

**NINETEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES**
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SENATE
S.B. No. 143

RECEIVED BY: 

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.


RISA HONTIVEROS
Senator

SENATE

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AN ACT
RECOGNIZING THE RIGHTS OF NATURAL ECOSYSTEMS, POPULATIONS, AND
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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 2022.”

3 Sec. 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 thereof,
5 including populations of plant and animal species, as legal entities *sui generis* possessing
6 certain fundamental and inalienable rights. The State shall provide simple, effective and
7 expeditious mechanisms for the protection and enforcement of these rights.

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

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

21 Thus, all human development that alters, affects or modifies natural ecosystems,
22 populations or processes must be sustainable, ensure the maintenance of critical

1 ecosystem services, allow for renewal and restoration, and respect intra- and
2 intergenerational equity.

3 Sec. 4. *Construction.* – This Act shall be liberally construed for the purpose of
4 promoting, enhancing and protecting the rights of natural ecosystems, populations and
5 processes recognized herein. When human activity may lead to serious and irreversible
6 harm that is scientifically plausible but uncertain, immediate action shall be taken to avoid
7 or diminish the threat or occurrence thereof.

8 Sec. 5. *Obligations of the Government.* – The Government shall take all necessary
9 action to protect and enforce the rights recognized by this law including, but not limited
10 to, the following:

- 11 (a) Develop and implement policies and regulations for prevention, early
12 warning, protection, and precaution to prevent human activity from causing
13 the extinction of living populations, the alteration of the cycles and
14 processes that ensure life, and the destruction of livelihoods and cultural
15 systems that are intertwined with natural ecosystems, populations, and
16 processes;
- 17 (b) Promote balanced forms of production and patterns of consumption that,
18 while satisfying the needs of the people, safe-guard the regenerative
19 capacity and integrity of natural ecosystems, populations, and processes;
- 20 (c) Protect natural ecosystems, populations, and processes from the
21 exploitation of its components, the commodification of living systems or the
22 processes that support them, and the structural causes and effects of global
23 climate change;
- 24 (d) Ensure long-term energy sovereignty, increased efficiency and the gradual
25 incorporation of clean and renewable alternative sources into the energy
26 matrix;
- 27 (e) Demand international recognition of ecological debt through the financing
28 and transfer of clean technology compatible with the rights recognized in
29 this Act;
- 30 (f) Promote peace and the elimination of all weapons of mass destruction; and
31 (g) Promote the recognition of the rights of natural ecosystems, populations,
32 and processes in multilateral, regional and bilateral international relations.

33 Sec. 6. *Legal Personality of Natural Ecosystems, Populations & Processes.* – The
34 legal personality of natural ecosystems, populations, and processes, including all of their
35 living and non-living elements, as well as any distinct and identifiable portions,
36 aggregations or components thereof, shall be recognized under law. In any action for the

1 protection or enforcement of the rights recognized herein, the natural ecosystem or
2 process involved shall be considered the real party-in-interest.

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

10 *Sec. 8. Reliefs.* – If warranted, the court shall issue a judgment in favor of the
11 natural ecosystem, population, or process on whose behalf an action for the protection
12 and enforcement of the rights recognized herein was filed, which shall include measures
13 for its continuing protection, preservation, restoration, or renewal. Monetary damages to
14 be awarded shall be those necessary to support the continuous and complete rectification
15 or repair of the damage done to natural ecosystems, populations or processes by the
16 defendant. Attorney’s fees, costs of suit and other litigation expenses shall be awarded
17 to the party or parties who instituted the action for the protection and enforcement of
18 the rights recognized herein.

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

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

34 *Sec. 11. Designation of Courts and Promulgation of Procedural Rules.* – The
35 Supreme Court shall designate the court or courts that will hear and resolve cases brought

1 under this Act and shall promulgate the rules of pleading, practice and procedure to
2 govern the proceedings brought under this Act.

3 Sec. 12. *Strategic Lawsuits against Public Participation.* – A Strategic Lawsuit
4 against Public Participation (SLAPP) is any action filed to harass, vex or exert undue
5 pressure against any person or legal entity that has taken legal action or made a public
6 communication of any kind in connection with the enforcement or protection of the rights
7 recognized herein or any other environmental law or regulation. The defendant in a SLAPP
8 may file a special motion to dismiss at any point of the proceedings alleging that the case
9 is a SLAPP. This special motion to dismiss shall be resolved within thirty (30) days after it
10 is heard. If the court dismisses the SLAPP, it shall award damages, attorney’s fees and
11 costs of suit. The dismissal shall be with prejudice.

12 Sec. 13. *Education.* – Respect for and recognition of the inherent and inalienable
13 rights of natural ecosystems and processes shall be integrated into all levels of the
14 educational system.

15 Sec. 14. *Prohibited Acts.* – The following crimes of ecological destruction shall be
16 prohibited and punished pursuant to this Act:

- 17 (a) Damaging or disrupting a natural ecosystem or process, in whole or in part,
18 thus rendering it dead or incapable of renewal or restoration;
- 19 (b) Causing, or directly contributing to, the extinction of a plant or animal
20 species;
- 21 (c) Willfully promoting, encouraging or abetting the destruction or extinction of
22 a natural ecosystem, process, or species of plant or animal; and
- 23 (d) Altering, changing or modifying the natural cycle, function or structure of a
24 natural ecosystem, process, or species of plant or animal, thus interfering
25 with, impeding, or degrading its continued sustainability and well-being.

26 Sec. 15. *Penalties.* – The crime of ecological destruction shall be punished by
27 *reclusion perpetua* as well as a fine in the amount of not less than ten million pesos
28 (P10,000,000.00), or the cost of the actual damage caused to the natural ecosystem or
29 process concerned, whichever is higher. The costs required for the restoration, renewal
30 or rehabilitation of the natural ecosystem, process or species concerned shall likewise be
31 imposed on the offender upon conviction.

32 In case the offender is a public official or employee, the penalty of removal from
33 office, with perpetual disqualification shall likewise be imposed. In case the offender is
34 an official or employee of any Government-owned or controlled corporation (GOCC), the
35 penalty of dismissal from employment shall be imposed with perpetual disqualification
36 from serving in any GOCC or public office.

1 When any of the punishable acts herein defined are knowingly committed on behalf
2 of or for the benefit of a juridical person, by a natural person acting either individually or
3 as part of an organ of the juridical person, who has a leading position within, based on:
4 (a) a power of representation of the juridical person provided the act committed falls
5 within the scope of such authority; (b) an authority to take decisions on behalf of the
6 juridical person: *Provided*, That the act committed falls within the scope of such authority;
7 or (c) an authority to exercise control within the juridical person, the juridical person shall
8 be held liable for the fine imposed by this section. The liability imposed on the juridical
9 person shall be without prejudice to the criminal liability of the natural person who has
10 committed the offense.

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

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

18 *Sec. 17. Implementing Rules & Regulations.* – The Secretary of Environment and
19 Natural Resources (DENR), in coordination with the Commission on Human Rights (CHR),
20 Department of Science & Technology (DOST), Department of the Interior & Local
21 Government (DILG), Department of Education (DEPED), Commission on Higher Education
22 (CHED), and associations or organizations representing environmental advocates shall
23 issue the Implementing Rules & Regulations necessary for the effective implementation
24 of this Act within ninety (90) days from the effectivity thereof.

25 *Sec. 18. Appropriations.* – The amount necessary for the initial implementation of
26 the provisions of this Act shall be charged against the current year's appropriations of the
27 Department of Environment & Natural Resources. Thereafter, the funds necessary for the
28 purposes of this Act shall be included in the General Appropriations Act.

29 *Sec. 19. Separability Clause.* – If any provision of this Act is declared
30 unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions
31 not affected thereby shall continue to be in full force and effect.

32 *Sec. 20. Repealing Clause.* – All laws, decrees, executive orders, department or
33 memorandum orders and other administrative issuances or parts thereof which are
34 inconsistent with the provisions of this Act are hereby modified, superseded or repealed
35 accordingly.

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

Approved,