

# Rights of Nature in Wetlands – Transformative Change for Securing the Future of Wetlands Through Effective Restoration

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## THE RIGHTS OF NATURE IN WETLANDS

Indigenous Peoples, local communities and non-profit organizations have been leading a growing global “Rights of Nature” movement that reconsiders the human-Nature relationship and returns to a recognition of Nature’s living beingness and inherent rights (Kaufman and Martin 2021; <https://celdf.org/rights-of-nature/> accessed 21 October 2023). These perspectives have been shared by many cultures and societies throughout history and continue to be the foundation beliefs of many communities. This alternative attitude moves the human-Nature relationship from one of exploitation, depletion, degradation and loss to one based on relational values such as reciprocity, gratitude, and respect. For the populations of modern nation states, this perspective constitutes a paradigm shift that may lead to greater success in achieving conservation goals and support for restoration, regeneration, and re-wilding initiatives that might implement the recently agreed Global Biodiversity Framework (<https://www.cbd.int/gbf/> accessed 20 October 2023).

Consistent with the Rights of Nature paradigm a group of wetland and climate scientists, policy specialists, and attorneys has proposed a *Universal Declaration of the Rights of Wetlands*, that outlines a case for the *Declaration* and proposes eight inherent rights for wetlands (Davies et al. 2021). The *Declaration* can be read in full on the Rights of Wetlands website <https://www.rightsofwetlands.org/> accessed 20 October 2023). The eight rights are listed below and shown in Figure 1:

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 fulfill 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

In July 2023, the Society for Ecological Restoration (SER) Executive Director, Bethanie Walder, joined SWS wetland scientists Matt Simpson and Gillian Davies as speakers for a Society for Ecological Restoration (SER) webinar titled, *Why and How Implementing Rights of Wetlands Can Enhance Restoration and More*. This webinar can be viewed on the SER webinar library website page: <https://www.ser.org/news/news.asp?id=646823> (accessed 20 October 2023). In September, a guide to operationalizing the Rights of Wetlands was presented and released at the SER2023 World Conference in Darwin, Australia. This guide is available on the Rights of Wetlands website: <https://www.rightsofwetlands.org/howtodeliver> (accessed 20 October 2023). A three-year project, funded by the UK government’s Darwin Initiative, that examines how Rights of Wetlands is being and can be implemented by communities and governments in Bolivia, Ecuador, Guyana, Kenya and Sri Lanka, also commenced in 2023 and forms part of the United Nations Water Action Agenda: <https://sdgs.un.org/partnerships/operationalization-universal-declaration-rights-wetlands> (accessed 20 October 2023).

The Rights of Wetlands proposal has been shared globally with the Convention on Wetlands (Ramsar Convention) Signatory Countries, non-governmental organizations, Indigenous Peoples and Local Communities, and others, and thus far has been endorsed by 28 organizations, including the Society of Wetland Scientists, Wetlands International, Wildfowl and Wetlands Trust, the Community Environmental Legal Defense Fund, and the Society for Ecological Restoration. Discussions with individuals and organizations have refined the concept by incorporating cultural and geographical differences to reflect the general principles that wetlands have an inalienable right to exist, to have a

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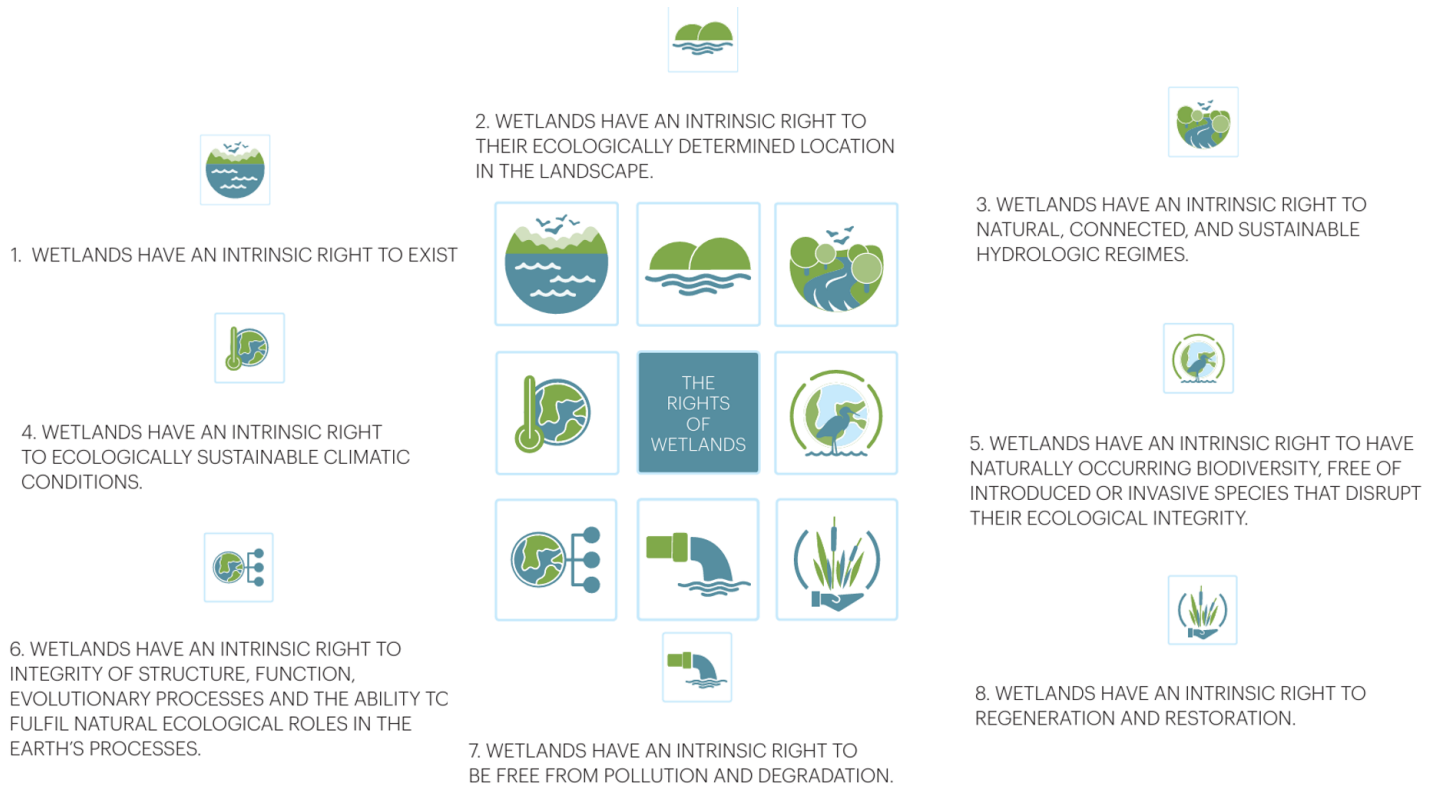


Figure 1. The rights of wetlands (based on Society of Wetland Scientists Rights of Wetlands Initiative and Operationalization Working Groups 2023)

place to exist, to participate in Earth’s natural processes, and humans have a shared responsibility to respect this. The *Declaration* provides talking points and a signal that it could be useful to reframe the conservation and wise/sustainable use ethics of the Ramsar Convention to provide an ethical and legal paradigm recognizing the legal rights and *living beingness* of wetlands. Given past loss (Fluet-Chouinard et al. 2023) and degradation of wetlands (Ramsar Convention on Wetlands 2018) the right to regeneration and restoration is an important part of the proposed Declaration and also is important to the efforts by the Convention on Wetlands to justify and implement these practices. The Convention includes guidance for wetland restoration with the following principles enumerated (as adapted by Herb and Finlayson 2023).

**Simplified Convention on Wetlands Restoration Principles**

- Clear understanding and statement of goals, objectives, and performance standards
- Consideration of natural processes and existing conditions
- Watershed (catchment) approach
- Stakeholder engagement
- Self-maintenance
- Adaptive management

In an appraisal of the guidance provided by the Convention, Herb and Finlayson (2023) emphasized the benefits that can accrue and state that “Engaging the public and increasing general knowledge of wetlands ..... is essential for maintaining global wetland health. It will lead to more resources being allocated to wetland restoration, as well as foster avoidance and minimization of wetland impacts in the future.” Incorporating specific rights of wetlands will not only help reduce the need for restoration by reducing wetland degradation but given that these rights are closely associated with the ethics of communities closely connected to wetlands, it will also help confirm specific goals for the success of restoration efforts – goals that express the human connections with wetlands and confirm their rights to exist. Recognizing Rights of Wetlands also fosters reciprocity, in which humans can give back to wetlands in return for all the services they provide especially in the form of care (wise/sustainable use) and restoration following the damage they have done (providing the means for healing). We do not see this as differing from the Convention’s support for maintaining the ecological character of all wetlands – obligating the maintenance of the biodiversity, ecological processes, and ecosystem services that characterize a wetland is very much an expression of the right of that wetland to exist, and to be restored where that obligation has not been met.



Figure 2. Restoration efforts over several decades at Chilika Lagoon, India, including constructing a channel from the lagoon to the ocean (upper left) have successfully improved the ecological conditions and led to improvements in the biodiversity values including those for waterbirds (upper right), increased fish catches by local communities (lower left) and tourism as shown by this poster highlighting the resident population of Irrawaddy dolphins (lower right). (Photographs © CM Finlayson)

### WHY DO WE NEED A PARADIGM SHIFT NOW?

It is now more than 50 years since the text of the Convention on Wetlands was agreed in the Iranian city of Ramsar (Stroud et al. 2022). The 2021 golden anniversary of the Convention was celebrated with the 14<sup>th</sup> conference of parties being held conjointly in Wuhan, China and Geneva, Switzerland in November 2022. This was an occasion for celebration, and also for reflection. The celebration includes the accession of 172 signatory nations, and the nomination of 2,471 Ramsar sites covering a surface area of 256,192,356 hectares (ca. 16.5% of global wetland area). However, it was not all good news since it was reported that many nations were not fulfilling their obligations to ensure the sustainable use of all wetlands, nor restoring those that had been degraded. Restoration is occurring in many places (see Figures 2–4), but is insufficient in comparison to the losses, and not necessarily fully successful (Herb and Finlayson 2023).

Wetland restoration has occurred in many sites in the United States (Figures 3 and 4) in response to wetlands being specifically mentioned under the Clean Water Act in 1980. In the decades that followed area-for-area many restoration projects have been undertaken, but with inadequate regard for functional replacement (Herb and Finlayson 2023). In such cases while the right to restoration has been recognized, the further right to integrity of structure, function, etc. (see above) has not been satisfactorily addressed.

The Convention on Wetlands has now met formally on 14 occasions and passed more than 360 resolutions. Some of the resolutions have addressed administrative issues, with others addressing drivers of adverse change in wetlands, or providing guidance on inventory, assessment, monitoring and management approaches. A specific report is provided at each meeting on the status of Ramsar sites (wetlands listed as internationally important; for example, see Ramsar Convention on Wetlands 2022). The Contract-



Figure 3. Wetland restoration projects are underway in many parts of the world. Examples include revegetation and the removal of invasive weeds along the Murrumbidgee River in Australia (upper left), lake and marsh restoration in Tongli, China (upper right), community-based restoration projects, education and outreach initiatives in Tampa Bay in the United States (lower left) and river restoration, Colorado, United States (lower right). (Photographs: upper and lower left © CM Finlayson; upper right © R Woodward; lower right © M Simpson).

ing Parties to the Convention have reported many successful management efforts, but loss and degradation of wetlands continue, and much more restoration is needed. It has commonly been reported that 35% of the world's wetlands have been lost since 1970 (Darrah et al. 2020), but without cautionary comments about the geographical variability in wetland loss and the assumptions made when extrapolating from the underlying analyses to an encompassing global statement. This is more so the case for the similarly widely used value of 87% loss of wetlands since 1700 reported by Davidson (2014) on the basis of a small data set – extrapolating to current estimates of the area of inland wetlands ( $12 \times 10^6 \text{ km}^2$ ) reveals that the area of inland wetlands in 1700 would have been around  $92 \times 10^6 \text{ km}^2$ , compared to a current global land area of  $149 \times 10^6 \text{ km}^2$  (Finlayson et al. 2022). More recent analyses based on drainage records and modelling of land uses suggest a lower loss for inland (non-tidal) wetlands of 20 to 35% since 1700 (Fluet-Chouinard

et al. 2023). The latter authors discuss the disparity between the various estimates including the use of data disproportionately from regions with high-loss regions. The overall conclusions remain much the same - we have lost a significant percentage of our wetlands, and the losses continue, and more restoration is needed. If the rates of loss are in fact less than previously estimated this in itself presents an opportunity to make the best use of our wetlands, prevent further loss, and to restore those that have been damaged.

Given the value of wetlands, even the lower rates of loss are alarming. Further global analyses have shown that human-caused climate destabilization poses an existential threat to existing wetlands, their species and ecosystem services, and to the communities who depend on their many ecosystem services (Moomaw et al. 2018; Finlayson and Gardner 2020). Reducing the impacts of climate destabilization on wetlands is an essential part of global efforts to ensure the future of biodiversity and ecosystem



Figure 4. Wetland restoration has occurred in the United States over the past few decades with many areas being successfully restored on an areal basis, but not necessarily on a functional basis. This includes shrub/scrub wetland restored by removing fill and then translocating intact soil and vegetation blocks from a nearby wetland impact area in Massachusetts (upper left); a restored wet meadow in Massachusetts (upper right); system-wide restoration of mangroves in the Florida Everglades (lower left); and a wetland restored by breaking drain tile in the agricultural Midwest. (Photographs: top © G Davies; lower © MS Fennessy)

services (Moomaw et al. 2018). As outlined in the ‘warnings to humanity’ provided by world scientists, including for wetlands (Finlayson et al. 2018), the next few decades will determine our collective fate as we confront the global climate and biodiversity emergencies, exacerbated by degradation and loss of wetlands, and the consequent increasing need for their restoration.

The catch cry to halt and reverse the loss and degradation of wetlands was most prominently made at the 1992 Mediterranean wetland conference in the Italian city of Grado (Hollis 1992) and was subsequently incorporated into the Strategic Plan of the Ramsar Convention on Wetlands (Ramsar Convention on Wetlands 2015). However, efforts to halt and reverse the degradation and loss

of wetlands have not been sufficient despite the efforts of the parties to the Convention on Wetlands (Davidson et al. 2023). These failures herald a call for new approaches to complement the Convention and the international and national initiatives of the past 50 years. These approaches could include a reappraisal of the future fitness for purpose of the Convention and include a fundamental ethical and legal paradigm shift that recognizes the legal rights and living beingness of wetlands (Simpson et al. 2020; Fennessy et al. 2021).

Formal acceptance of a Declaration of the Rights of Wetlands could facilitate a fundamental shift in global efforts to ensure the conservation and wise/sustainable use of all wetlands. The latter is a fundamental feature of the

Convention on Wetlands. Our initial appraisal of the articles of the Convention and its formal resolutions suggests that the rights presented in the *Declaration* are implicit in the Convention. Moving to explicitly recognize wetland rights will complement and support the Convention and provide opportunities to ensure its success. There are likely practical difficulties and legal issues to address, much as the Convention has faced with the evolution of our understanding of wetlands since the Convention entered into force in 1975. Engaging with the Rights of Wetlands and reflecting these in national legislation is a further step towards realizing the vision of those who met in 1971 in the city of Ramsar, and something that can be implemented at all scales, from local to national to international. It further recognizes that effective wetland management, including necessary restoration, is likely more effective when communities and their expectations are met.

Rights and legal personhood have recently been granted to the Whanganui River in New Zealand, the Klamath River in California USA, the Magpie River in Quebec Canada and to the Amazon River in Colombia. Panama has granted legal personhood to sea turtles, and 59% of Ecuadorians recently voted to remove oil drilling and protect the Yasuni National Park from further exploitation. The Rights of Nature are being recognized through legal and political means in both developed and developing countries.

The proposal for a Declaration of the Rights of Wetlands is intertwined with the belief systems of communities with long and sustainable associations with wetlands and recognizes the right to regeneration and restoration as one of those rights. However, one of the challenges nowadays is that many communities may have a diminished connection to Nature, including to rivers and wetlands, given the urbanization that has occurred globally across the past century in particular.

Promoting the rights of wetlands means promoting the right to regeneration and restoration – evidence from multiple sources shows that this is essential if the ambition of the founders of the Convention on Wetlands is to be realized. This ambition has not been met, as evidenced by reports presented by the 172 Signatory Countries to the Convention as well as by independent evidence derived from scientific and community-based knowledge. Wetland ecosystems are an important component of the operating system of the earth. Wetlands and other essential ecosystems individually and collectively have a right to exist if we accept the premise that we do not have the right to destroy the only planet that we know supports life. Further, where we have previously destroyed wetland ecosystems, we should be restoring them or allowing them to regenerate. Recognizing the right to regeneration and restoration is a response to the failed efforts to meet the national obligations accepted by all Convention parties to maintain all wetlands. Recognizing the Rights of Wetlands within national and international

legal systems is an important mechanism for preventing further wetland loss and degradation, and for restoring or enabling the regeneration of those that have been degraded.

## ACKNOWLEDGEMENT

The Declaration of the Rights of Wetlands was developed as an outcome of discussion initiated through the sharing of ideas during the annual meetings of the Society of Wetland Scientists. This led to the formation of a Rights of Wetlands Initiative as part of the Wetland Concerns ad hoc Committee of the Society, and in (February 2024 the establishment of a Rights of Wetlands Section within the Society. The authors of this article have supported the Rights of Wetlands Initiative and are now members of the Rights of Wetlands Section. This has led to further efforts to reach out to other organizations and individuals with converging interests and a renewed invitation to others to join the SWS Rights of Wetlands Section.

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