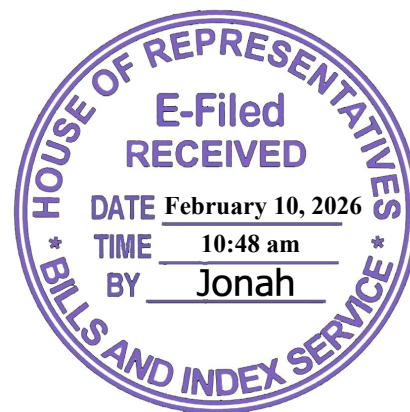


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

TWENTIETH CONGRESS
First Regular Session



HOUSE BILL NO. 7698

**Introduced by AKBAYAN Representatives PERCIVAL V. CENDAÑA,
JOSE MANUEL TADEO "CHEL" I. DIOKNO, and DADAH KIRAM ISMULA and
Dinagat Islands Representative KAKA BAG-AO**

**AN ACT RECOGNIZING AND PROTECTING THE RIGHTS OF NATURE
IN THE PHILIPPINES**

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 from Asia.

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 AND PROTECTING THE RIGHTS OF NATURE
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*Be it enacted by the Senate and the House of Representatives of the Philippines in
Congress assembled:*

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

Section 2. Declaration of Policy. It is hereby declared the policy of the State to recognize and protect natural ecosystems and processes, or distinct and identifiable portions thereof, as legal entities possessing certain fundamental and inalienable rights. The State shall provide simple, effective and expeditious mechanisms for the protection and enforcement of these rights. Such rights shall be founded on the following:

- a. Interconnectedness of all creation bound by a common living source and all activities in the ecosystem—land, air, water, and sea live and function according to their respective roles to create and sustain the web life shall at all times be respected.
- b. Harmony. All human activities, within the framework of plurality and diversity, should achieve a dynamic balance with the cycles and processes inherent in Nature.
- c. Collective good. The interests of society shall be fulfilled consistent with the rights of Nature and shall involve all human activities.

- 1 d. Guarantee of the regeneration of Nature. The State, at its various levels,
2 and society, in harmony with the common interest, must ensure the
3 necessary conditions in order that Nature may regenerate, recognizing
4 that ecosystems are limited in their ability to regenerate, and that
5 humans are limited in their ability to undo their actions.
6
- 7 e. Multiculturalism. The exercise of the rights of Nature requires the
8 recognition, recovery, respect, protection, and dialogue of the diversity
9 of feelings, values, knowledge, skills, practices, skills, transcendence,
10 transformation, science, technology and standards, of all the cultures of
11 the world who seek to live in harmony with nature.
12
- 13 f. Co-existence of Human Rights and Rights of Nature. All rights
14 guaranteed under the Constitution and international human rights
15 treaties and laws, shall be exercised in harmony and consistent with the
16 Rights of Nature.
17
- 18 g. Promotion of ecologically-sound innovation. The promotion of
19 ecologically sound innovation shall be in line with the rights of Nature
20 and shall be actively pursued by the State.
21
- 22 h. Indispensable role of the IPs/ICCs. The State recognizes the
23 indispensable role of the indigenous peoples/indigenous cultural
24 communities in the protection and promotion of the rights of nature.
25

26 **Section 3. *Definition of Terms.*** As used in this Act, the following terms are
27 defined as follows:

- 28 a. Nature refers to the physical world, which encompasses all the biotic and
29 abiotic components and their interactions. It also refers to the meanings
30 in which different groups attribute to the physical environment to make
31 sense of the world.
32
- 33 b. Natural Ecosystems refer to the complex and dynamic communities of
34 plants, animals, microorganisms, species, and other beings and their
35 environment, both living and non-living, where human communities and
36 the rest of nature interact as a functional unit under the influence of
37 climatic, physiographic, and geological factors, as well as production
38 practices, Filipino cultural diversity, and the worldviews of nations and
39 indigenous peoples/indigenous cultural communities.
40

- c. Ecological renewal and restoration refer to the process that will enable the recovery of an ecosystem previously damaged by natural or anthropogenic causes.
- d. Ecological debt refers to what a country incurs when its ecological footprint exceeds its biocapacity. This means that the countries make use of the resources of other countries to fulfill their consumption needs.
- e. Indigenous Peoples/Indigenous Cultural Communities (refer to the definition of IPRA).

Section 4. *The Fundamental Rights of Nature.* Natural ecosystems shall have the right to exist; to the maintenance of the vital cycles, functions and processes that ensure their continued sustainability and well-being; to the conditions necessary for their ecological renewal and restoration; and to adequate and effective representation vis-à-vis the protection and enforcement of these rights. These rights shall be in addition to, and shall not impair or limit, any other right or remedy available under existing law, administrative regulations or jurisprudence. A violation of any existing environmental law or regulation shall be deemed a prima facie violation of these rights.

The State likewise recognizes that there are limits on the ability of natural ecosystems and processes to regenerate as well as on the ability of humanity to undo and reverse any damage it has caused to the environment. Thus, all development that affects or modifies natural ecosystems and processes must guarantee and uphold the rights secured in this Act, be sustainable, ensure the maintenance of critical ecosystem services, and respect intra- and intergenerational equity.

Section 5. *Legal Personality of Natural Ecosystems and Processes.* The legal personality of natural ecosystems and processes, including all of their living and non-living elements, as well as any distinct and identifiable portions, aggregations or components thereof, shall be recognized under law. In any action for the protection or enforcement of the rights recognized herein, the natural ecosystem or process involved shall be considered the real party-in-interest. Only natural ecosystems as defined in this Act, including those under Section 13, shall be deemed to have legal personality and entitled to protection under this Act. Likewise, the rights of nature secured in this Act shall not be interpreted to confer liabilities, duties, obligations, or responsibilities on nature.

Section 6. *Obligations of the Government.* The Government shall take all necessary actions to fully protect and enforce the rights recognized by this law including, but not limited to, the following:

- a. Develop and implement policies and regulations to guarantee and uphold the rights recognized in this Act, including, but not limited to, decision making criteria for all, government actions and authorized activities that will guarantee and uphold these rights, including prevention of harm to natural ecosystems and processes before harm happens, early warning systems to ensure any potential or ongoing harm is stopped, robust enforcement of these rights in courts of appropriate jurisdiction, protection and restoration of natural ecosystems and processes, and the exercise of precautionary measures to prevent human activity from causing the extinction of living populations, the alteration of the cycles and processes that ensure life, and the destruction of livelihoods and cultural systems that are intertwined with natural ecosystems and processes;
- b. Promote balanced forms of production and patterns of consumption that, while satisfying the needs of the Filipino people, safeguard the regenerative capacity and integrity of natural ecosystems and processes;
- c. Protect natural ecosystems and processes from the exploitation of their components, the commodification of living systems or the processes that support them, and the structural causes and effects of global climate change;
- d. Ensure long-term energy sovereignty, increased efficiency and the gradual incorporation of clean and renewable alternative sources into the energy matrix;
- e. Demand international recognition of ecological debt through the financing and transfer of clean technology compatible with the rights recognized in this Act;
- f. Promote peace and the elimination of all weapons of mass destruction; and
- g. Promote the recognition of the rights of natural ecosystems and processes in multilateral, regional, and bilateral international relations.

Section 7. *Obligations of Juridical Persons.* All juridical persons shall take all necessary actions to protect and enforce the rights recognized by this law including, but not limited to, the following:

- a. Embed the Right of Nature policy in their by-laws and organizational processes upon submission of their application for registration to the Securities and Exchange Commission (SEC);
- b. Undertake regular reporting to the Department of Environment and Natural Resources (DENR) of their impacts on specific ecosystems where they are conducting their business operations;
- c. Conduct environmental and human rights assessment prior to conducting their operations or whenever there is significant change in their operations such as merger or closure of business, which demonstrate that their activities are not violating the rights recognized in this Act or harming nature, Provided, that, such assessment – demonstrating that the rights of nature are not being violated - shall be a prerequisite for the issuance of the Environmental Compliance Certificate (ECC) by the DENR.

Section 8. *Representation and Standing.* Any Philippine resident may file an action to enforce the rights or obligations recognized under this Act. Upon the filing of any such action, the Court shall issue an order which shall contain a brief description of the cause of action and the reliefs prayed for, requiring all interested parties to manifest their interest to intervene in the case within a reasonable amount of time from notice thereof.

Section 9. *Reliefs.* If warranted, the court shall issue a judgment in favor of the natural process or ecosystem on whose behalf an action for the protection and enforcement of the rights recognized herein was filed, which shall include measures for its protection, preservation, ecological renewal and restoration, as well as the payment of attorney's fees, costs of suit and other litigation expenses. Monetary damages to be awarded shall be the amount necessary to fully rectify or repair the damage done to natural ecosystems and processes by the defendant.

Section 10. *Trust Fund.* Any monetary award that any Court may award in defense of the rights of Nature shall not accrue to the benefit of the representative but it will be deposited to a Trust Fund, Provided, however, that any expenses incurred by the representative shall constitute a lien to the monetary award.

All monetary awards shall be deposited in the Trust Fund under the administration of the Conservation Committee provided for in this Act, which shall be used to implement the measures for protection, preservation, ecological restoration, or renewal ordered by the court.

1 **Section 11. *Appointment of Conservation Committee.*** To administer the trust
2 fund and implement the measures necessary for protection, preservation, or ecological
3 renewal and restoration of the natural ecosystem or process on whose behalf an action
4 pursuant to this Act was filed, the Court shall appoint a conservation committee from
5 the stakeholders concerned. The Court shall give preference to indigenous cultural
6 communities from the same area, people's organization, non-governmental
7 organization, or any public interest group accredited by or registered with any
8 government agency. Under no circumstances shall a person or entity responsible for
9 a violation of the rights recognized herein be appointed to a conservation committee.
10

11 **Section 12. *Designation of Courts and Promulgation of Procedural Rules.*** The
12 Supreme Court shall designate the court or courts that will hear and resolve cases
13 brought under this Act and shall promulgate the rules of pleading, practice and
14 procedure to govern the proceedings brought under this Act.
15

16 **Section 13. *Strategic Lawsuits against Public Participation.*** A Strategic Lawsuit
17 against Public Participation (SLAPP) is any action filed to harass, vex or exert undue
18 pressure against any person or legal entity that has taken legal action or made a public
19 communication of any kind in connection with the enforcement or protection of the
20 rights recognized herein or any other environmental law or regulation. The defendant
21 in a SLAPP may file a special motion to dismiss at any point of the proceedings alleging
22 that the case is a SLAPP. This special motion to dismiss shall be resolved within thirty
23 (30) days after it is heard. If the court dismisses the SLAPP, it shall award damages,
24 attorney's fees, and costs of suit. The dismissal shall be with prejudice.
25

26 **Section 14. *Territories of Life.*** All ancestral domains of the IPPs/ICCs shall be
27 deemed as Territories of Life, as it is grounded on nature's intrinsic value and their
28 customary belief in the sanctity of the land and oneness with nature. As such, all
29 ancestral domains shall be deemed to have rights as provided under Section 4 and 5
30 hereof Likewise, all protected areas declared under the E-NIPAs, including those
31 declared by the local government units (LGUs) as protected areas, are deemed
32 Territories of Life subject to the protection under this Act. National development
33 planning under the NEDA and Local development planning of the LGUs shall integrate
34 the appropriate development framework consistent with the rights of nature. The
35 Protected Area Management Board shall ensure that the management plans in all PAs
36 are aligned with the objectives of the Act.
37

38 **Section 15. *Role of the Indigenous Political Structure (IPS).*** All IPS where
39 present, as mandated by existing law, shall have the following duties and functions in
40 relation to the protection of the rights of nature and implementation of this Act:

- a. Represent the interest of ecosystems and processes within the respective jurisdiction of the LGUs where their AD is located, including the participation in the local development planning;
- b. Ensure that IPs are consulted and give Free, Prior and Informed Consent (FPIC) for any development that may affect ecosystem in the Territories of Life;
- c. Promote indigenous ecological values and practices by coordinating with the Department of Education for its inclusion in the curriculum.

Section 16. *Allocation of funds from other sources.* The DENR is hereby mandated to allocate funds for the implementation of this Act sourced from the various funds that the existing law allows it to collect and disburse, such as the Integrated Protected Area Fund (IPAF) under the E-NIPAS and the Forestry Code, among others.

Section 17. *Protection of individuals and communities dependent on the environment for their livelihood.* Nothing in this Act shall be interpreted to diminish or limit the rights of those whose livelihoods are dependent on the benefits derived from the environment such as IPs, fisherfolk, farmers and the like, except to the extent that their acts violate the rights of nature provided in this Act. They shall likewise be deemed stewards of nature in areas where they habitually reside, taking into account their local knowledge and practices in enhancing the health and protection of nature. Any development projects, whether public or private, shall undergo the consultation required under Sections 26 and 27 of the Local Government Code of 1991. Individuals and communities referred to in this Section shall be indispensable parties in any consultation or conduct of any study in relation to the proposed development project.

Section 18. *Review of the Environmental Impact Assessment Study System.* The DENR in consultation with the public and private sector, including the IPMRs and local communities referred under Section 19 shall conduct a review of the EIASS to align this System with the rights under the provisions of this Act, to ensure that no public or private projects or activities are approved or authorized which would violate the rights secured in this Act.

Section 19. *Education.* The Department of Education and the Commission on Higher Education shall integrate into the curriculum of all levels the respect for and recognition of the inherent and inalienable rights of natural ecosystems.

Section 20. *Enforcement and the Implementing Rules and Regulations.* The provisions of this Act shall be effective immediately upon the its adoption. The Secretary of Environment and Natural Resources, in coordination with the Commission

1 on Human Rights, the Department of Social Welfare and Development, Department
2 of Education, Commission on Higher Education Department of Agriculture, Department
3 of Agrarian Reform, National Commission on Indigenous Peoples, Climate Change
4 Commission, and associations or organizations representing environmental advocates
5 shall issue the Implementing Rules and Regulations to guide the efficient
6 implementation of this Act within ninety (90) days from the effectivity thereof.

7
8 **Section 21. Appropriations.** The amount necessary for the initial
9 implementation of the provisions of this Act shall be charged against the current year's
10 appropriations of the Department of Environment and Natural Resources.

11
12 **Section 22. Penalties.** Any person who violates any of the provisions of this
13 Act or its Implementing Rules and Regulations shall, upon conviction by final
14 judgment, be punished by imprisonment of not less than six (6) months nor more than
15 two (2) years or a fine of not less than Five Million pesos (PhP5,000,000), nor more
16 than Ten Million pesos (PhP10,000,000), or both, at the discretion of the court. If the
17 violation is committed by a juridical person, the officer responsible therefor shall serve
18 the imprisonment when imposed. If violation is committed by an alien, he or she shall
19 be immediately deported after service of sentence, without need of further
20 proceedings.

21
22 **Section 23. Separability Clause.** If any provision or part hereof is held invalid
23 or unconstitutional, the remainder of the law or the provision not otherwise affected
24 shall remain valid and subsisting.

25
26 **Section 24. Repealing Clause.** Any law, presidential decree or issuance,
27 executive order, letter of instruction, administrative order, rule or regulation contrary
28 to or inconsistent with the provisions of this Act are hereby repealed, modified or
29 amended accordingly.

30
31 **Section 25. Effectivity.** This Act shall take effect fifteen (15) days after its
32 publication in the Official Gazette or in a newspaper of general circulation.

33
34 *Approved,*