, or
13 process considered the real party-in-interest of the action, and used to implement the
14 measures for protection, preservation, restoration, or renewal ordered by the court.

15 **Section 10. Appointment of Conservation Committee.** - To administer the trust
16 fund and implement the measures necessary for protection, preservation, restoration, or
17 renewal of the natural ecosystem, population, or process on whose behalf an action
18 pursuant to this Act was filed, the court shall appoint a conservation committee from
19 the stakeholders concerned, in accordance with the implementing rules and regulations
20 of this Act. The court shall give preference to residents and indigenous cultural
21 communities from the area, local government units, and people's and other non-
22 governmental organizations or public interest groups accredited by or registered with
23 any relevant government agency. Under no circumstances shall a person or entity
24 responsible for a violation of the rights recognized herein be appointed to a
25 conservation committee.

26 **Section 11. Designation of Courts and Promulgation of Procedural Rules.** -
27 The Supreme Court shall designate the court or courts that will hear and resolve cases
28 brought under this Act and shall promulgate the rules of pleading, practice and
29 procedure to govern the proceedings brought under this Act.

30 **Section 12. Strategic Lawsuits against Public Participation.** - A Strategic Lawsuit
31 against Public Participation (SLAPP) is any action filed to harass, vex or exert undue
32 pressure against any person or legal entity that has taken legal action or made a public
33 communication of any kind in connection with the enforcement or protection of the
34 rights recognized herein or any other environmental law or regulation. The defendant in
35 a SLAPP may file a special motion to dismiss at any point of the proceedings alleging
36 that the case is a SLAPP. This special motion to dismiss shall be resolved within thirty
37 (30) days after it is heard. If the court dismisses the SLAPP, it shall award damages,
38 attorney's fees and costs of suit. The dismissal shall be with prejudice.

39 **Section 13. Education.** - Respect for and recognition of the inherent and inalienable
40 rights of natural ecosystems and processes shall be integrated into all levels of the
41 educational system.

42 **Section 14. Prohibited Acts.** - The following crimes of ecological destruction shall be
43 prohibited and punished pursuant to this Act:

44 (a) Damaging or disrupting a natural ecosystem or process, in whole or in
45 part, thus rendering it dead or incapable of renewal or restoration;

- 1 (b) Causing, or directly contributing to, the extinction of a plant or animal
2 species;
- 3 (c) Willfully promoting, encouraging or abetting the destruction or extinction
4 of a natural ecosystem, process, or species of plant or animal; and
- 5 (d) Altering, changing or modifying the natural cycle, function or structure of a
6 natural ecosystem, process, or species of plant or animal, thus interfering
7 with, impeding, or degrading its continued sustainability and well-being.

8 **Section 15. Penalties.** - The crime of ecological destruction shall be punished by
9 *reclusion perpetua* as well as a fine in the amount of not less than ten million pesos
10 (P10,000,000.00), or the cost of the actual damage caused to the natural ecosystem or
11 process concerned, whichever is higher. The costs required for the restoration, renewal
12 or rehabilitation of the natural ecosystem, process or species concerned shall likewise
13 be imposed on the offender upon conviction.

14 In case the offender is a public official or employee, the penalty of removal from
15 office, with perpetual disqualification shall likewise be imposed. In case the offender is
16 an official or employee of any Government-owned or controlled corporation (GOCC), the
17 penalty of dismissal from employment shall be imposed with perpetual disqualification
18 from serving in any GOCC or public office.

19 When any of the punishable acts herein defined are knowingly committed on
20 behalf of or for the benefit of a juridical person, by a natural person acting either
21 individually or as part of an organ of the juridical person, who has a leading position
22 within, based on: (a) a power of representation of the juridical person provided the act
23 committed falls within the scope of such authority; (b) an authority to take decisions on
24 behalf of the juridical person: *Provided*, That the act committed falls within the scope of
25 such authority; or (c) an authority to exercise control within the juridical person, the
26 juridical person shall be held liable for the fine imposed by this section. The liability
27 imposed on the juridical person shall be without prejudice to the criminal liability of the
28 natural person who has committed the offense.

29 If the offender is an alien, he shall, after service of the sentence prescribed
30 above, be deported without further administrative proceedings.

31 **Section 16. Lien upon Personal and Immovable Properties of Violators.** - Fines
32 and penalties imposed pursuant to this Act shall be liens upon personal and immovable
33 properties of the offender. Such lien shall, in case of insolvency of the respondent
34 offender, enjoy preference subsequent to laborer's wages under Article 2241 and 2242
35 of Republic Act No. 386, otherwise known as the New Civil Code of the Philippines.

36 **Section 17. Implementing Rules & Regulations.** - The Secretary of Environment
37 and Natural Resources (DENR), in coordination with the Commission on Human Rights
38 (CHR), Department of Science & Technology (DOST), Department of the Interior &
39 Local Government (DILG), Department of Education (DEPED), Commission on Higher
40 Education (CHED), and associations or organizations representing environmental
41 advocates shall issue the Implementing Rules & Regulations necessary for the effective
42 implementation of this Act within ninety (90) days from the effectivity thereof.

1 **Section 18. Appropriations.** - The amount necessary for the initial implementation of
2 the provisions of this Act shall be charged against the current year's appropriations of
3 the Department of Environment & Natural Resources. Thereafter, the funds necessary
4 for the purposes of this Act shall be included in the General Appropriations Act.

5 **Section 19. Separability Clause.**- If any provision of this Act is declared
6 unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions
7 not affected thereby shall continue to be in full force and effect.

8 **Section 20. Repealing Clause.**- All laws, decrees, executive orders, department or
9 memorandum orders and other administrative issuances or parts thereof which are
10 inconsistent with the provisions of this Act are hereby modified, superseded or repealed
11 accordingly.

12 **Section 21. Effectivity.**- This Act shall take effect fifteen (15) days after publication
13 in the Official Gazette or in at least two (2) newspapers of general circulation.

14 **APPROVED.**