

The Amazon Rainforest as a Legal Entity: A Bold Step for Environmental Protection in South America

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I. Introduction - A Clear & Present Danger

The Amazon Rainforest is a beautiful wonder of our natural world facing numerous threats to its health, such as deforestation and extreme climatic variability. It sprawls across the South American continent, covering over 1.2 billion acres through nine different countries, and is home to some of the world's most ecologically diverse plant and animal species.² Incredibly rich in flora and fauna, over 10% of the world's wildlife species are found there.³ It is also home to the Amazon River, the largest river in the world by volume, flowing over 4,000 miles and serving as the lifeblood for the millions of people, plants, and animals who live nearby.⁴

The Amazon is also fundamental to the South American economy. A significant amount (nearly 40%) of Pan-Amazon GDP is produced in the Amazon region.⁵ It's the world's most important producer of natural rubber, vital to the economies of Brazil, Bolivia and Peru.⁶ Hydroelectric dams and plants

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² Taylor, Leslie. Columbus State University. "Rainforest Facts." Accessed May 1, 2025. <http://csc.columbusstate.edu/summers/Outreach/RainSticks/fRainforestFacts.htm>.

³ Lewinsohn T. M. and Prado P.I. 2005. How Many Species Are There in Brazil? *Conservation Biology*. Volume 19 (3), 619

⁴ "Amazon River," *Research Starters*, EBSCO, accessed April 20, 2025, <https://www.ebsco.com/research-starters/science/amazon-river>.

⁵ Timothy J. Killeen, "Understanding the Conventional Economy of the Pan Amazon," *Mongabay*, June 13, 2023, <https://news.mongabay.com/2023/06/understanding-the-conventional-economy-of-the-pan-amazon/>.

⁶ World Wildlife Fund. "Rubber Tappers from Brazil, Peru and Bolivia Share Experiences on Rainforest Rubber." Last modified June 16, 2015.

along the Amazon River are responsible for over a quarter of the energy produced in Brazil.⁷ River navigation on its many tributaries is the primary mode of transportation in the thickly vegetated, difficult-to-navigate areas of the Amazon River Basin. This has become even more important in recent years, as soybean production in the Brazilian region of the Amazon has skyrocketed, yet another signal of the Amazon's critical economic contributions.⁸

The Amazon is an important facet of *all* life in the region; however, the forest is currently facing many threats ranging from mining, oil, and gas extraction, to ranching and poaching, to wildfires and droughts caused by climate change, to logging and infrastructure development.⁹ Due to human activity and extreme climate fluctuation, the Amazon Rainforest and the ecosystem that upholds the South American economy is being crippled. Between the years 2001 and 2020, the Amazon Rainforest shrunk by 9% from deforestation, a loss of land nearly the size of France.¹⁰ The Amazon faces major threats to its health and vitality, and the alarming rate of deforestation and increased development of the

<https://www.wwf.org.br/?46182/Rubber-tappers-from-Brazil-Peru-and-Bolivia-share-experiences-on-rainforest-rubber>.

⁷ Climate Policy Initiative, "Rivers of Diesel in the Amazon: Why Does the Region with Brazil's Biggest Hydroelectric Plants Still Rely on Expensive, Dirty Fuel?," *Climate Policy Initiative*, accessed April 3, 2025,

[https://www.climatepolicyinitiative.org/publication/rivers-of-diesel-in-the-amazon-why-does-the-region-with-brazils-biggest-hydroelectric-plants-still-rely-on-expensive-dirty-fuel/#:~:text=This%20number%20reflects%20the%20existence,total%20generated%20\(EPE%202021\)](https://www.climatepolicyinitiative.org/publication/rivers-of-diesel-in-the-amazon-why-does-the-region-with-brazils-biggest-hydroelectric-plants-still-rely-on-expensive-dirty-fuel/#:~:text=This%20number%20reflects%20the%20existence,total%20generated%20(EPE%202021).).

⁸ Maxwell Radwin, "In the Amazon, Global Competition Drives Bulk Transport Systems," *Mongabay*, September 13, 2023, accessed April 3, 2025,

<https://news.mongabay.com/2023/09/in-the-amazon-global-competition-drives-bulk-transport-systems/>.

⁹ Abdenur, Adriana, Brodie Ferguson, Ilona Szabo de Carvalho, Melina Risso, and Robert Muggah. "Threats to the Amazon Basin." *ENVIRONMENTAL CRIME IN THE AMAZON BASIN: A Typology for Research, Policy and Action*. Igarape Institute, 2020. <http://www.jstor.org/stable/resrep25410.5>.

¹⁰ Giovanna Fleck, "Deforestation in the Amazon: Past, Present and Future," *InfoAmazonia*, March 21, 2023, accessed April 3, 2025,

<https://infoamazonia.org/en/2023/03/21/deforestation-in-the-amazon-past-present-and-future/>.

region only contribute to ecological destruction in the ecosystem, thereby exacerbating climate change throughout South America and the globe.

Currently, to legally defend the environment, one must demonstrate the harm to it as also an invasion or negation of *his own* rights. However, if this natural entity were to be endowed with personhood and related rights, then governments would have direct jurisdiction over the entity itself. Further, legitimate status as a person impacts the beneficiaries of court rulings, and changing the legal perspective to include nature as a person endowed with inalienable rights could allow courts to more easily make rulings toward the benefit of nature itself, rather than human plaintiffs.

As such, following the lead of other situationally adjacent governments, in order to promote economic and environmental sustainability, the governments of South America should extend legal personhood, and its related protections, to the Amazon Rainforest. This would, in effect, allow for the forest and river to be better protected by slowing the rate of deforestation and destruction, while also contributing to a legal resolution to the fight between governments and indigenous tribes over land ownership.

II. Historical and Philosophical Foundations of Legal Personhood for Nature

At any point throughout history, whenever developments have led to a push to recognize new categories of people under the law, there has been some notion of impossibility, fruitlessness, and an air of unnaturalness.¹¹ However, the historical record dispels any notion that granting the entirety of the Amazon Rainforest personhood is impractical or foolhardy. Legal personhood in and of itself is a fluid term, socially constructed and determined by historical factors. For example, the United States Supreme Court decision in *Dred Scott v. Sandford* (1857)

¹¹ O'Donnell, Erin, and Anna Arstein-Kerslake. 2021. "Recognising Personhood: The Evolving Relationship between the Legal Person and the State." *Griffith Law Review* 30 (3): 339–47. doi:10.1080/10383441.2021.2044438.

ruled that African Americans are not considered legal persons in a court of law.¹² Of course, that has since changed. The expanding definition of personhood, from initially only covering propertied Caucasian men, to now including all human beings, demonstrates an ability to adapt with the times.

Furthermore, the idea of extending personhood to natural entities has been discussed in the academic literature for some time now. Christopher Stone's seminal 1972 work, "*Should Trees Have Standing?*" examines this idea at length. He argues that the granting of legal personhood to nature, which has no voice of its own, is no different from the personhood already extended to corporations, infants, municipalities, estates, and universities, all who have lawyers speak at their voiceless behest. Similarly, Stone argues that nature should have the same rights.¹³

He also pushes for the novel idea of institutionalizing the violation of nature as a violation of property rights, akin to the way that copyright, intellectual property, and patent law protect inanimate things, such as ideas, from harm. To him, it is reasonable to "make the violation of rights in them [nature] to be a cost by declaring the "pirating" of them to be the invasion of a property interest."¹⁴ This allows for a broad legal avenue in which to defend nature from harm.

Finally, the law must take into account the perspective of the indigenous tribes who live there. Generally, their cultural beliefs place an emphasis on caretaking and stewardship of nature. According to the United Nations, about half of the remaining land within the Amazon Basin is in the hands of indigenous people, and shows significantly lower rates of deforestation when compared to

¹² U.S. Supreme Court, *Dred Scott v. Sandford*, 60 U.S. (19 How.) 393 (1857).

¹³ Christopher D. Stone, *Should Trees Have Standing?* (Los Angeles: University of Southern California, 1972), accessed April 3, 2025, <https://iseethics.wordpress.com/wp-content/uploads/2013/02/stone-christopher-d-should-trees-have-standing.pdf>

¹⁴ Christopher D. Stone, *Should Trees Have Standing?*

other areas of the Amazon.¹⁵ Many environmentalists look to Indigenous peoples as the best caretakers and guardians of the rainforest, and perhaps the key ally in the conservation fight. For example, the Matapi people of the Columbian Amazon have used sustainable farming practices for thousands of years and continue to do so in the present day.¹⁶ Understanding the indigenous nature-first worldview is essential to policy development concerning the Amazon, as they are the major stakeholders in this unfolding legal issue.

III. Case Studies & Legal Precedence

The extension of legal personhood and its related protections to nature has legal precedence. It has been tried with success in multiple other countries, but never at this proposed scale. In fact, the constitution of Ecuador already formally enshrines the rights of nature by incentivizing communities to protect and responsibly care for the environment.¹⁷ In practice, an international coalition of personhood would advocate for the forest's preservation, and for an expansion of legal avenues to defend it. It is possible to do and those interested in environmental protection in South America should take lessons from the legal precedence and case studies which serve as a model for this bold step.

1. Whanganui River | New Zealand

New Zealand's recognition of the Whanganui River as a legal entity is the first major, comparable example. Similar to the Indigenous Amazonian peoples, the Māori people of New Zealand have a sacred view of nature, specifically of the Whanganui River. In 2017, after extended negotiations with the Māori, the New Zealand government signed into law the Te Awa Tupua

¹⁵ Pablo Uchoa, "Indigenous Peoples Are the Best Guardians of the Rainforest. Here's Why," *World Economic Forum*, February 9, 2022, accessed April 3, 2025, <https://www.weforum.org/stories/2022/02/amazon-indigenous-culture-colombia-rainforest-forest/>.

¹⁶ Pablo Uchoa, "Indigenous Peoples Are the Best Guardians of the Rainforest. Here's Why,"

¹⁷ Sarah Rothbard, "Legal Personhood: Extending Rights to Nature," *JSTOR Daily*.

(Whanganui River Claims Settlement) Act, which granted the river the legal rights of a human being.¹⁸

This ruling established two guardians over the river; one representing the New Zealand government and the other representing the Māori people. This dynamic ensures that the interests of both parties are fairly represented. The ability of a sovereign government to align with tribal authorities bodes well for the potential application of a similar policy to the Amazon as a whole.

The law itself also demonstrates the collaborative relationship between the two governments. The act was based on the guiding philosophies of the Māori people, ensuring a fair opportunity for tribal voices to affect policy. This allows for less of a reliance on state jurisdiction and instead puts Indigenous caretakers at the center of the conversation as the primary decision-makers, thereby enhancing Indigenous self-determination.¹⁹ This model serves as a strong blueprint of government-indigenous relations for the proposed international legal framework that would protect the Amazon.

2. Amazon Rainforest | Columbia

In fact, a portion of the Amazon has already been granted legal personhood by its sovereign government. In 2018, the Supreme Court of Columbia recognized the Colombian Amazon as a legal person. In its ruling, the Court wrote, “for the sake of protecting this vital ecosystem for the future of the planet,” it would “recognize the Colombian Amazon as an entity, *subject of rights*, and beneficiary of the protection, conservation, maintenance and restoration” that national and local governments are obligated to provide.”²⁰ The Court also

¹⁸ New Zealand Parliament. *New Zealand Intelligence and Security Act 2017*. Accessed April 26, 2025. <https://www.legislation.govt.nz/act/public/2017/0007/latest/whole.html>.

¹⁹ Sarah Rothbard, “Legal Personhood: Extending Rights to Nature,” *JSTOR Daily*.

²⁰ International Union for Conservation of Nature (IUCN), “Colombian Supreme Court Recognizes Rights of Amazon River Ecosystem,” *IUCN*, April 10, 2018, accessed April 5, 2025, <https://iucn.org/news/world-commission-environmental-law/201804/colombian-supreme-court-recognizes-rights-amazon-river->

but also legally, politically, and ethically necessary. The Paris Agreement is a strong example of an international legal framework that facilitates climate-friendly activism. It is a legally binding contract between 196 different countries that aims to limit the global temperature increase which has been expedited by climate change. Its signing was a watershed moment for climate activism; the first time that such a large, multilateral coalition came together with the express intent of combating climate change.²⁴ International law is applicable to the conservation effort, and more importantly, is necessary to affect real and lasting change, particularly in a region like the Amazon which impacts so many different countries and peoples.

Similar multinational conventions have been organized to support the efforts of biodiversity conservation. The Convention on Biological Diversity (CBD) is an international instrument of the United Nations seeking the preservation and protection of biodiversity. It was founded with the express intent to limit the human-driven decline in biodiversity. Each of the 196 countries involved are required by the rulings of the Convention to develop tangible action plans to protect and promote species flourishing within their borders. A Conference of Parties made up of a delegation of international representatives oversees its administration. While biodiversity conservation is a very laborious and ongoing process, the Convention is credited with the expansion of protected areas and the addition of biodiversity values into the national accounting system.²⁵ As demonstrated, such a legal framework exists, and now it is up to the countries

²⁴ United Nations Framework Convention on Climate Change (UNFCCC), “The Paris Agreement,” *UNFCCC*, accessed April 6, 2025, <https://unfccc.int/process-and-meetings/the-paris-agreement>.

²⁵ London School of Economics and Political Science, “What Is the UN Biodiversity Conference (COP15)?,” *Grantham Research Institute on Climate Change and the Environment*, accessed April 6, 2025, <https://www.lse.ac.uk/granthaminstitute/explainers/what-is-the-un-biodiversity-conference/>.

of South America to adopt these practices in order to protect and promote biodiversity within the Amazon.

V. Implementation Strategies

For the protection of biodiversity and the rainforest to be governed both ethically and with efficacy, an international coalition must be made up of representatives of all interested parties. Further, nature itself must indeed be the beneficiary of any rights that the personhood distinguishment allows. There are two possible models that these governments and native tribes might consider.

1. The Guardianship Model

The first model is one of guardianship. Similar to New Zealand's *modus operandi*, the guardianship model is an important way for the voices of each group involved to be heard, especially those with historically marginalized voices like indigenous peoples. In effect, guardian entities would be appointed to watch over the Amazon and ensure its prosperity in the same way that New Zealand has appointed officials from the government and the Māori people to watch over the Whanganui River.²⁶ Through a joint effort, they are working to achieve their stated mission of preserving the biological diversity of the region while also deepening the working relationship between the New Zealand government and the Māori.

This model has much to draw from, particularly in a region where many different groups share the Amazon as their home. It allows for collaboration and communication between the numerous countries of the region, as well as the many tribes, and establishes a legal methodology to defend the natural world.

2. The Land Trust Model

The second model for possible consideration is a land trust model. A trust is defined as a fiduciary arrangement where an appointed entity, a trustee,

²⁶ Sarah Rothbard, "Legal Personhood: Extending Rights to Nature," *JSTOR Daily*.

holds assets for the benefit of an explicit beneficiary²⁷ (in this case, nature would be both the assets themselves and the beneficiary). This model relies heavily on multilateral collaboration. Presently, the Amazon Cooperation Treaty Organization (ACTO), made up of Brazil, Peru, Colombia, Venezuela, Ecuador, Bolivia, Guyana, and Suriname, exists to facilitate responsible resource management and sustainable development in the region. This legal instrument – ACTO – may be best fitted for the proposed model as it is the only treaty involving each relevant country and thus could be most effective for international cooperation.²⁸ Member states develop plans and take action to further these goals, with treaties such as Integrated and Sustainable Management of Transboundary Water Resources in the Amazon River Basin Considering Climate Change Variability and Change Project (the “GEF Amazonas Project”) This project aims to develop action frameworks to cultivate climate-friendly water policy.²⁹ However, the ACTO struggles to ensure compliance under current legal restrictions. Still, international law pacts such as these could serve as a foundation for expansion if the Amazon achieves personhood.

Under the proposed land trust model, the ACTO’s legal mandate would be broadened and tasked with administering and enforcing the Amazon’s newfound status as a legal person. This could be accomplished in several ways, with the ACTO serving as an international coalition of appointed trustees made up of representatives from sovereign governments, regional tribes, climate

²⁷ “Trust,” *The Law Dictionary Featuring Black’s Law Dictionary Free Online Legal Dictionary 2nd Ed.*, accessed April 7, 2025, <https://thelawdictionary.org/trust/>.

²⁸ Cambridge University Press. *General Conclusions*. In *The Amazonian Region and the International Law of the Environment*, 306–326. Cambridge: Cambridge University Press, 2010. https://www.cambridge.org/core/services/aop-cambridge-core/content/view/97719DCCEA559A072CBA8A65388C8C9C/9780511975233c10_p306-326_CBO.pdf/general_conclusions.pdf.

²⁹ Global Environment Facility IW:LEARN, “Amazon Basin Legal Frameworks,” *IW:LEARN*, accessed April 7, 2025, <https://iwlearn.net/documents/legal-frameworks/amazon-basin>.

scientists, and environmental activists. Trustees would be responsible for protecting the assets of the “legal Amazon person” via the management of international environmental litigation and the representation of the Amazonian States to groups such as the United Nations. The Amazon Rainforest Trust would represent all nations and allow for the creation of one streamlined plan to conserve the natural world.

VI. Legal, Jurisdictional, & Enforcement Challenges

There are, however, many who would seek to oppose this legislative strategy. The Amazon faces legal and political threats from populist, industry-focused governments. In Brazil, deforestation rates have risen drastically, hitting a 15-year high in 2021, as the industrially-oriented government limits environmental regulation.³⁰ The government has taken many steps to deregulate the rainforest, including slashing the spending budget of environmental agencies and streamlining the timber export process.³¹ The Brazilian Supreme Court forgave the fines of many convicted of illegal deforestation.³² The anti-environmentalist movement is powerful, but the Amazon's potential distinction as a legal person being necessarily recognized by a multinational mix of governments ensures that no one ideology has the power to rout the movement. The conversation must be framed as a legal one, rather than a political one.

In addition, jurisdictional challenges arise. Effective international cooperation of this scale is unprecedented in the region. Presently, most cooperation in the region is in the form of bilateral agreements between countries,

³⁰ Diana Roy, “Deforestation of Brazil’s Amazon Has Reached a Record High. What’s Being Done?” *Council on Foreign Relations*, August 24, 2022, <https://www.cfr.org/in-brief/deforestation-brazils-amazon-has-reached-record-high-whats-being-done>.

³¹ Observatório do Clima. “Brazil Has Lowest Environmental Budget in 21 Years.” Last modified January 22, 2021. <https://www.oc.eco.br/en/brazil-has-lowest-environmental-budget-in-21-years/>.

³² Sue Branford and Thais Borges, “Brazil’s Political Storm Driving Amazon Deforestation Higher,” *Mongabay*, July 5, 2018, <https://news.mongabay.com/2018/07/brazils-political-storm-driving-amazon-deforestation-higher/>.

with insufficient administrative and enforcement capabilities. They exist primarily to share information *inter se*, meaning compliance is not always adhered to.³³ However, a multilateral treaty forming a coalition with enforcement powers could help to remedy this situation. Jurisdictional challenges are inevitable in a legal undertaking this broad, but the function of the Amazon Cooperation Treaty would exist to limit it. Expanding enforcement capabilities of environmental regulators helps to ease jurisdictional pressures that exist in a region like the Amazon. Furthermore, each country legally recognizing the Amazon as a person allows them personal jurisdiction over the Amazon, which ensures each court's ability to regulate the Amazon,³⁴ allowing for an easier network of inter-state collaboration.

VII. Conclusion

The Amazon faces a multitude of challenges, which continue to become more and more apparent as climate change unfolds. The time is now for decisive action. Due to the extreme rates of deforestation, resource extraction, and general pollution, the Amazon is weakened and in need of legal strengthening. A recognition of the Amazon Rainforest as a legal person with intrinsic rights provides one of the most effective solutions possible. An international coalition of stewardship over the forest and its rights ensures an equitable weighting to the voices of the varied groups with a stake; the governments of the nine countries in the region, the many Indigenous tribes, climate scientists, and corporations.

Literature and science can only take us so far. The proposed legal changes are important, not solely due to their ability to strengthen legal conservation efforts but also to spark a shift in perspective. Until we understand nature is not only a commodity from which to extract value but also, a living,

³³ Cambridge University Press. *General Conclusions*. In *The Amazonian Region and the International Law of the Environment*, 306–326.

³⁴ Legal Information Institute. "Personal Jurisdiction." Cornell Law School. Accessed April 8, 2025. https://www.law.cornell.edu/wex/personal_jurisdiction.

breathing entity deserving of its own legal representation and inalienable rights, real change will not occur. We would all do well to keep in mind a lesson of the native people; “The Earth does not belong to us. We belong to the Earth.”³⁵

³⁵ Emily Fox, “How Chief Seattle Mistakenly Inspired an Environmental Movement,” *KUOW*, December 12, 2017, <https://www.kuow.org/stories/how-chief-seattle-mistakenly-inspired-environmental-movement>.