



# Lawyers for Nature

Will the next COP on biodiversity further embed Nature as a 'market' or will it embrace a more harmonious relationship with Nature?

## **COP 16: Background and Objectives**

Between 21 October–1 November 2024 – the city of Cali in Colombia will host the sixteenth meeting of the Conference of the Parties to the Convention on Biological Diversity (COP 16). Although less well-known than its 'sister' the COP on climate, the biodiversity COP is promising to be an important and defining moment in the fight against biodiversity loss.

This meeting of the parties to the Convention on Biological Diversity (CBD) comes at a very important time. It is a chance to assess and turn into a reality the ambitious Kunming-Montreal Global Diversity Framework (the Global Biodiversity Plan) adopted last year which established 4 goals and 23 targets as the main global biodiversity plan of action. The framework includes a number of ambitious goals, including a commitment to designate at least 30 percent of global land and sea as protected areas by 2030 (known as the "30 by 30" initiative).

Building on this, COP 16 is centred around three main objectives:

- (1) Translate the Biodiversity Plan into resolute national action
- (2) Mobilise and bolster the means of implementation
- (3) Accelerate progress on access and benefit-sharing

Behind these main headlines another debate is emerging between an approach enhancing and promoting Nature's intrinsic values (vision 1), and States pushing to support a market-based approach to Nature and biodiversity (vision 2). Lawyers for Nature (LFN) are attending COP (with our friends at the Earth Law Centre) to engage in this crucial discussion and to campaign for the promises made at COP 15 and the implementation of the Global Biodiversity Framework (GBF) promoting harmonious relationships with the natural world by notably promoting Rights of Nature approaches to protect and restore biodiversity.

## **Vision 1: The intrinsic value of nature and the Rights of Nature**

The CBD is based on the recognition of the intrinsic value of biological diversity, with its preamble stating: *'Conscious of the intrinsic value of biological diversity and of the ecological, genetic, social, economic, scientific, educational, cultural, recreational and aesthetic values of biological diversity and its components...'* (CBD- preamble).



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Turning this approach into a tangible reality, the GBF has highlighted that biodiversity is connected to 'living well in balance and in harmony with Mother Earth', recognising the importance of 'diverse value systems' when it comes to relationships with Nature.

The GBF states that these diverse value systems include *'for those countries that recognise them, Rights of Nature and rights of Mother Earth, as being an integral part of [the GBF's] successful implementation.'* (GBF, Section C, 7(b), emphasis added) This is the closest that international law has come to recognising that value systems which integrate 'Mother Earth Centric' approaches should be part of the fight against the loss of biodiversity.

Crucially, the framework invites State parties to enhance non-market based approaches pushed by local communities, resonating with many local initiatives pushing for the rights of nature as an essential paradigm shift to preserve, protect and promote nature's inherent rights. More specifically, target 19 of the GBF calls for:

*"Enhancing the role of collective actions, including by indigenous peoples and local communities, Mother Earth Centric Actions and non-market-based approaches including community based natural resource management and civil society cooperation and solidarity aimed at the conservation of biodiversity."*

Additionally, the framework calls for at least \$200 billion by 2030 to implement national biodiversity strategies and action plans, including *"Mother Earth Centric Actions"* that are defined to include ecocentric and rights based approaches that promote the continuity of all living beings and their communities (Target 19, emphasis added).

## Vision 2: Nature as a market

This 'Mother Earth Centric' approach in the GBF does not align with statements and approaches adopted by some of the States who are parties to the Convention.

The main proposal of those countries who oppose or do not promote a Rights of Nature approach, is to support the development of so-called 'biodiversity markets'. For example France and the United Kingdom have initiated the development of a framework for a worldwide biodiversity market via the International Advisory Panel on Biodiversity Credits. There is no doubt that during COP 16 a lot of attention will be dedicated on scaling-up these biodiversity markets.

There is nothing new or innovative with this push for a market-based solution to an environmental crisis. These are very familiar to anyone having followed decades of climate change negotiations that have led to the dominance of market-based initiatives and



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creation of a multitude of carbon credits markets. There is real danger that COP 16, not unlike its sister the climate COP, could become a trading place which establishes a global natural capital market place as the main mechanism to address biodiversity breakdown.

These attempts at commodifying nature through the financialisation of biodiversity and ecosystems perpetuate the pervasive focus on economic growth imperative and the idea that nature is a resource from which investments and capital gains can be made. These various biodiversity market mechanisms go against the spirit of the Convention which is based on the recognition of Nature's intrinsic value – instead they are promoting further commodification of nature through the financialization of biodiversity and ecosystems.

Moreover these market focused initiatives go against the spirit of the CBD which specifically references the need to focus on Indigenous peoples and local communities ecological knowledge and practices as a source to protect biological diversity.

## Pre-meeting debates

In a pre-meeting, representatives of the UK government recently stated, *“The UK’s firm position is that rights can only be held by legal entities with a legal personality. We do not accept that rights can be applied to nature or Mother Earth”*. Britain’s rejection of Rights of Nature came during a debate when government representatives were asked to consider a draft resolution by Bolivia on *“living well in balance and harmony with Mother Earth and Mother Earth centric actions.”* This included a passage on the Rights of Nature. The US, the EU, Canada and the UK have all spoken out against the resolution, saying they did not have sufficient time to consider this complex issue that Bolivia had submitted at the last moment.

These debates that took place during a pre-meeting and are indications of what is coming at the COP 16. There is a battlefield between two visions: one that is entrenched and supports the intrinsic value of Nature, including the Rights of Nature, and one that promotes further commodification of Nature enhancing biodiversity markets and incentives for the private sector.





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## **Our campaign – promoting Rights of Nature as a tool to protect biodiversity**

It is within this context that Lawyers for Nature (LFN) is launching a campaign to raise awareness on the issues that will be at the heart of COP 16. Our aim is to highlight the importance of following the promises made at COP 15 and the implementation of the GBF promoting harmonious relationships with the natural world by notably promoting Rights of Nature approaches to protect and restore biodiversity.

The slogan of COP 16 is *“Peace with Nature.”* This comes on the back of the statement by the UN Secretariat General highlighting that *“Humanity is waging war on Nature.”* As such COP 16 offers a unique opportunity to advocate for a more harmonious relationship with Nature. It is crucial that the focus is not purely on promoting and developing private/corporate-led initiatives to create a global biodiversity market.

The potential of supporting initiatives promoting and based on respecting Nature’s intrinsic values, such as the emerging initiatives protecting the Rights of Nature should be at the heart of this journey, and not in a footnote of the targets being promoted to support biodiversity.

## **Our work with Earth Law Centre**

We have been working closely with the Earth Law Centre to produce a white paper, *Ecocentrism in the Global Biodiversity Framework*. It is a joint report with Rights of Mother Earth, Ecocide Sweden and Keystone Species Alliance on Biodiversity Credits and how states can implement and fund rights-based initiatives and Mother Earth Centric Actions to better meet the goals of the GBF.

