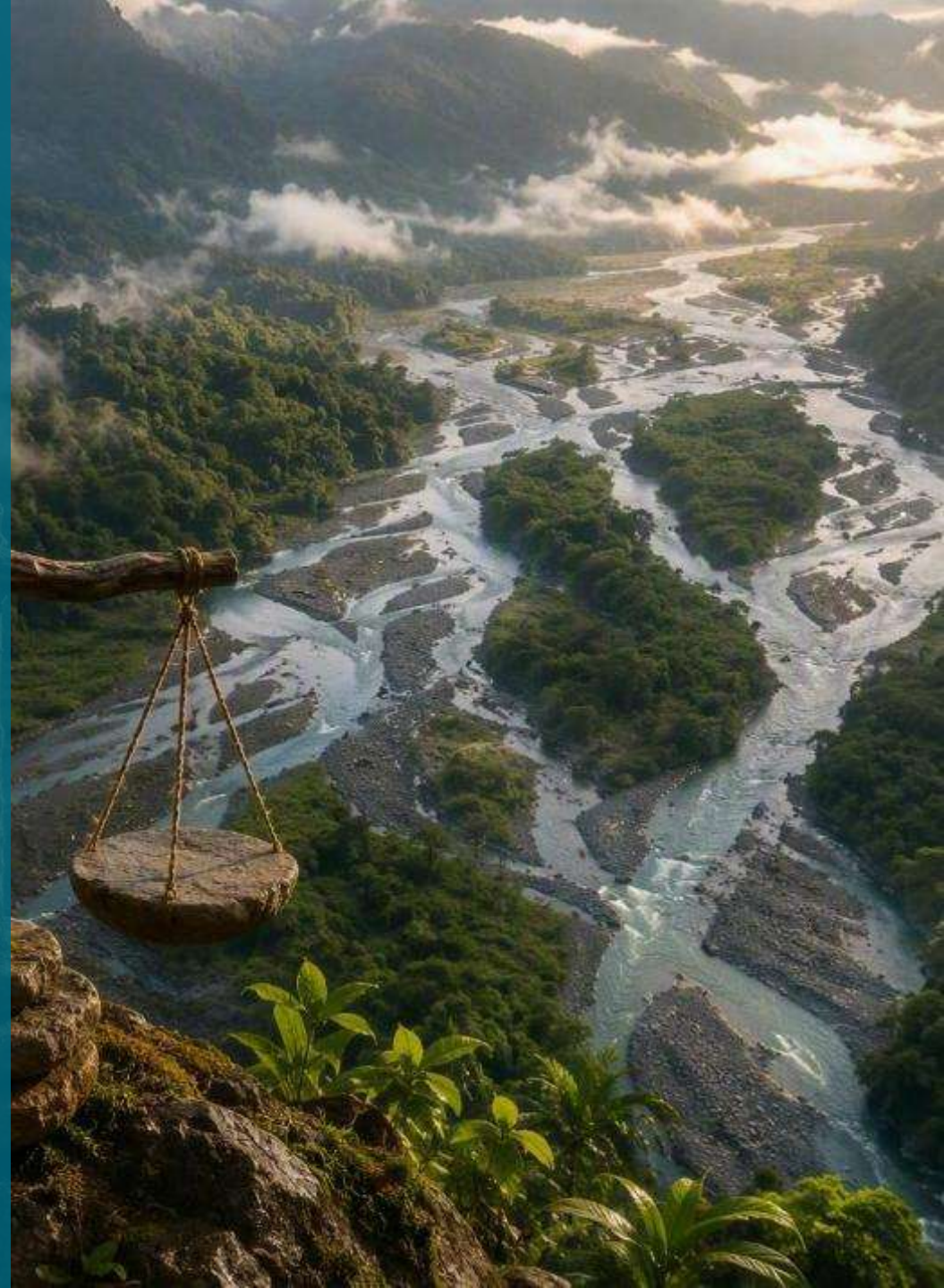


RIGHTS OF NATURE

Implications for liability insurers

Neil Beresford, Clyde & Co LLP

Worcester College, Oxford
2 September 2026



Agenda

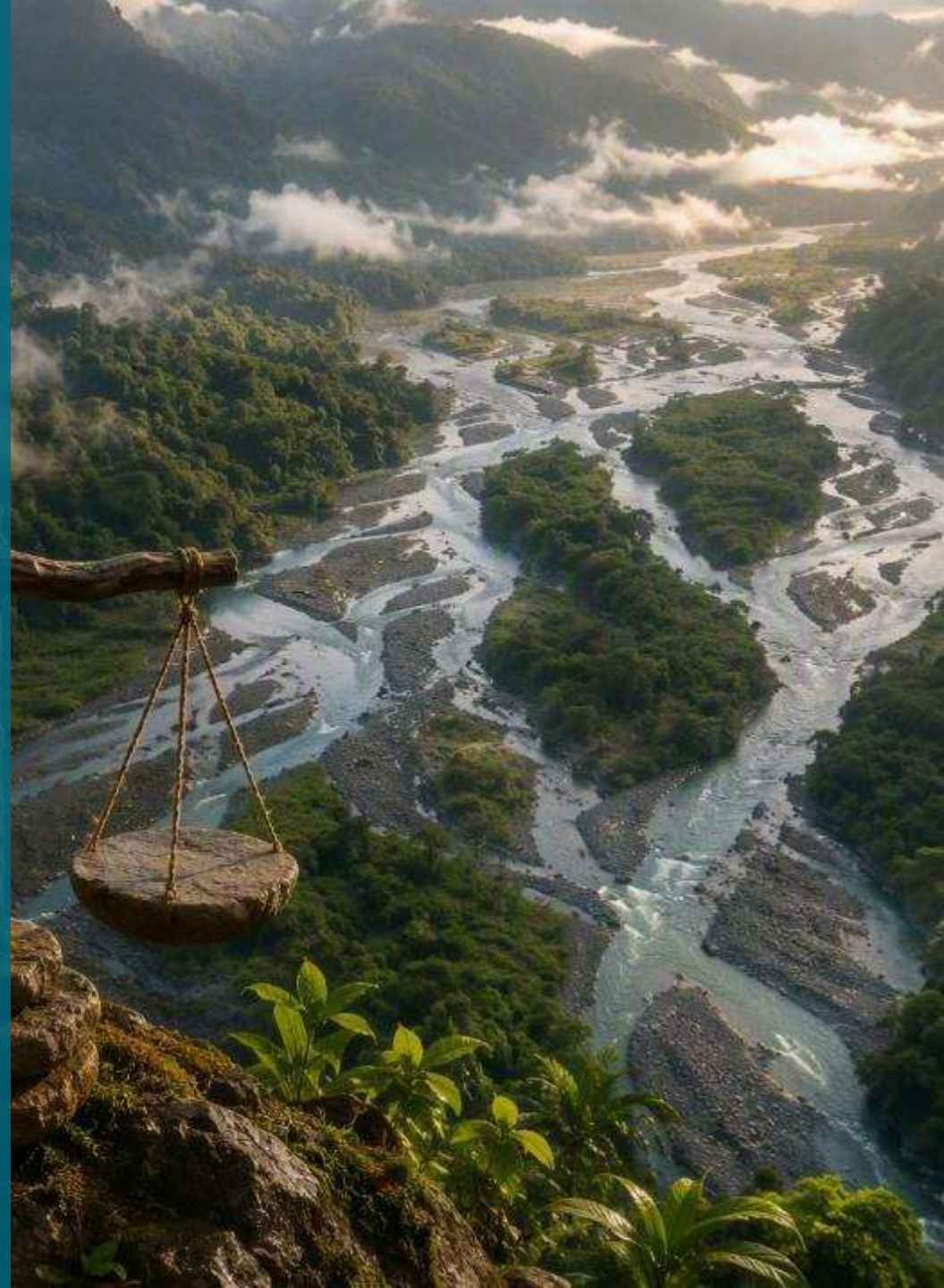
1. Rights of Nature explained

- Rights of Nature defined
- Where in the world?
- Nature as a rights-holder
- Legal architecture
- Rights of enforcement
- Ecosystems with rights
- Illustrative litigation
- Rights of Nature in the UK

2. Policy implications

- Absolute Pollution Exclusion
- Total Pollution Exclusion
- ABI Pollution Exclusion
- The patchwork quilt of enforcement
- Environmental case study

Rights of Nature: an introduction



Rights of Nature: an introduction

It is the recognition that our ecosystems – including trees, oceans, animals, mountains – have rights just as human beings have rights. Rights of Nature is about balancing what is good for human beings against what is good for other species, what is good for the planet as a world. It is the holistic recognition that all life, all ecosystems on our planet are deeply intertwined.

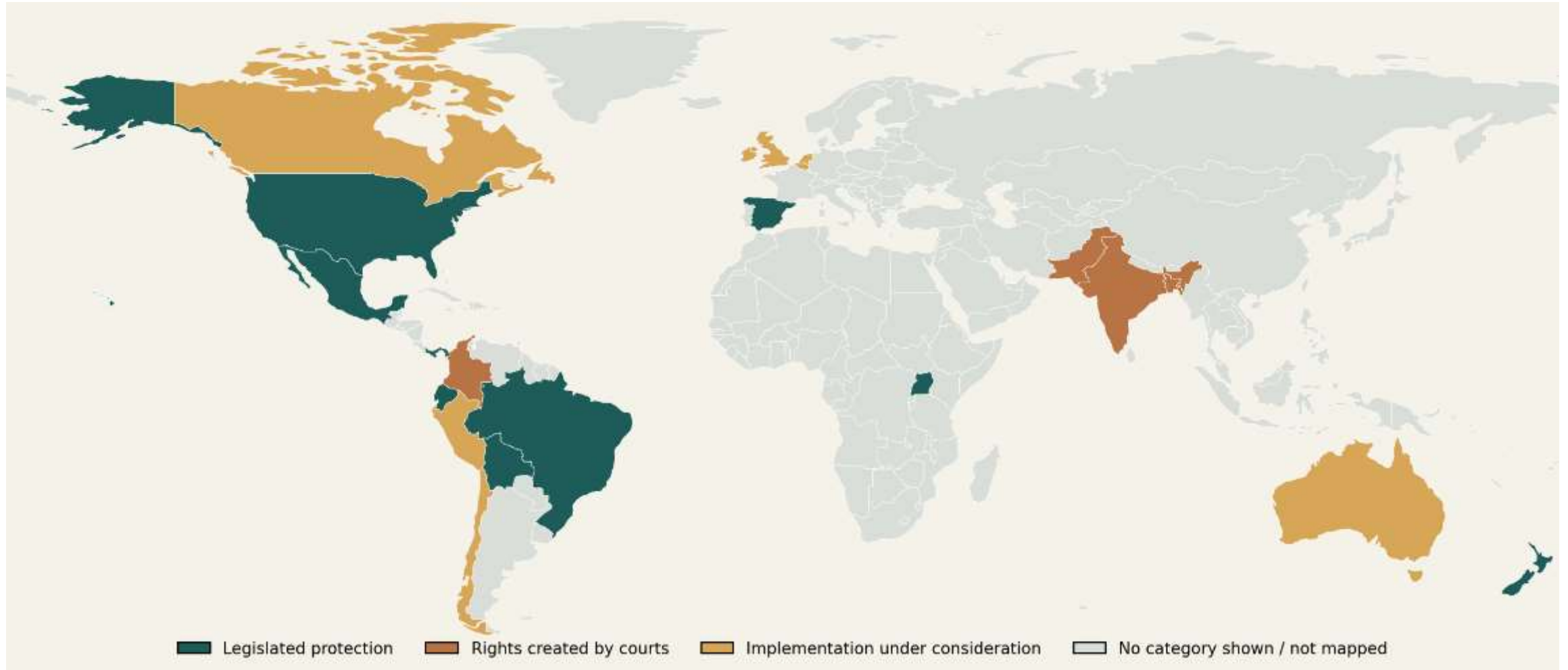
Rather than treating Nature as property under the law, Rights of Nature acknowledges that Nature in all its life forms has the right to exist, persist, maintain and regenerate its vital cycles.

And we – the people – have the legal authority and responsibility to enforce these rights on behalf of ecosystems. The ecosystem itself can be named as the injured party, with its own legal standing rights, in cases alleging rights violations.

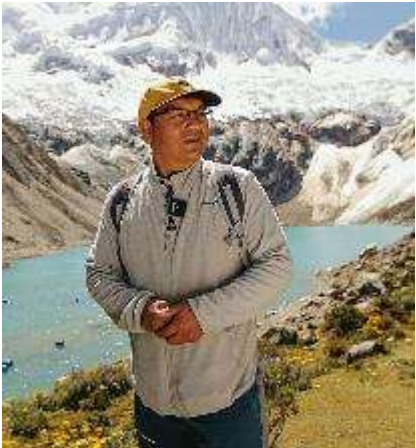
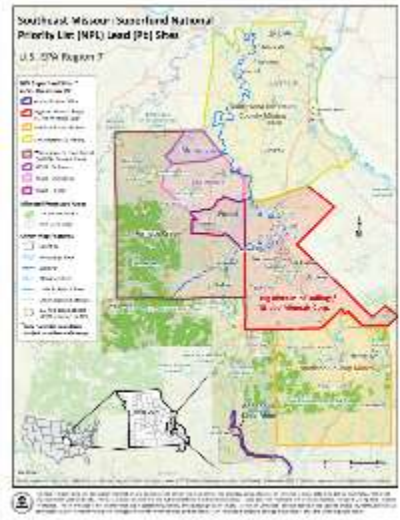
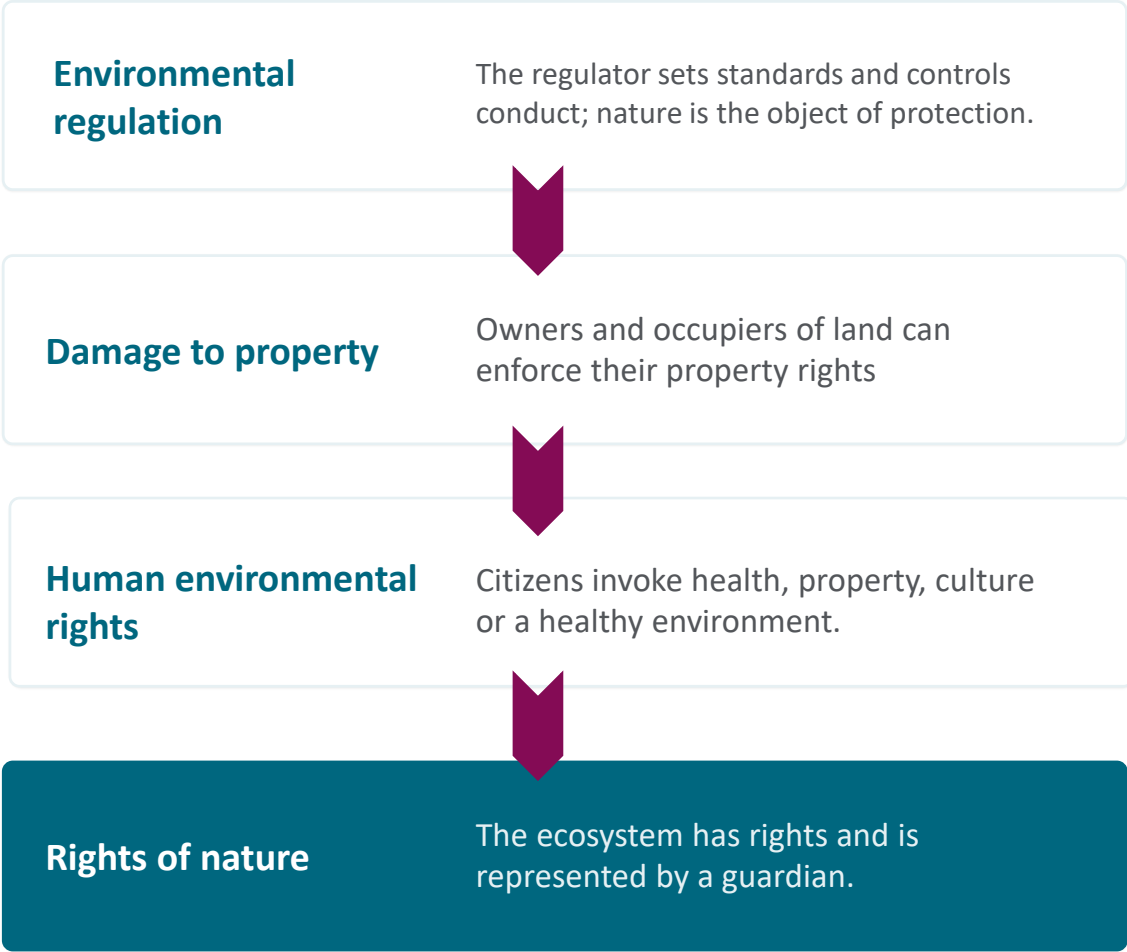
For Indigenous cultures around the world, recognizing the Rights of Nature is consistent with their traditions of living in harmony with Nature. All life, including human life, is deeply connected. Decisions and values are based on what is good for the whole.



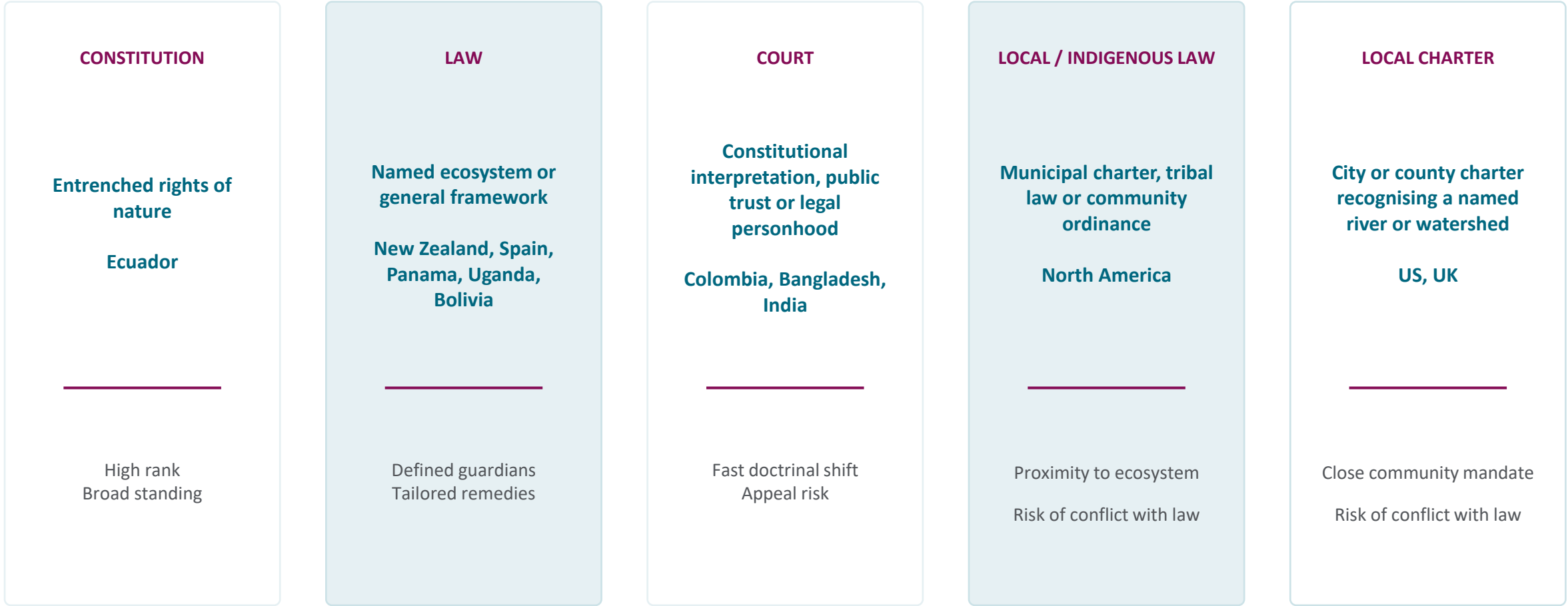
Where in the world?



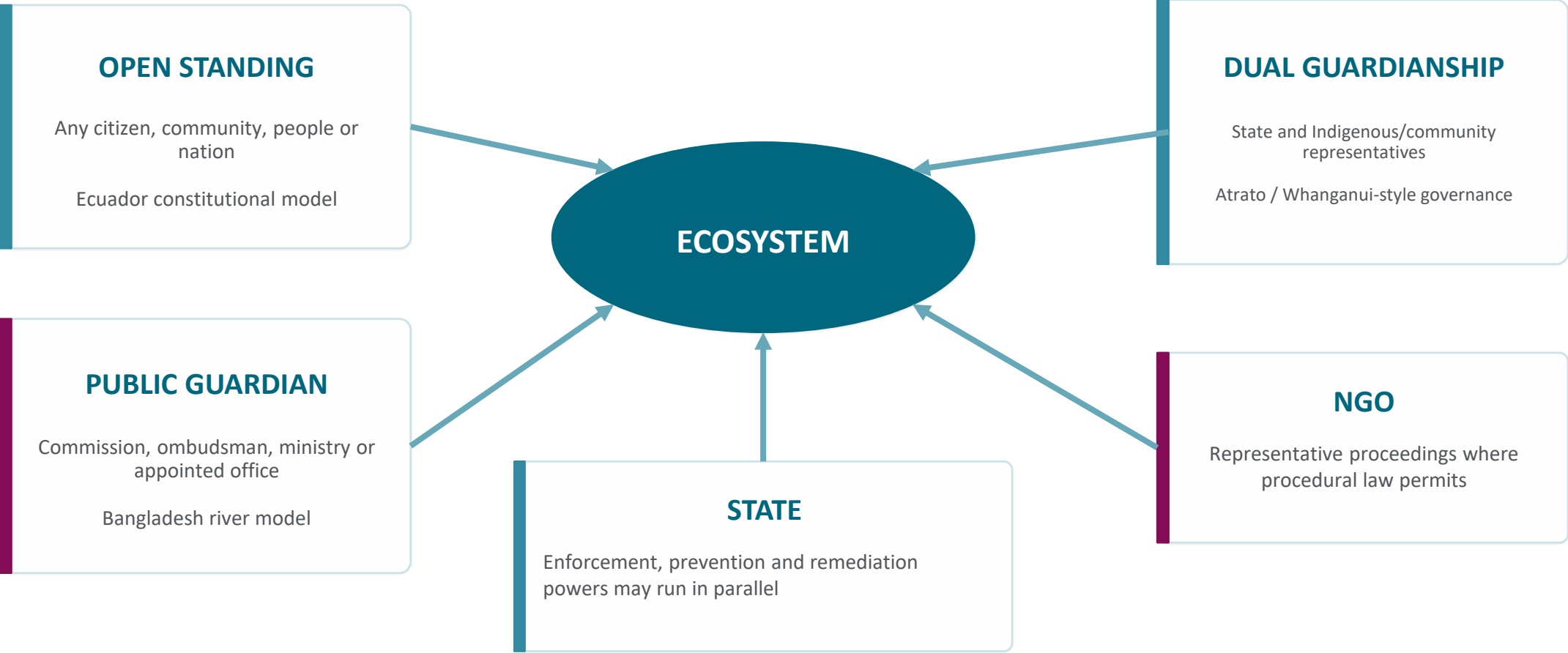
Nature as a rights-holder



Legal architecture



Rights of enforcement



Ecosystems with rights



Whanganui River, New Zealand



Turag River, Bangladesh



Magpie River, Canada



Mount Taranaki, New Zealand



Atrato River, Colombia



Los Cedros Forest, Ecuador



Murchison Falls, Uganda



(River Wye, Wales)

Illustrative litigation

Vilcabamba River

Ecuador | 2011

Provincial government road works; court applied constitutional rights of nature and ordered remedial compliance.

Los Cedros Forest

Ecuador | 2021

Response to pollution from permitted mining activities; mining permits revoked; species and ecosystem integrity drove relief

Atrato River

Colombia | 2016

Response to pollution from illegal mining; river recognised as subject of rights; shared state and community guardianship; remediation and governance order

Colombian Amazon

Colombia | 2018

Deforestation and climate claim; court recognised Amazon as rights-bearing entity.

Turag River

Bangladesh | 2019

Encroachment litigation; legal person status and river commission guardianship extended to all rivers.

Ganges / Yamuna

India | 2017

Legal-person ruling generated practical and federal concerns; stayed by Supreme Court.

Rights of nature in the UK



Herefordshire Council consider the principles of the Charter for the River Wye wherever relevant in decision making processes, reviewing the opportunities for integration alongside policy and strategy updates

Herefordshire Council Decision 6 March 2026

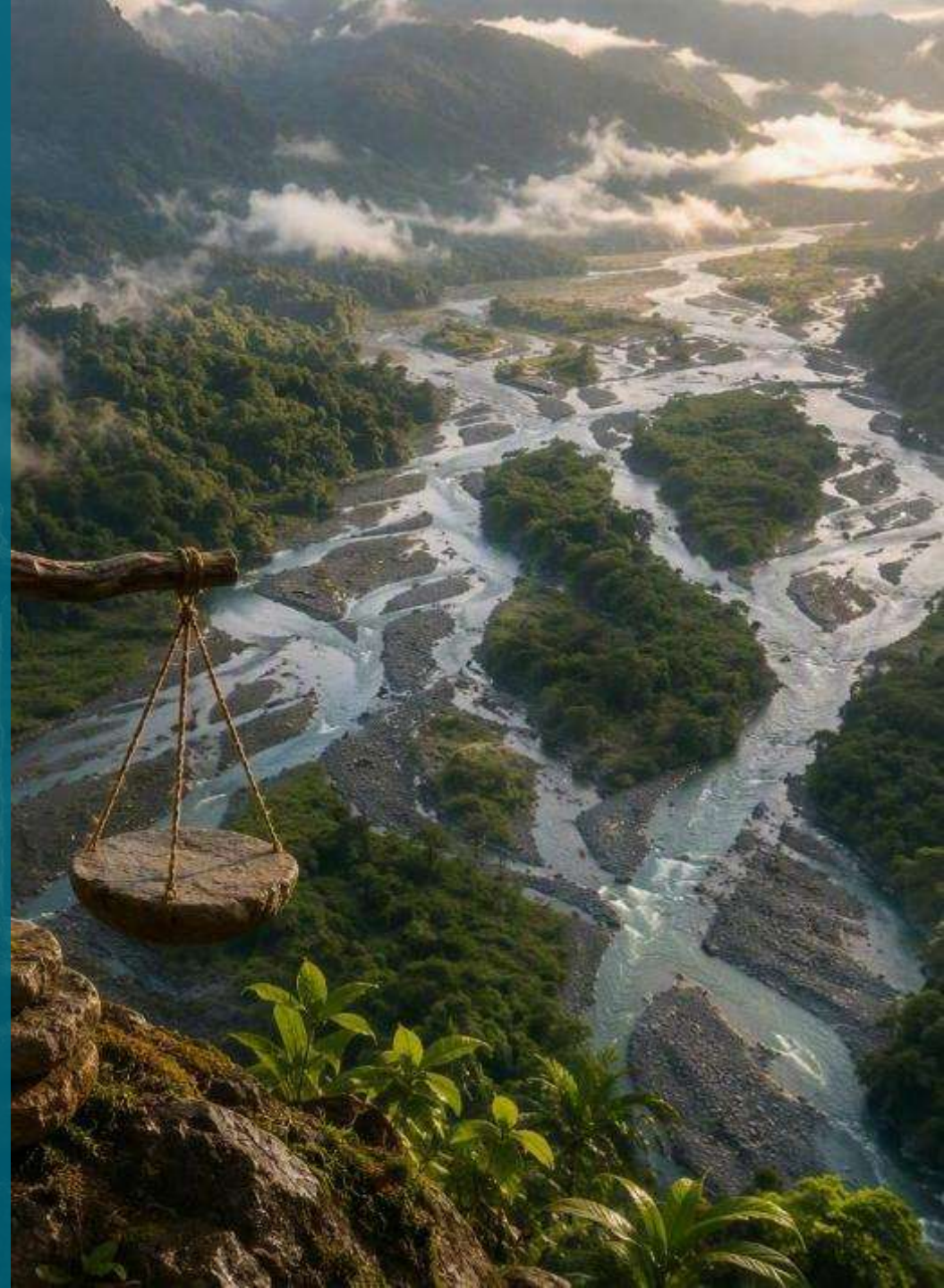
- The right to flow and perform natural functions**
To maintain its natural course and seasonal rhythms without obstructions or extractions that detrimentally affect the ecological function of any part of the river system.
- The right to biodiversity**
To achieve good biological health through the existence of balanced, diverse and viable populations of native species and habitats specific to the Wye and its tributaries.
- The right to be free from pollution**
To exist in a state of ecological health and not be subject to detrimental levels of known and emerging pollutants that adversely affect the life of the river.
- The right to be supported by a healthy catchment**
To flow through environments which support the river as a balanced, sustainable and resilient aquatic ecosystem.
- The right to regenerate**
To recover ecological function through natural processes, supported where necessary by interventions that help halt the decline in biodiversity and increase nature recovery over time.
- The right to representation**
To be represented and have these intrinsic rights recognised in decisions affecting the river's health now and in the future.

The patchwork quilt of environmental enforcement

LEGAL TOOL	ENFORCER	TRIGGER	REMEDY
Rights of nature	Citizens, communities, legal guardians	Impairment of ecological existence, cycles or regeneration	Injunction; remediation
Environmental regulation	National or local regulator	Breach of environmental standard or permit	Injunction; remediation; civil or criminal sanction
Environmental torts	Citizens (normally neighbouring owners)	Damage, (public) nuisance, negligence, trespass	Injunction; damages
Human right to healthy environment	Citizens	Harm to human welfare and environment	Declaration; damages
Public trust doctrine	Citizens, enforcing duties of government as trustee	Serious jeopardy to protected trust or public rights	Declaration; injunction; damages
Conservation status / protected area	Planning authorities and environmental regulators	Prohibited development or activity	Permit refusal; injunction; civil or criminal sanction

Coverage implications

Coverage for Rights of Nature



The ISO Absolute Pollution Exclusion

(1) “Bodily injury” or “property damage” arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of “pollutants”...

(2) Any loss, cost or expense arising out of any: (a) request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of “pollutants”; or (b) claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, “pollutants”.

Exclusion f. (Pollution) | ISO CG 00 01

“POLLUTANTS”

“any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.”

Key features

- **Causation, not personality.** The exclusion depends upon damage and injury caused by pollution, not who holds the right
- **Restoration orders are excluded**
- **What about ecological damage not caused by pollution?**
e.g. inhibited natural functions, poor biological health, poor catchment quality?

The ISO Total Pollution Exclusion

(1) “Bodily injury” or “property damage” which would not have occurred in whole or part but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of “pollutants” at any time.

(2) Any loss, cost or expense arising out of any: (a) request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of “pollutants”; or (b) claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, “pollutants”.

Total Pollution Exclusion | ISO CG 21 49

“POLLUTANTS”

“any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.”

Key features

- **A wider causal test.** “Would not have occurred but for” catches loss with any pollution link
- **Pollutants remain the foundation.** What about, e.g. to inhibited oxygenation or restricted biodiversity?
- **Restoration orders are excluded**

ABI Pollution Exclusion

This policy does not cover damage arising from pollution or contamination unless caused by ... a sudden and unforeseen and identifiable incident, which takes place in its entirety at a specific time and place

ABI Pollution Exclusion

Key features

- A proximate causation test
- Pollution remains key
- Restoration orders are not excluded
- Sudden and accidental

Brian Leighton Garages v Allianz [2023] EWCA Civ 8

Conclusions

01

Nature as a claimant

Ecosystems are recognised as rights-holders in their own name, with guardians, communities or any citizen able to sue on their behalf.

02

Rights go beyond pollution

Charters and judgments protect flow, biodiversity, catchment health and regeneration. Ecological harm need not involve a pollutant at all.

03

A global patchwork

Rights of Nature add another layer of complexity to an enforcement framework which is already complex.

04

Incompatibility with wordings

Rights of Nature bear little, if any, relationship to market wordings in the US, UK and Bermuda

05

Environmental clean-up?

Is it time to rethink the operation of environmental coverage?