[redacted]

***Amicus Curiae***

**Ref: Los Derechos de las Ballenas**

**Presentado por:**
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XX de septiembre de 2026

Parte Quejosa: Las Ballenas y Nuestro Derecho Al Futuro, AC.
[redacted]

JUICIO DE AMPARO INDIRECTO

**PARTE QUEJOSA: LAS BALLENAS Y NUESTRO DERECHO AL FUTURO, AC.**

[redacted]

**ASUNTO:** SE PRESENTA A*MICUS CURIAE*.

[redacted].

César Rodríguez-Garavíto y Ashley Otilia Nemeth, como apoderados del Programa More-Than-Human Life (MOTH), con fundamento en los artículos 1°, 4°, 6°, 7° y 8° de la Constitución Política de los Estados Unidos Mexicanos, así como en el artículo 875 del Código Nacional de Procedimientos Civiles y Familiares, respetuosamente comparezco ante Usted a presentar el siguiente escrito en carácter de *amicus curiae*, con el objeto de realizar manifestaciones, a fin de proveer a este Juzgado de Distrito con información y pruebas relevantes para la resolución del juicio de amparo citado al rubro.

I. Procedencia del *amicus curiae* en el juicio de amparo.

La Suprema Corte de Justicia de la Nación ha determinado que, en los juicios de amparo en los que se resuelven cuestiones de trascendencia social, los tribunales del Poder Judicial de la Federación pueden admitir escritos de *amicus curiae*. Esta presentación se encuentra "amparada por un ámbito de interdependencia entre la libertad de expresión y el derecho a defender derechos humanos. Su admisión contribuye a la impartición de justicia expedita y en una tutela judicial efectiva."[1] La presente intervención se encuadra en dicho supuesto y representa un ejercicio de participación ciudadana en materia de derecho al medio ambiente sano y acceso a la justicia.

[1] Registro digital: 2029642. Instancia: Primera Sala. Undécima Época. Materias(s): Común. Tesis: 1a./J. 164/2024 (11a.). Fuente: Semanario Judicial de la Federación. Tipo: Jurisprudencia, de rubro: AMICUS CURIAE. ES PROCEDENTE SU ADMISIÓN EN JUICIOS DE AMPARO Y SUS RESPECTIVOS RECURSOS QUE SEAN DE TRASCENDENCIA SOCIAL O EN LOS QUE SE PRETENDA DEFENDER DERECHOS HUMANOS.

El caso del que se trata el juicio de amparo es de gran trascendencia legal, pues *Las Ballenas* son las que acuden al juicio de amparo como sujetos de derechos, para exigir el respeto y la salvaguarda de su hábitat, mismo del que dependen sus ciclos vitales y procesos biológicos esenciales: su alimentación, reproducción, migración y su existencia misma.

Además, se deberá decidir si se debe declarar el Golfo de California como un hábitat crítico para proteger a *Las Ballenas*. En este juicio se determinará cuál es el deber del Estado Mexicano de proteger a *Las Ballenas* habitan en el Golfo de California, considerando que este ecosistema alberga una de las mayores concentraciones de biodiversidad del planeta y es el hogar de ballenas azules, grises, jorobadas, cachalotes, junto a cientos de otras especies.

Para reforzar nuestro derecho a presentar este escrito, se adjunta a continuación la jurisprudencia aplicable al caso concreto:

> **“AMICUS CURIAE. ES PROCEDENTE SU ADMISIÓN EN JUICIOS DE AMPARO Y SUS RESPECTIVOS RECURSOS QUE SEAN DE TRASCENDENCIA SOCIAL O EN LOS QUE SE PRETENDA DEFENDER DERECHOS HUMANOS.**
>
> Hechos: Dos tribunales colegiados emitieron criterios discordantes al momento de analizar si era posible admitir un escrito en vía de amicus curiae en un juicio de amparo o en un recurso derivado de éste. Uno de los tribunales determinó que no era posible al considerar que la Ley de Amparo solo autoriza la intervención de las partes del juicio y que este tipo de asuntos no revisten la importancia que tienen otro tipo de casos como acciones de inconstitucionalidad o controversias constitucionales donde sí son admitidos.
>
> Por su parte, el otro tribunal consideró que se podía admitir derivado de la interpretación de la Convención Americana sobre Derechos Humanos y los Acuerdos Generales que ha emitido el Pleno de la Suprema Corte de Justicia de la Nación, así como por la naturaleza trascendental del asunto.
>
> Criterio jurídico: Los tribunales del Poder Judicial de la Federación pueden admitir escritos de amicus curiae en aquellos juicios de amparo y respectivos recursos que sean de trascendencia social o en los que se pretenda proteger derechos humanos a través de la presentación de información u opiniones técnicas o puntos jurídicamente relevantes para la resolución de un caso, pero no están obligados a dar respuesta a estos escritos en la sentencia ni a tomarlos en consideración.
>
> Justificación: El artículo 2, párrafo segundo, de la Ley de Amparo prevé la posibilidad de acudir al Código Federal de Procedimientos Civiles ante la falta de una disposición expresa. En ese sentido, el artículo 79 de dicho ordenamiento faculta a los jueces para valerse de cualquier persona, sea parte o tercero, y de cualquier cosa o documento, ya

> sea que pertenezca a las partes o a un tercero a fin de llegar a la verdad. Dicho fundamento normativo permite la admisión de los escritos de amicus curiae.
>
> La presentación de este tipo de escritos se encuentra amparada por un ámbito de interdependencia entre la libertad de expresión y el derecho a defender derechos humanos. Su admisión contribuye a la impartición de justicia expedita y en una tutela judicial efectiva.
>
> En ese sentido, partiendo del hecho de que los juicios de amparo y sus respectivos recursos pueden ser de la misma trascendencia social que acciones de inconstitucionalidad o controversias constitucionales, la admisión de este tipo de escritos será procedente en los casos en los que se presenten en asuntos de trascendencia social o con el objeto de defender derechos humanos a través de información u opiniones técnicas, así como puntos jurídicamente relevantes para la resolución del caso. Lo anterior en el entendido de que el tribunal no está obligado a incorporarlo en su decisión ni a tomarlo en cuenta."[2]

También es relevante la resolución de la Contradicción de Tesis 270/2016, en el cual, la Suprema Corte de Justicia concluyó que existe un "imperioso interés social de proteger de manera integral al medio ambiente…". En reconocimiento de este interés social y de la enorme relevancia de proteger uno de los ecosistemas más importantes que existe en el planeta, presentamos este *amicus curiae*; para conservar al Acuario del Mundo, a *Las Ballenas* que dependen de este ecosistema y al resto de las especies que dependen de la conservación de este mar megadiverso para su supervivencia.

Por ello, se debe admitir a trámite el presente *amicus curiae*, pues auxiliará a este Juzgado a resolver sobre por qué *Las Ballenas* deben ser reconocidas como sujetas de derechos, y cuál es la importancia de ello.

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[2] Véase la tesis de jurisprudencia 1a./J. 164/2024 en la Gaceta del Semanario Judicial de la Federación, Undécima Época, diciembre de 2024 y número de registro digital 2029642.

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## I. Introduction

The More-Than-Human Life (MOTH) Program is an interdisciplinary initiative of the Earth Rights Research & Action (TERRA) Program at the Center for Human Rights and Global Justice at the New York University School of Law. MOTH is dedicated to advancing the rights and well-being of humans, nonhumans, and the web of life through legal scholarship, applied research, advocacy, and environmental governance. Drawing on law, ecology, Indigenous knowledge, and related disciplines, MOTH develops legal and institutional approaches to protecting nature, including the growing field of Rights of Nature, with particular attention to translating scientific knowledge into law and improving the governance of human relationships with the natural world.

MOTH has also emerged as a leading authority on the implementation of Rights of Nature judgments, recognizing that the effectiveness of such decisions depends not only on judicial recognition but also on their faithful execution and enforcement. MOTH conducted one of the first systematic assessments of the post-judgment implementation of a Rights of Nature decision, evaluating government and corporate compliance with the Ecuadorian Constitutional Court's landmark *Los Cedros* judgment through field research, documentary analysis, stakeholder interviews, and a structured compliance methodology. That work provides a legal framework for assessing whether judicial recognition of Nature's rights produces meaningful on-the-ground protection and informs MOTH's expertise on the institutional conditions necessary to ensure that environmental judgments achieve their intended effect. MOTH therefore has a substantial interest in this case and respectfully submits this brief because its expertise regarding the recognition, governance, and implementation of Nature's rights may assist the Court in addressing the important legal issues presented in this case.

This brief addresses three questions the Court faces: whether recognizing Nature as a subject of rights is consistent with existing law, whether the rights petitioners seek for the whales of the Gulf of California can be specified with sufficient precision to be administered, and whether their recognition can produce obligations concrete enough to be enforced. At the threshold, it bears emphasis that legal personality and the rights that accompany it are legal techniques rather than biological categories. Legal systems have long conferred personality and specified rights on entities that are not human beings and cannot themselves appear (corporations, municipalities, trusts, estates, and, in several jurisdictions, future generations) and have paired that recognition with representatives authorized to assert the entity's interests. Rivers, forests, lagoons, marine-coastal ecosystems, and individual animals have already been recognized as rights holders on the same footing across six continents. Recognition of the whales of the Gulf of California as subjects of rights would therefore be an application of a familiar juridical technique, not a judicial innovation.

Part II shows that Rights of Nature are a coherent development of environmental and human-rights law rather than a departure from it. The precautionary principle and *in dubio pro natura*, both given force by the Mexican Supreme Court in the *Laguna del Carpintero* decision, already treat ecological integrity as a protected interest in its own right, resolving uncertainty in favor of

Nature before any showing of human injury. Moreover, the interdependence of human rights and the environment, as recently confirmed by the International Court of Justice and the Inter-American Court of Human Rights, already conditions the enjoyment of the rights to life, health, water, food, and culture, among others, on the integrity of the ecosystems that sustain them.

Part III surveys comparative practice across six categories of protected interest — existence and ecological integrity, environmental and habitat conditions, ecological relations and species-typical behavior, physical integrity, protection and restoration, and representation — and demonstrates that each of the rights petitioners seek is an application of interests already recognized elsewhere, adapted to the marine setting. Part IV turns from recognition to remedy. Drawing on the Inter-American Court's recent advisory opinion and on comparative practice, it shows that courts and legislatures have given effect to rights recognition through concrete, context-specific measures and that the design of such measures is informed by the best available science. Amici respectfully submit that recognition of the rights petitioners assert is legally available to this court, and that measures capable of securing those rights are administrable and well precedented.

## II. Rights of Nature are a Logical Development of Contemporary Environmental and Human-rights Law

Rights of Nature refer to the recognition that ecosystems and other components of the natural world are subjects of legal rights that can be asserted and protected through legal institutions.[3] The rights recognized in jurisprudence, legislation, and constitutions around the world vary by jurisdiction and the given natural subject, but often include the rights to exist, maintain their vital cycles, and regenerate.[4] Such rights are a coherent development of longstanding environmental law principles; doctrines like the precautionary principle and *in dubio pro natura* already treat ecological integrity as worthy of protection for its own sake, not merely as a proxy for provable human injury. Rights of Nature do not introduce this premise; instead, they supply the procedural vehicle for asserting it.

The precautionary principle directs that where an action threatens serious or irreversible harm to the environment, a lack of full scientific certainty shall not justify postponing measures to prevent that harm. That formulation follows Principle 15 of the 1992 Rio Declaration, the

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[3] Corte Constitucional del Ecuador, Sentencia No. 1149-19-JP/21, caso Bosque Protector Los Cedros, 10 de noviembre de 2021, párrs. 25–35. Disponible en línea: https://celdf.org/wp-content/uploads/2015/08/Los-Cedros-Decision-Spanish.pdf; Corte Constitucional del Ecuador, Sentencia No. 253-20-JH/22, caso Estrellita, 27 de enero de 2022, párrs. 53–70. Disponible en línea: https://www.animallaw.info/sites/default/files/Estrellita%27s%20case-habeas%20corpus-Ecuador-Spanish.pdf; Unión Internacional para la Conservación de la Naturaleza, World Declaration on the Environmental Rule of Law, 2016, Principio 2. Disponible en línea: https://lpr.adb.org/resource/world-declaration-environmental-rule-law.

[4] Unión Internacional para la Conservación de la Naturaleza, World Declaration on the Environmental Rule of Law, Principio 2; Craig M. Kauffman y Pamela L. Martin, The Politics of Rights of Nature: Strategies for Building a More Sustainable Future, MIT Press, 2021,

principle's most widely endorsed statement.[5] But the principle's earliest articulations grounded it in nature's intrinsic value: the 1982 World Charter for Nature proclaimed that every form of life warrants "respect regardless of its worth to man."[6] From its inception, the principle has operated as more than a tool of risk management. By resolving scientific uncertainty in favor of the environment, it places the burden of that uncertainty on the actor proposing the activity rather than on the natural systems that would suffer the harm, thereby treating ecological integrity as a protected interest that need not be reduced to proof of human injury before the law will act to preserve it.

The Inter-American Commission has invoked the World Charter for Nature to precisely this effect, recalling that humanity forms part of nature and that human life depends upon the uninterrupted functioning of natural systems that secure the supply of energy and nutrients.[7] The Charter's proposition has thus informed the regional system's articulation of States' environmental obligations for decades, well before Nature's status as a rights holder was expressly recognized.

So understood, the precautionary principle is a substantive recognition that the natural world warrants protection for its own sake — the very premise that Rights of Nature frameworks make explicit. That recognition spans every register of legal authority: it appears in foundational soft-law instruments discussed above, is embodied in binding treaty and domestic laws, and has been given effect by international and domestic high courts as a governing standard of environmental adjudication.[8] The ICJ concluded in its 2025 climate change advisory opinion that the precautionary principle is "an integral part of the general obligation of due diligence under

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[5] Naciones Unidas, Declaración de Río sobre el Medio Ambiente y el Desarrollo, 1992, Principio 15.

[6] Asamblea General de las Naciones Unidas, Carta Mundial de la Naturaleza, Resolución 37/7, 28 de octubre de 1982. Disponible en línea: http://www.un-documents.net/a37r7.htm.

[7] Comisión Interamericana de Derechos Humanos, Derechos de los pueblos indígenas y tribales sobre sus tierras ancestrales y recursos naturales, OEA/Ser.L/V/II, Doc. 56/09, 30 de diciembre de 2009, párrs. 192 y 195 (citando la Carta Mundial de la Naturaleza)

[8] Convención Marco de las Naciones Unidas sobre el Cambio Climático, en vigor desde el 21 de marzo de 1994, art. 3.3; Convenio de Estocolmo sobre Contaminantes Orgánicos Persistentes, en vigor desde el 17 de mayo de 2004, enmendado en 2009, art. 1; Convenio sobre la Diversidad Biológica, en vigor desde el 29 de diciembre de 1993, preámbulo; Protocolo del Convenio sobre la Prevención de la Contaminación del Mar por Vertimiento de Desechos y Otras Materias, con sus enmiendas de 2006, en vigor desde el 24 de marzo de 2006, preámbulo y art. 3.1; Ley General de Cambio Climático de los Estados Unidos Mexicanos, de 6 de junio de 2012, art. 26, fracción III; Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-23/17, Medio ambiente y derechos humanos, 15 de noviembre de 2017, Serie A No. 23, párrs. 176 y 178; Tribunal Internacional del Derecho del Mar, Sala de Controversias de los Fondos Marinos, opinión consultiva de 1 de febrero de 2011, párrs. 125–135, disponible en línea: https://www.itlos.org/fileadmin/itlos/documents/cases/case_no_17/17_adv_op_010211_en.pdf paras 125-135; Corte Internacional de Justicia, Pulp Mills on the River Uruguay (Argentina v. Uruguay), sentencia de 2010, I.C.J. Reports 2010 (I), p. 71, párr. 164; Corte Suprema de Justicia de Panamá, Pleno, Expediente 910-08, sentencia de 24 de febrero de 2010; Corte Suprema de Chile, Tercera Sala, Rol No. 14.209-2013, sentencia de 2 de junio de 2014, considerando 10.

the duty to prevent significant harm to the environment" such that it "guides States in the determination of the required standard of conduct in fulfilling their customary duty."[9]

The precautionary principle is supported by the principle of *in dubio pro natura*, which similarly embodies nature's inherent value. *In dubio pro natura* guides courts, administrative agencies, and other decision-makers to interpret legal uncertainties and ambiguities in the manner most protective of the environment.[10] As recognized in Principle 5 of the IUCN World Declaration on the Environmental Rule of Law, this results in a preference for "alternatives that are least harmful to the environment" and a prohibition against actions whose "potential adverse impacts on the environment are disproportionate or excessive in relation to the benefits derived therefrom."[11]

Applications vary from statutory interpretation to constitutional guarantees. In Brazil, the principle has operated as a tool of statutory interpretation: construing a civil statute authorizing actions for monetary damages 'or' injunctive relief, the court read the disjunctive as non-exclusive, permitting both remedies in a single action for environmental destruction. Reasoning in concert with *in dubio pro natura*, it held that legislation protecting "vulnerable subjects and diffuse, collective interests" must be construed in the manner most favorable to those interests and most conducive to practical and effective relief.[12] In Ecuador, the principle carries greater force still: the Constitution directs that in case of doubt, environmental provisions be applied in the sense most favorable to Nature, reinforcing the Rights of Nature the Constitution independently recognizes.[13]

The Mexican Supreme Court's 2018 amparo decision in the Laguna del Carpintero Case (307/2016) confirms that the precautionary principle and *in dubio pro natura* are linked, yet distinct in important ways. Where scientific uncertainty attends environmental risk, the precautionary principle governs. The Court gave it concrete effect, holding that the absence of an environmental risk assessment "constituye en sí misma una vulneración a este principio" and

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[9] Corte Internacional de Justicia, Obligations of States in respect of Climate Change, opinión consultiva de 23 de julio de 2025, párr. 294. Disponible en línea: https://www.icj-cij.org/case/187/advisory-opinions.

[10] Unión Internacional para la Conservación de la Naturaleza, World Declaration on the Environmental Rule of Law, Principio 5; Nicholas Bryner, Applying the Principle In Dubio Pro Natura for Enforcement of Environmental Law, en Organización de los Estados Americanos, Departamento de Desarrollo Sostenible, Estado de derecho en materia ambiental: Tendencias en las Américas — Ensayos seleccionados, Primer Congreso Interamericano sobre el Estado de Derecho en Materia Ambiental, Montego Bay, Jamaica, 2015, OEA/Ser.D/XXIII.31, pp. 168–169.

[11] Unión Internacional para la Conservación de la Naturaleza, World Declaration on the Environmental Rule of Law, Principio 5.

[12] Superior Tribunal de Justiça, Brasil, Segunda Turma, Recurso Especial nº 1.145.083/MG, relator Ministro Herman Benjamin, julgado em 27 de setembro de 2011, DJe de 4 de setembro de 2012. Disponible en línea: https://www.jusbrasil.com.br/jurisprudencia/stj/866045077/inteiro-teor-866045179

[13] Constitución de la República del Ecuador, arts. 71–74 y 395, numeral 4; Nicholas Bryner, Applying the Principle In Dubio Pro Natura for Enforcement of Environmental Law, p. 171.

that the burden of proof may be shifted onto the party proposing the activity, so that identified risk, rather than proof of harm, triggers the duty to protect Nature.[14]

Crucially, the Court declined to confine *in dubio pro natura* to cases of scientific uncertainty. It held the principle to be a "mandato interpretativo general de la justicia ambiental" under which "en cualquier conflicto ambiental debe prevalecer, siempre, aquella interpretación que favorezca la conservación del medio ambiente."[15] That mandate rests on the premise that safeguarding the environment is "un bien jurídico en sí mismo" and not merely in relation to the protection of the parties.[16] Applying these principles, the Court found that construction of the Laguna del Carpintero Ecological Theme Park, which involved clearing mangroves and portions of a protected wetland ecosystem without the required environmental impact authorization, placed the ecosystem at risk in contravention of both principles and violated the right to a healthy environment.[17] A legal order that already resolves interpretive doubt in favor of conservation, and that treats the natural world as deserving of protection in its own right, makes the express recognition of Rights of Nature a consistent next step in the law's evolution rather than a departure from it. Indeed, national rights of nature legislation such as Panama's Ley 287 de 2022 already combines the recognition of Nature as a subject of rights with the governing principles of precaution and *in dubio pro natura*.[18]

The Mexican Supreme Court's recognition that the two principles converge to protect Nature for its own sake has a counterpart at the supranational level. In Advisory Opinion OC-23/17, the Inter-American Court held that States must act in accordance with the precautionary principle to prevent serious or irreversible environmental damage even absent scientific certainty, alongside duties to regulate, supervise, assess, and mitigate.[19] In its 2025 climate change advisory opinion, the Court held that the recognition of Nature "is coherent with a harmonious interpretation of the *pro natura* and *pro persona* principles,"[20] and situated that recognition within the very principles at issue here. The Court held that

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[14] Suprema Corte de Justicia de la Nación, México, Amparo en Revisión 307/2016, sentencia de 14 de noviembre de 2018, párrs. 96, 102, 104, 242. Disponible en línea: https://www.scjn.gob.mx/derechos-humanos/sites/default/files/sentencias-emblematicas/sentencia/2020-01/AR%20307-2016.pdf.

[15] Ídem, párr. 107.

[16] Ídem, párr. 245.

[17] Ídem, párrs. 257, 260 y 264.

[18] Asamblea Nacional de la República de Panamá, Ley 287 de 2022, que reconoce los derechos de la naturaleza y las obligaciones del Estado relacionadas con estos derechos, arts. 8 y 10. Disponible en línea: https://www.animallaw.info/statute/law-287-2022

[19] Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-23/17, párrs. 175–180.

[20] Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-32/25, Emergencia climática y derechos humanos, solicitada por la República de Chile y la República de Colombia, 29 de mayo de 2025, párr. 281. Disponible en línea: https://jurisprudencia.corteidh.or.cr/vid/1084981967.

> "[the] recognition of Nature as a subject of rights does not introduce content that is alien to the Inter-American *corpus iuris* but rather represents a contemporary expression of the principle of the interdependence between human rights and the environment. This interpretation is also aligned with advances in international environmental law which has established structural principles such as inter-generational equity, the precautionary principle, and the duty of prevention, all aimed at preserving the integrity of the ecosystems in the face of current and future threats."[21]

Rights of Nature are similarly a coherent development of human rights law. The Inter-American Court has explained that recognizing Nature as a subject of rights "emphasizes its structural role in the vital balance of the conditions that make this planet []habitable."[22] Numerous foundational human rights rely on Nature's ecological conditions and long-term integrity. As recognized by both the International Court of Justice and the Inter-American Court in their most recent advisory opinions, environmental and climate degradation jeopardize the enjoyment of rights including those to life, personal integrity, health, private and family life, property, housing, freedom of movement and residence, water, food, work and social security, culture, and education.[23] As noted by the Inter-American Court, "[i]t is evident that preservation of the vital equilibrium of the ecosystem that enables the life of all species – including ours – on the planet, constitutes a condition sine qua non for the enforceability of all the human rights recognized by international law."[24]

Far from introducing novel elements to human rights law, Rights of Nature provide a legal framework for recognizing and honoring this interdependence. Consider, for example, the human rights to food and water, which are underpinned by agricultural and freshwater systems that rely on ecological health. Rights of Nature laws such as Bolivia's Law 071 and Panama's Law 287, and judicial decisions such as the Ecuadorian Constitutional Court's *Río Monjas* and *Río Aquepi* cases recognize the importance of water cycles and ecological flows, as well as the quantity and quality of such flows.[25] The preservation of the functionality and health of water

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[21] Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-32/25, párr. 282.

[22] Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-32/25, párr. 280.

[23] Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-32/25, párr. 234, 277, 377; Corte Internacional de Justicia, Obligations of States in respect of Climate Change, párrs. 373, 375, 389, 393.

[24] Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-32/25, párr. 293.

[25] Asamblea Legislativa Plurinacional del Estado Plurinacional de Bolivia, Ley N.° 071 de 2010, Ley de Derechos de la Madre Tierra, art. 7.I, inciso 3. Disponible en línea: https://ecojurisprudence.org/wp-content/uploads/2022/02/Bolivia_Law-of-the-Rights-of-Mother-Earth_43.pdf; Corte Constitucional del Ecuador, Sentencia No. 2167-21-EP/22, caso Río Monjas, 19 de enero de 2022, párrs. 119 y 132–134. Disponible en línea: https://ecojurisprudence.org/wp-content/uploads/2023/02/upload1165.pdf; Corte Constitucional del Ecuador, Sentencia No. 1185-20-JP/21, caso El río Aquepi, 15 de diciembre de 2021, párrs. 44–57. Disponible en línea: https://ecojurisprudence.org/wp-content/uploads/2022/02/Ecuador_Aquepi-river-case_433.pdf.

cycles serves both the rights of the given water body and the food and water systems of the humans dependent on those water bodies.

The same mutual reinforcement appears in Rights of Nature and Indigenous and cultural rights. Indigenous peoples and local communities often hold distinctive cultural and spiritual relationships with their territories and with particular natural features within them.[26] Article 29 of the United Nations Declaration on the Rights of Indigenous Peoples recognizes their right to the conservation and protection of the environment and productive capacity of their lands, territories, and resources, while ILO Convention No. 169, ratified by Mexico, obliges States to safeguard the environment of the territories they inhabit.[27] The Inter-American Commission has drawn the operative consequence: protecting the natural resources and environmental integrity of ancestral territories is necessary to guarantee members' rights to life, dignity, personal integrity, health, and property.[28]

Rights of Nature give juridical form to the relationships those instruments presuppose. The White Earth Band of Chippewa Indians recognized rights for manoomin, or wild rice, as a "central element of the culture, heritage, and history of the Anishinaabeg people" and a "gift from the Creator."[29] Guardianship entities, as in the Colombian Constitutional Court's *Atrato River* decision, likewise empower communities' relationships with Nature.[30] Such frameworks, the Inter-American Court has observed, "reinforce[] a paradigm focused on the protection of the ecological conditions that are essential for life and empower[] local communities and Indigenous peoples, who have historically been the guardians of the ecosystems and possess deep-rooted traditional knowledge of their functioning."[31]

The right to a healthy environment illustrates the same duality. The right ensures access to clean air, safe water, food, and climate, as well as healthy ecosystems, biodiversity, and non-toxic

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[26] Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-32/25, párr. 280, nota al pie 519.

[27] Naciones Unidas, Declaración de las Naciones Unidas sobre los Derechos de los Pueblos Indígenas, Resolución 61/295 de la Asamblea General, 13 de septiembre de 2007, art. 29.1; Organización Internacional del Trabajo, Convenio sobre pueblos indígenas y tribales, 1989 (núm. 169), 27 de junio de 1989, 1650 U.N.T.S. 383, arts. 4.1 y 7.4.

[28] Comisión Interamericana de Derechos Humanos, Derechos de los pueblos indígenas y tribales sobre sus tierras ancestrales y recursos naturales, OEA/Ser.L/V/II, Doc. 56/09, párr. 194.

[29] White Earth Band of Chippewa Indians, White Earth Reservation Business Committee Resolution No. 001-19-009, Rights of Manoomin, 2018, pp. 1, 6-8. Disponible en línea: https://ecojurisprudence.org/wp-content/uploads/2022/02/2018WhiteEarthRightsofManoominResolutionandOrdinance.pdf

[30] Corte Constitucional de Colombia, Sentencia T-622 de 2016, caso del río Atrato. Disponible en línea:https://ecojurisprudence.org/wp-content/uploads/2022/02/Colombia_Principle-of-Environmental-Precaution-and-its-Application-to-Protect-Peoples-Right-to-Heath_123.pdf.

[31] Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-32/25, párr. 280.

environments.[32] When one compares the substantive components of the human right to a healthy environment to a rights of Nature statute, such as Bolivia's Law 071, the objects of protection are strikingly similar: Mother Earth has rights to biodiversity, water, clean air, the integrity of life systems, and to live free from pollution.[33] When Mother Earth's rights are recognized and realized, their human counterparts are similarly vindicated. Some Rights of Nature laws recognize this duality even more explicitly. The Brazilian Paudalho municipal ordinance extends the right "to an ecologically healthy and balanced environment and to the maintenance of the ecosystem processes necessary for quality of life" to "all members of the natural community, human and non-human."[34] The Inter-American Court has embraced the same convergence from the other direction. Interpreting the right to a healthy environment, it held that the right protects components of the environment "as legal rights in themselves," and does so "even in the absence of certainty or evidence of the risk to the individual" — protecting nature not only for the effects its degradation may have on human rights, but because of its "vital interdependence with other living organisms that make life on this planet possible."[35]

These developments confirm that Rights of Nature supply a procedural vehicle for a substantive status the law has already conferred. The Inter-American Court has explained why that step matters now: "[m]aking progress towards a paradigm that recognizes rights inherent in the ecosystems is fundamental for the protection of their long-term integrity and functionality" and furnishes "coherent and effective legal tools" for confronting "the triple planetary crisis" before existential harms become irreversible.[36] And because such recognition builds upon, rather than departs from, existing obligations, it is "fully compatible with" the duty to adopt domestic legislative measures, the principle of progressivity governing economic, social, cultural, and environmental rights, and the "evolutive perspective" that must guide the interpretation of rights.[37] Recognizing Rights of Nature is thus the logical and increasingly necessary next step in the evolution of environmental and human-rights law.

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[32] Asamblea General de las Naciones Unidas, El derecho humano a un medio ambiente limpio, saludable y sostenible, Resolución 76/300, 28 de julio de 2022. Disponible en línea: https://docs.un.org/en/a/res/76/300; Programa de las Naciones Unidas para el Desarrollo, Programa de las Naciones Unidas para el Medio Ambiente y Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos, What Is the Right to a Healthy Environment?, 5 de enero de 2023, p. 4. Disponible en línea: https://www.undp.org/sites/g/files/zskgke326/files/2023-01/UNDP-UNEP-UNHCHR-What-is-the-Right-to-a-Healthy-Environment.pdf

[33] Ley N.° 071 de Bolivia, Ley de Derechos de la Madre Tierra, art. 7.

[34] Câmara Municipal do Paudalho, Pernambuco, Brasil, Emenda à Lei Orgânica n.º 03, de 5 de janeiro de 2018, art. 181. Disponible en línea: https://ecojurisprudence.org/wp-content/uploads/2022/02/Brazil-Paudalho-Rights-of-Nature-Law.pdf

[35] Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-32/25, párr. 273.

[36] Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-32/25, párr. 279.

[37] Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-32/25, párrs. 281-282.

## III. Comparative Experience Demonstrates that Recognizing Whales as Rights Holders Is Legally Feasible and a Marine Application of Interests Already Recognized Globally

Legal systems around the world have demonstrated that it is legally feasible to recognize Nature, and its living components, as rights holders. Comparative experience is relevant here not because amici ask this court to transplant foreign law, but because courts, legislatures, municipalities, and Indigenous and tribal authorities have shown that nonhuman rights can be specified with sufficient precision to be administered and have done so for entities as varied as individual animals, entire species, rivers, lagoons, forests, waves, and marine-coastal ecosystems. Because those recognitions respond to the cultural, political, and juridical context of each jurisdiction and to the needs of the particular entity protected, the Court need not find that another legal system has already recognized the same rights petitioners seek for the whales of the Gulf of California. It is enough that the underlying protected interests are recognized and administrable, and that they apply in the marine setting.

Six categories of protected interest recur across this body of practice: existence and ecological integrity; environmental and habitat conditions; ecological relations and species-typical behavior; physical integrity; protection and restoration; and representation and access to justice. The subsections that follow take each in turn, applying a consistent method: identifying the rights recognized in other jurisdictions, distilling the interest those rights secure, and explaining how that interest supports petitioners' proposed formulation for whales in the Gulf of California.

### a. Existence and Ecological Integrity: Rights to Exist, Persist, and Regenerate Are Widely Recognized and Extend to Marine Species

The right to live or exist is among the rights most widely recognized as belonging to Nature and nonhuman living beings, with legal recognition spanning jurisdictions as diverse as Uganda,

Pakistan, Costa Rica, and the United States.[38] Given not only the cultural, political, and juridical context of any given country, but also the specific needs of the living entity being recognized,

[38] Parliament of the Republic of Uganda, National Environment Act, 2019, sec. 4(1). Disponible en línea: https://ecojurisprudence.org/wp-content/uploads/2022/02/Uganda_Uganda-National-Environmental-Act_160.pdf; Islamabad High Court, Islamabad Wildlife Management Board v. Metropolitan Corporation Islamabad, W.P. No. 1155/2019, Judgment of 21 May 2020, párr. 7 y pp. 59–60. Disponible en línea: https://aldf.org/wp-content/uploads/2021/01/Islamabad-Wildlife-Management-Board-v-MCI-WP-No-1155-of-2019.pdf; Corte Constitucional del Ecuador, Sentencia No. 1149-19-JP/21, caso Bosque Protector Los Cedros, 10 de noviembre de 2021, párrs. 26 y 68. Disponible en línea: https://celdf.org/wp-content/uploads/2015/08/Los-Cedros-Decision-Spanish.pdf; Corte Constitucional del Ecuador, Sentencia No. 22-18-IN/21, caso Manglares, 8 de septiembre de 2021, párr. 23. Disponible en línea: https://ecojurisprudence.org/wp-content/uploads/2022/02/Ecuador_Unconstitutionality-of-Environmental-Code_CC-Judgment_427.pdf; Corte Constitucional del Ecuador, Sentencia No. 2167-21-EP/22, caso Río Monjas, 19 de enero de 2022, párrs. 119 y 134. Disponible en línea: https://ecojurisprudence.org/wp-content/uploads/2023/02/upload1165.pdf; Corte Constitucional del Ecuador, Sentencia No. 95-20-IN/24, caso de los ecosistemas marino-costeros, 2024, párr. 49. Disponible en línea: https://ecojurisprudence.org/wp-content/uploads/2025/02/Ecuador-CC-Ruling-on-Rights-of-Marine-Ecosystems.pdf; Unidad Judicial Multicompetente Civil con sede en el cantón El Guabo, Ecuador, Acción de Protección No. 07317-2020-00466, caso del manglar de Bajo Alto, sentencia de 2021, p. 5. Disponible en línea: https://ecojurisprudence.org/wp-content/uploads/2022/02/Ecuador_Spanish-Judgement_407.pdf; Town of Halifax, Virginia, An Ordinance to Amend the Town Code of Halifax, Virginia Adding "Article VII. Corporate Mining and Chemical and Radioactive Trespass" under "Chapter 50 Environment", 2008, sec. 30-156.7. Disponible en línea: https://ecojurisprudence.org/wp-content/uploads/2022/02/US_Halifax_Halifax-Corporate-Mining-and-Chemical-and-Radioactive-Bodily-Trespass-Ordinance_18.pdf; Nez Perce Tribal General Council, Resolution SPGC20-02, recognizing the rights of the Snake River, 2020, cláusula resolutiva segunda (p. 2). Disponible en línea: https://ecojurisprudence.org/wp-content/uploads/2022/02/US_Nez-Perce_Snake-River-Resolution_203.pdf; Yurok Tribal Council, Rights of the Heyhl-keek 'We-roy (Klamath River) Ordinance, Yurok Tribal Code ch. 21.60, Ordinance No. 85, 2024, § 21.60.100(a). Disponible en línea: https://ecojurisprudence.org/wp-content/uploads/2025/08/Yurok-Klamath-2025-Chapter-21.60-1.pdf; Asamblea Legislativa de la República de Costa Rica, Ley de Biodiversidad, Ley N.° 7788 de 1998, art. 9, inciso 1. Disponible en línea: https://ecojurisprudence.org/wp-content/uploads/2026/02/3.-Costa-Rica-Biodiversity-Law-Spanish.pdf; Asamblea Nacional de la República de Panamá, Ley 371 de 1 de marzo de 2023, que establece la conservación y protección de las tortugas marinas y sus hábitats en la República de Panamá, art. 29. Disponible en línea: https://ecojurisprudence.org/initiatives/panama-law-on-the-protection-of-sea-turtles-and-their-habitats/; Cortes Generales, Reino de España, Ley 19/2022, de 30 de septiembre, para el reconocimiento de personalidad jurídica a la laguna del Mar Menor y su cuenca, art. 2.1. Disponible en línea: https://ecojurisprudence.org/initiatives/proposed-law-for-recognition-of-legal-personality-to-the-laguna-del-mar-menor-and-its-basin/; Câmara Municipal de Linhares, Espírito Santo, Brasil, Lei n.° 4.225/2024, Direitos das Ondas da Foz do Rio Doce, art. 2, inciso I. Disponible en línea: https://ecojurisprudence.org/wp-content/uploads/2024/07/lei-Direito-das-Ondas.pdf; Tercer Juzgado de Garantías, Poder Judicial de Mendoza, Argentina, caso Cecilia, Expte. P-72.254/15, hábeas corpus, sentencia de 2016, pp. 37 y 43. Disponible en línea: https://ecojurisprudence.org/wp-content/uploads/2022/02/Argentina_Cecilia-the-Chimpanzee-case_122.pdf; Municipalité régionale de comté de Minganie, Québec, Canadá, Résolution n° 025-21, Reconnaissance de la personnalité juridique et des droits de la rivière Magpie – Mutehekau Shipu, 2021, Partie 4, Les fondements juridiques, p. 5. Disponible en línea: https://ecojurisprudence.org/wp-content/uploads/2022/02/CA_Quebec_Recognition-of-legal-personality-and-rights-of-the-Magpie-River_245.pdf.

the right to life manifests under various terms and phrases, such as “exist,” “persist,” “flourish,” “evolve,” and “regenerate.”[39]

What constitutes the right to life is similarly diverse, with some jurisdictions taking an expansive view. In Ecuador’s Constitutional Court case involving an individual woolly monkey named Estrellita, the Court recognized that wild animal species have a right to exist and not be driven extinct for non-natural or anthropogenic reasons.[40] For the Constitutional Court, such a right has a “counterpart” for humans, requiring prohibition of “activities that may lead to the extinction of species, the destruction of the ecosystems they inhabit and the permanent alteration of their natural cycles.”[41] In jurisdictions recognizing the rights of ecosystems and interconnected beings, such as in the Peruvian *Rio Marañon* case, the right to life has an ecological integrity gloss, recognizing that living entities require the maintenance and regeneration of life cycles, structure, functions, and evolutionary processes (or discrete elements thereof) to exist truly.[42]

Comparative jurisprudence thus demonstrates that the continued existence and self-maintaining ecological integrity of nonhuman entities, including individual living beings, species, ecosystems, and legally recognized natural entities, can be recognized within a rights framework. The terminology varies across jurisdictions, but the protected interest is consistent: nonhuman rights holders may be legally protected in their existence, flourishing, regeneration, evolutionary processes, ecological functions, and survival against anthropogenic destruction. The petitioners’ request to recognize the whales’ right to exist and maintain viable populations

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[39] Véase, por ejemplo, Asamblea Nacional de la República de Panamá, Ley 287 de 2022, que reconoce los derechos de la naturaleza y las obligaciones del Estado relacionadas con estos derechos, art. 10 (reconociendo el derecho de la naturaleza "a vivir, existir y persistir" dentro de su propio marco de desarrollo equilibrado). Disponible en línea: https://ecojurisprudence.org/wp-content/uploads/2022/02/Panama-Rights-of-Nature-Law.pdf; Câmara Municipal do Paudalho, Pernambuco, Brasil, Emenda à Lei Orgânica n.° 03, de 5 de janeiro de 2018, art. 181 (reconociendo el derecho de la Naturaleza "a existir, prosperar y evolucionar"). Disponible en línea: https://ecojurisprudence.org/wp-content/uploads/2022/02/Brazil-Paudalho-Rights-of-Nature-Law.pdf; White Earth Band of Chippewa Indians, White Earth Reservation Business Committee Resolution No. 001-19-009, Rights of Manoomin, 2018, sec. 1(a) (recognizing that Manoomin "possesses inherent rights to exist, flourish, regenerate, and evolve"). Disponible en línea: https://ecojurisprudence.org/wp-content/uploads/2022/02/2018WhiteEarthRightsofManoominResolutionandOrdinance.pdf.

[40] Corte Constitucional del Ecuador, Sentencia No. 253-20-JH/22, caso Estrellita, 27 de enero de 2022, párr. 111. Disponible en línea: https://ecojurisprudence.org/wp-content/uploads/2022/02/Ecuador_Constitutional-Court-Ruling-on-Habeas-Corpus-for-Primate_347.pdf.

[41] Ídem.

[42] Corte Constitucional del Ecuador, Sentencia No. 95-20-IN/24 (ecosistemas marino-costeros), párrs. 48–49; Corte Constitucional del Ecuador, Sentencia No. 1149-19-JP/21 (Los Cedros), párrs. 25 y 42–43; National Environment Act of Uganda, 2019, sec. 4(1); Yurok Tribal Code ch. 21.60, Rights of the Heyhl-keek 'We-roy Ordinance, § 21.60.100(a), (c) y (d); Juzgado Mixto de Nauta, Corte Superior de Justicia de Loreto, Perú, caso del río Marañón, Expediente No. 00010-2022-0-1901-JM-CI-01, sentencia de 2024, párr. 3.1. Disponible en línea: https://drive.google.com/file/d/1hYiXLZxDsDAdUR-jwqD3GNwfNzGvDUrC/view; Ley 19/2022 (Mar Menor), art. 2.1.

in the Gulf of California is a marine-species application of the already recognized rights to existence, life, regeneration, flourishing, and non-extinction.

b. Environmental and Habitat Conditions: Recognized Rights to Healthy, Balanced, Pollution-Free Conditions Encompass the Habitat and Soundscape Whales Require

Related to the right to life are rights concerned with the environmental and habitat-specific conditions in which the protected living subject can exist and function. These rights are even more diverse, given the unique and varied combinations of conditions that comprise the ecosystems in which natural entities exist. These rights can be grouped into two versions for analytical purposes: affirmative formulations, such as the right to balanced ecological conditions, and negative formulations, such as rights to be free from pollution or harmful interference.

In cases involving individual nonhuman animals, such as Kaavan the elephant in Pakistan or Cecilia the great ape in Argentina, courts have recognized animal-specific conditions, including environments meeting behavioral, social, and physiological needs; adequate habitat conditions; and species-appropriate living conditions.[43] Examples also exist at the species level, including in marine contexts. Panama recognizes all sea turtles' rights to live and have free passage in a healthy environment free of pollution and other anthropogenic impacts, including climate change, pollution, by-catch, coastal development, and unregulated tourism.[44] Other jurisdictions, such as Tribal Nations in the United States and Brazil, similarly foreground affirmative, broad rights to healthy environments and climate systems.[45] In jurisdictions such as Canada, Bolivia, and Peru, the emphasis falls instead on conditions free from specific harms such as pollution, contamination, and waste, including with reference to their human causes.[46]

These authorities directly protect the environmental and habitat-related conditions necessary for nonhuman living entities to exist, function, flourish, and maintain species-appropriate life processes. While the domestic formulation varies, together they demonstrate that Nature and its component living beings can be protected through a rights-based framework from human-

[43] Islamabad High Court, Islamabad Wildlife Management Board v. Metropolitan Corporation Islamabad, W.P. No. 1155/2019, p. 50; Tercer Juzgado de Garantías de Mendoza, Expte. P-72.254/15 (Cecilia), pp. 37 y 44.

[44] Ley 371 de 2023 de Panamá (tortugas marinas), art. 29.

[45] White Earth Reservation Business Committee Resolution No. 001-19-009, Rights of Manoomin, sec. 1(a); Yurok Tribal Code ch. 21.60, Rights of the Heyhl-keek 'We-roy Ordinance, § 21.60.100(a)(1)–(3); Câmara Municipal do Paudalho, Emenda à Lei Orgânica n.° 03 de 2018, art. 181.

[46] MRC de Minganie, Résolution n° 025-21 (rivière Magpie – Mutehekau Shipu), Partie 4, p. 5; Asamblea Legislativa Plurinacional del Estado Plurinacional de Bolivia, Ley N.° 071 de 2010, Ley de Derechos de la Madre Tierra, art. 7.I, inciso 7. Disponible en línea: https://ecojurisprudence.org/wp-content/uploads/2022/02/Bolivia_Law-of-the-Rights-of-Mother-Earth_43.pdf; Juzgado Mixto de Nauta, Expediente No. 00010-2022-0-1901-JM-CI-01 (río Marañón), párr. 3.1.

caused degradation of the environmental conditions they need to function. The rights petitioners request are applications of that established framework to the marine context, not novel creations.

Petitioners' proposed rights to a stable climatic environment and an integral, healthy marine habitat in the Gulf of California are marine applications of habitat-condition rights recognized elsewhere. The Yurok Klamath ordinance, for example, recognizes Nature's rights to a clean and healthy environment free from pollutants, invasive species, and human-caused climate-change impacts, as well as rights to clean water, clean air, naturally occurring air and water temperatures, fog, and rainfall.[47] While highly specific, these rights function together as a stable, integral, and healthy system — precisely what petitioners seek here. The Brazilian municipality Linhares recognizes much of the same in more summary terms: the rights of waves to exist with physical and chemical conditions appropriate to ecological balance and to keep water bodies in the relevant ecosystem free from interference that disrupts ecological cycles.[48]

Petitioners' proposed right to communicate, navigate, feed, and reproduce free from underwater noise interference extends this jurisprudence. Sound is the medium through which marine species navigate, communicate, forage, maintain group structures and relationships, mate, and avoid predators;[49] the soundscape of a given habitat is therefore a paramount condition in formulating habitat-related rights. Indeed, noise pollution has already given rise to a variety of deleterious impacts for cetaceans, including disruptions to their foraging patterns; area avoidance and deviation from migratory paths; interference with intraspecies communications, including impacts from shipping-related noise on vocal signals;[50] stress responses; permanent or temporary hearing loss; compromised predation behaviors, efficiency, and success; physical damage to tissues and organs; atypical "mass stranding" events; and even

[47] Yurok Tribal Code ch. 21.60, Rights of the Heyhl-keek 'We-roy Ordinance, § 21.60.100.

[48] Câmara Municipal de Linhares, Lei n.º 4.225/2024 (Direitos das Ondas), art. 2.

[49] Convention on Biological Diversity Subsidiary Body on Sci., Tech. and Tech. Advice, Scientific Synthesis on the Impacts of Underwater Noise on Marine and Coastal Biodiversity and Habitats, U.N. Doc. UNEP/CBD/SBSTTA/16/INF/12, at 3-4 (Mar. 12, 2012), https://www.cbd.int/doc/meetings/mar/mcbem-2014-01/information/mcbem-2014-01-sbstta-16-inf-12- en.pdf.

[50] Diamant R, Gruber D, Gero S, Begus G. 2026. Evidence for the influence of shipping underwater radiated noise on sperm whale coda structure. Ecological Informatics. https://doi.org/10.1016/j.ecoinf.2026.103881.

death.[51] Underwater noise is thus the marine sensory-degradation analogue of harms that other jurisdictions have treated as legally cognizable when they impair the protected entity's conditions or functions. A right to be free from it falls squarely within the negative rights to freedom from pollution, contamination, interference, and habitat degradation recognized elsewhere.

c. Ecological Relations and Species-Specific Behavior: Recognized Interests in Migratory Routes, Free Passage, and Species-Typical Conduct Reach Whale Movement, Feeding, and Communication

Beyond the physical conditions of habitat and the environment lies a third category of recognized rights concerned with how protected entities live within and relate to that habitat. These authorities establish that habitat must be functional, relational, and behaviorally meaningful, not merely spatial. They divide into two complementary strands: rights protecting the species-typical behavior and life processes of individual animals and species, and rights protecting the ecological relationships that allow living systems to function as integrated wholes.

On the first strand, courts have held that a protected animal's behavior is itself a legally cognizable interest. Ecuador's Constitutional Court in *Estrellita* recognized wild animals' right to the free development of species-typical behaviors, encompassing instinct and innate conduct, the free development of animals' biological cycles, processes, and interactions, and behaviors learned and transmitted among members of a population.[52] The Court also recognized that migratory species may hold rights to the respect and conservation of their distribution areas and migratory routes.[53] Argentine courts have reached compatible conclusions, with *Sandra* recognizing that each species possesses behavioral needs that its environment must permit it to

[51] Convention on Biological Diversity Subsidiary Body on Sci., Tech. and Tech. Advice, Scientific Synthesis on the Impacts of Underwater Noise on Marine and Coastal Biodiversity and Habitats, U.N. Doc. UNEP/CBD/SBSTTA/16/INF/12, at 2-3 (Mar. 12, 2012), https://www.cbd.int/doc/meetings/mar/mcbem-2014-01/information/mcbem-2014-01-sbstta-16-inf-12- en.pdf. 3; SIMON HARDING & NEIL COUSINS, REVIEW OF THE IMPACTS OF ANTHROPOGENIC UNDERWATER NOISE ON MARINE BIODIVERSITY AND APPROACHES TO MANAGE AND MITIGATE THEM 50-51 (2022), https://www.cbd.int/doc/publications/cbd-ts-99-en.pdf; T.A. Romano et al., Anthropogenic Sound and Marine Mammal Health: Measures of the Nervous and Immune Systems Before and After Intense Sound Exposure, 61 CAN. J. FISHERIES AND AQUATIC SCI. 1124, 1125 (2004); see also Ghulam Nabi et al., The Possible Effects of Anthropogenic Acoustic Pollution on Marine Mammals' Reproduction: An Emerging Threat to Animal Extinction, 25 ENVT'L SCI. & POLLUTION RSCH. 19338, 19338 (2018); Rosalind M. Rolland et al., Evidence that Ship Noise Increases Stress in Right Whales, 279 PROC. ROYAL SOC'Y 2363, 2365-66 (2012); Carlos M. Duarte et al., The Soundscape of the Anthropocene Ocean, 371 SCIENCE 1, 5-7 (2021).

[52] Corte Constitucional del Ecuador, Sentencia No. 253-20-JH/22 (Estrellita), párrs. 112–113.

[53] Ídem, párr. 99.

express.[54] Pakistan's *Kaavan* decision likewise recognized the right of each animal to live in an environment meeting their behavioral, social, and physiological needs.[55] At the species level and in the marine context, Panama recognizes sea turtles' right to have free passage in a healthy environment[56] — a direct recognition that unimpeded movement through habitat is a component of the right itself.

The second strand appears most clearly in the river and ecosystem cases, where the protected interest is the relational architecture of the system. The Peruvian *Río Marañón* decision recognized rights to flow free from contamination, to feed and be fed by its tributaries, to biodiversity, and to the conservation of ecological structure and functions.[57] Ecuador's *Río Aquepi* decision treated the river as an integrated body of biotic and abiotic elements whose vertical, longitudinal, and lateral relationships are interrelated, interdependent, and indivisible.[58] Similar recognitions, despite textual variations, can be found with the Magpie River in Canada, the Monjas River in Ecuador, and the Whanganui River in Aotearoa New Zealand.[59] Most directly relevant here, Ecuador's marine-coastal ecosystems decision recognized that each element of the ecosystem plays a role in preserving the whole, and tied the regulation of fishing types, fishing areas, and conservation zones to food-chain balance and to the cycles, functions, structures, and evolutionary processes of the ecosystem.[60]

Taken together, these authorities directly protect the species-specific and relational interests that petitioners' request invokes. Each element of petitioners' proposed right to communicate, navigate, feed, and reproduce free from underwater noise interference finds support in this comparative experience: navigation corresponds to recognized interests in migratory routes and free passage; reproduction and feeding to behavioral, physiological, and trophic-function interests; and communication, most closely, to *Estrellita*'s protection of behavior learned and

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[54] Poder Judicial de la Ciudad Autónoma de Buenos Aires, Argentina, caso Sandra, Expte. A2174-2015/0, acción de amparo, sentencia de 2015, Considerando V y RESUELVO 3 (p. 13 del PDF). Disponible en línea: https://ecojurisprudence.org/wp-content/uploads/2022/02/Argentina_AFADA-et-al-v.-Buenos-Aires_94.pdf. Traducción oficial al inglés disponible en línea: https://www.animallawconference.org/wp-content/uploads/2021/10/Sandra-Ruling-1st-instance-Judge-Liberatori-English-translation.pdf

[55] Islamabad High Court, Islamabad Wildlife Management Board v. Metropolitan Corporation Islamabad, W.P. No. 1155/2019, p. 50.

[56] Ley 371 de 2023 de Panamá (tortugas marinas), art. 29.

[57] Juzgado Mixto de Nauta, Expediente No. 00010-2022-0-1901-JM-CI-01 (río Marañón), párr. 3.1.

[58] Corte Constitucional del Ecuador, Sentencia No. 1185-20-JP/21 (río Aquepi), párrs. 44 y 48.

[59] MRC de Minganie, Résolution n° 025-21 (rivière Magpie – Mutehekau Shipu), Partie 4, Les fondements juridiques ( « le droit… de couler » y « le droit de remplir des fonctions essentielles au sein de son écosystème »); Corte Constitucional del Ecuador, Sentencia No. 2167-21-EP/22 (Río Monjas), párrs. 121 y 132; Parliament of New Zealand, Te Awa Tupua (Whanganui River Claims Settlement) Act 2017, ss. 12 y 13(b), (d). Disponible en línea: https://www.legislation.govt.nz/act/public/2017/7/en/latest/#DLM6830851.

[60] Corte Constitucional del Ecuador, Sentencia No. 95-20-IN/24 (ecosistemas marino-costeros), párrs. 48 y 55.

transmitted among members of a population. Petitioners' related concern with whale movement, prey relationships, and habitat connectivity in the Gulf of California is best understood not as a claim that any jurisdiction has recognized a whale right to marine connectivity as such, but as an application of the recognized interest in relational ecological functioning to a marine species whose life processes are carried out across a connected seascape rather than within a fixed parcel.

d. Physical Integrity: Recognized Interests in Protection Against Killing, Capture, and Suffering Reach the Harm Imposed by Vessel Strikes

Where the preceding categories protect the conditions and relationships in which nonhuman entities live, this category protects the body itself. Rights of nature jurisprudence has developed a rights-based analogue to anti-cruelty statutes: a set of negative entitlements to be free from killing, capture, and varying forms of mistreatment. These authorities arise most often in the context of individual captive animals, but they are not confined to it, and the interest this right seeks to protect translates directly to wild populations.

The individual-animal decisions establish the core. Argentina's *Cecilia* and *Sandra* decisions and Pakistan's *Kaavan* decision center on cruelty, unnecessary pain or suffering, and the more generalized category of "abusive human conduct."[61] Ecuador's *Estrellita* decision extends the protected interest beyond physical injury to psychological harm, recognizing a right to be free from disproportionate fear and distress.[62] Taken together, these authorities treat the infliction of pain, suffering, and physical harm on a nonhuman animal as a violation of a right held by that animal. Panama's sea turtle law demonstrates not only that this protection scales from the individual to an entire wild species, but also that it has already been applied to marine megafauna. The law prohibits the capture, harassment, extraction, intentional fishing, hunting, retention, killing, extermination, and exportation of all sea turtles.[63] Critically, it does not stop at intentional conduct: it further recognizes the turtles' right to be free from other anthropocentric impacts causing physical and health damage, expressly including by-catch alongside climate change, pollution, coastal development, and unregulated tourism.[64] The Panamanian instrument thus establishes that a bodily-integrity right can cover unintentional but foreseeable physical harm from ordinary commercial activity.

These authorities together protect what may be understood broadly as a right to physical integrity: the welfare of individual nonhuman animals and of species, secured by prohibiting

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[61] Tercer Juzgado de Garantías de Mendoza, Expte. P-72.254/15 (Cecilia), pp. 37 y 44; Poder Judicial de la CABA, Expte. A2174-2015/0 (Sandra), Considerando V (p. 11 del PDF); Islamabad High Court, Islamabad Wildlife Management Board v. Metropolitan Corporation Islamabad, W.P. No. 1155/2019, pp. 59-60.

[62] Corte Constitucional del Ecuador, Sentencia No. 253-20-JH/22 (Estrellita), párr. 137.

[63] Ley 371 de 2023 de Panamá (tortugas marinas), art. 31.

[64] Ídem.

killing, capture, cruelty, mistreatment, unnecessary suffering, physical harm, and other abusive human conduct. Petitioners' proposed right to physical integrity free from ship strikes in the Gulf of California is a marine application of that recognized interest. Vessel collisions inflict precisely the category of harm these authorities address: blunt and sharp force trauma may produce broken bones, fractured jaws, crushed skulls, hemorrhages, contusions, and lacerations, the impacts of which can cause pain, chronic stress, infection, reduced reproductive and feeding success, and death.[65] The Panamanian precedent demonstrates that vessel strikes need not be characterized as intentional cruelty to bring them within the scope of the right to bodily integrity; in Panama, to be harmed as unintentional bycatch or intentional fishing results in the same violation. What distinguishes the whale claim from the comparative authorities is the setting and the mechanism of injury, not the nature of the interest protected.

e. Protection and Restoration: Recognized as Rights, Conservation Duties are Owed to the Entity Rather than Left to Administrative Discretion

Rights of Nature instruments and decisions often pair the recognized interest with correlative obligations on public and private actors, so that the entity's existence, habitat conditions, and ecological functioning are not merely declared but affirmatively secured and repaired when damaged. This category converts protected interests into governance duties within a rights-based framework. What distinguishes this category from environmental regulation generally is not the content of the obligation but its direction. Conservation duties imposed by ordinary environmental legislation are owed to the State or to the public, and their beneficiary is the general interest; whether and how vigorously to enforce them is typically a matter of administrative discretion and power. Where protection and restoration are recognized as the content of a right held by the entity itself, the obligation runs to that entity. Three consequences follow. The obligation exists independently of any official's decision to act on it; its non-performance is a violation of a right rather than a mere failure to exercise a duty or discretion; and the entity's interest is weighed as an end in itself rather than as one policy consideration to be balanced against others.

As with the other categories, terminology and capaciousness vary. Judicial decisions, such as *Rio Atrato* in Colombia and *Rio Marañon* in Peru, have recognized the right to be protected and conserved.[66] Legal instruments in Spain, Bolivia, Canada, and tribal nations in the United States, as well as the Ecuadorian *Bajo Alto* mangrove case, complement this interest by recognizing a

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[65] Renate P. Schoeman, Claire Patterson-Abrolat y Stephanie Plön, A Global Review of Vessel Collisions With Marine Animals, Frontiers in Marine Science, vol. 7, art. 292 (2020), pp. 7, 8-9. Disponible en línea: https://www.frontiersin.org/journals/marine-science/articles/10.3389/fmars.2020.00292/full.

[66] Corte Constitucional de Colombia, Sentencia T-622 de 2016 (río Atrato), párr. 9.32; Juzgado Mixto de Nauta, Expediente No. 00010-2022-0-1901-JM-CI-01 (río Marañón), párr. 3.1; Tribunal Administrativo de Santander, Exp. 2018-00196-00 acumulado (Páramo de Santurbán), p. 100.

right to restoration.[67] The *Santurbán* páramo decision in Colombia applies the same framework and goes further by specifying what rights-holder status entails in practice: granting priority protection by weighing the integrity and health of the páramo as an end in itself, precautionary measures, legal representation, active restoration, and the harmonization of all sectoral public policies.[68] *Santurbán* is instructive precisely because each of those consequences follows from the páramo's status as a rights holder.[69] The same protection and conservation measures can be adopted as environmental policy, whether mandatory or discretionary. Yet recognized as rights, they acquire priority, resist being traded off against competing sectoral objectives, and become enforceable by a representative acting in the entity's own name.

This distinction answers an objection that might otherwise be made against recognition: that existing environmental protection already covers the ground, so nothing is added by recognizing rights. The comparative experience shows otherwise. Recognition changes who holds the entitlement, which in turn influences what happens when authorities do not act and how the entity's interests are weighed against competing uses. It converts protection from something that may be extended to something that is owed. The concrete forms these rights and correlative duties take in practice (zoning, restoration works, management planning, monitoring bodies, etc.) are addressed in Section IV.

f. <u>Representation and Access to Justice: Comparative Practice Supplies Multiple Workable Models for Recognizing Legal Guardianship for Whales</u>

A right that no one may assert is not yet a right in any operative sense. Legal systems have long accommodated this, recognizing rights in entities that cannot themselves appear (e.g., estates, trusts, corporations, future generations) by pairing recognition with a representative who can. Comparative practice in the rights-of-nature context reflects the same pairing. Across numerous jurisdictions surveyed, recognition has been accompanied by procedural architecture through which the living entity and their interests enter the legal system.[70] What that architecture looks like varies considerably, ranging from vesting representation solely in government to open standing for any person to vindicate nature's rights. The variation, however, is itself the point. The authorities in this comparative survey do not converge on a single model of guardianship,

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[67] Ley 19/2022 (Mar Menor), art. 2; Ley N.° 071 de Bolivia, Ley de Derechos de la Madre Tierra, art. 7; MRC de Minganie, Résolution n° 025-21 (rivière Magpie – Mutehekau Shipu), Partie 4, p. 5; White Earth Reservation Business Committee Resolution No. 001-19-009, Rights of Manoomin, sec. 1(a); Yurok Tribal Code ch. 21.60, Rights of the Heyhl-keek 'We-roy Ordinance, § 21.60.120; Nez Perce Tribal General Council, Resolution SPGC20-02 (Snake River), cláusula resolutiva segunda (p. 2); Unidad Judicial de El Guabo, Acción de Protección No. 07317-2020-00466 (Bajo Alto), pp. 5, 10-11.

[68] Tribunal Administrativo de Santander, Exp. 2018-00196-00 acumulado (Páramo de Santurbán), p. 100.

[69] Ídem.

[70] For example, Tribunal Administrativo de Santander, Exp. 2018-00196-00 acumulado (Páramo de Santurbán), p. 100; Juzgado Mixto de Nauta, Expediente No. 00010-2022-0-1901-JM-CI-01 (río Marañón), 3.1; Nez Perce Tribal General Council, Resolution SPGC20-02 (Snake River), cláusula resolutiva tercera (p. 2); MRC de Minganie, Résolution n° 025-21 (rivière Magpie – Mutehekau Shipu), Partie 4, Les fondements juridiques, p.5.

demonstrating the workability of different approaches and the importance of local context in fashioning governance structures.

Several jurisdictions have created representative bodies, often called guardians, grounded in shared governance. The Te Awa Tupua (Whanganui River Claims Settlement) Act establishes Te Pou Tupua, a two-person guardianship office in which one holder is nominated by iwi with interests in the Whanganui River and one by the New Zealand Crown, giving the river a "human face" with a statutory duty to act in its name.[71] Colombia's *Atrato* decision likewise orders the State to exercise guardianship and legal representation jointly with the ethnic communities of the basin, naming a community member and a State delegate as the river's representatives, but also directs the parties to constitute a commission of guardians that could be comprised of scientific experts, academics, environmental organizations, civil society groups, and community members, among others.[72]

Spain's Mar Menor law and implementing regulations take an even more specific approach, fashioning a multi-body group with different purposes but which comes together to act on behalf of the ecosystem. Representation and governance of the lagoon and its watershed are distributed among a Committee of Representatives (comprising members of government and the surrounding communities), a Monitoring Commission (comprising community members from the economic, social, and environmental protection sectors with a proven track record of defending the Mar Menor ecosystem), and an independent Scientific Committee.[73] What these models of co-governance share is a recognition that the entity's interests are best asserted by those with sustained, demonstrated engagement with it. Local communities, civil society, and environmental organizations frequently supply that continuity, whether as designated members of a compliance monitoring body, as ordered in the Ecuadorian *Río Portoviejo* case, or as candidates for guardianship itself.[74]

How representation is vested in the government also varies in practice. Brazil's *Lagoa da Conceição* decision situates the function within the judiciary, establishing a judicial chamber for the Protection of the lagoon to advise the court on structural measures, support decision-

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[71] Te Awa Tupua (Whanganui River Claims Settlement) Act 2017, ss. 18 y 20.

[72] Corte Constitucional de Colombia, Sentencia T-622 de 2016 (río Atrato), párr. 9.32 y RESUELVE 4.

[73] Ley 19/2022 (Mar Menor), art. 3; Ministerio para la Transición Ecológica y el Reto Demográfico, Real Decreto 90/2025, de 11 de febrero, por el que se regula el régimen de constitución, composición y funcionamiento de los órganos de representación y gobernanza de la laguna del Mar Menor y su cuenca, Boletín Oficial del Estado núm. 37, de 12 de febrero de 2025, p. 18886, art. 2.

[74] Unidad Judicial Multicompetente de Santa Ana, Ecuador, acción de protección No. 13315-2025-00701, caso de los derechos del río Portoviejo, sentencia de 10 de febrero de 2026, párr. 44. Disponible en línea: https://ecojurisprudence.org/wp-content/uploads/2026/03/Sentencia-Rio-Portoviejo.pdf.

making, and monitor implementation over time.[75] In comparison, the Yurok Klamath ordinance vests representation in the entire Tribe, which serves as a fiduciary trustee and spokesperson in legal and advocacy proceedings.[76] A final cluster dispenses with specified representatives altogether in favor of different versions of open standing: Uganda allows any person to bring an action for infringement of the rights of nature; Brazil's Linhares' Rights of the Waves ordinance allows "interested parties" and others to defend and represent the ecosystem; and Argentina's *Cecilia* case contemplates representation by non-governmental organizations, a state organ, or any person invoking collective or diffuse interests.[77]

The relevant lesson for this court is one of feasibility rather than prescription. These authorities establish that nonhuman rights holders can and do participate in legal systems, through guardians, trustees, joint state-community commissions, expert and monitoring bodies, judicial chambers, and open-standing rules. The choice among these devices is a matter of institutional design responsive to local circumstance, not a precondition that must be satisfied in some particular form before rights may be recognized. Petitioners' proposed right to legal representation through guardians is therefore supported at the level of procedural feasibility by the full body of comparative practice, notwithstanding the divergence among its individual models.

What remains genuinely whale-specific is not whether representation is possible but which configuration best suits a migratory marine population in the Gulf of California — a question of selecting among established alternatives or the creation of a new model. Mar Menor's pairing of representative community and scientific bodies, for example, offers readily adaptable templates for a transboundary species whose habitat spans multiple jurisdictions and whose interests require sustained technical monitoring. Comparative experience further suggests that this court need not resolve the question itself. In *Atrato*, the Colombian Constitutional Court fixed the basic structure (a representative from the State and the community) while directing the parties to design the wider commission of guardians.[78] *Santurbán* went further still, recognizing the páramo as a rights-holder while leaving the identity of its guardian open, noting only that it might be a public entity, a civil organization, or a consortium of local communities.[79] The Court may therefore recognize the rights petitioners assert and leave to the State, in

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[75] Justiça Federal, Seção Judiciária de Santa Catarina, 6.ª Vara Federal de Florianópolis, Brasil, decisão sobre o reconhecimento da Lagoa da Conceição como sujeito de direitos, 2021, p. 3. Disponible en línea: https://ecojurisprudence.org/wp-content/uploads/2022/02/Brazil_-Recognizing-Lagoa-da-Conceicao-as-a-subject-of-rights-court-case_229.pdf

[76] Yurok Tribal Code ch. 21.60, Rights of the Heyhl-keek 'We-roy Ordinance, §§ 21.60.140(a), 21.60.150(b), y 21.60.190(a).

[77] National Environment Act of Uganda, 2019, sec. 4(2); Câmara Municipal de Linhares, Lei n.º 4.225/2024 (Direitos das Ondas), art. 2, inciso V; Tercer Juzgado de Garantías de Mendoza, Expte. P-72.254/15 (Cecilia), p. 38.

[78] Corte Constitucional de Colombia, Sentencia T-622 de 2016 (río Atrato), párr. 9.32 y RESUELVE 4.

[79] Tribunal Administrativo de Santander, Exp. 2018-00196-00 acumulado (Páramo de Santurbán), p. 100.

consultation with local communities, civil society organizations, among others, the question of who will exercise them.

g. Conclusion: The Comparative Record Supports Marine Application, and the Considerations That Moved Other Authorities Are Present Here in Concentrated Form

Section III has applied a consistent method to each right petitioners request: identifying the right as recognized elsewhere, distilling the interest that right protects, and demonstrating that the interest applies to the marine context in the Gulf of California. That method yields the same context-specific rights recognition across every category: existence and ecological integrity, habitat conditions, ecological relations and species-specific functioning, physical integrity, protection and restoration, and representation. Petitioners' formulations are neither unprecedented nor a request for this court to transplant foreign law into Mexico. Petitioners ask for interests that are already recognized globally, applied to this marine context.

This body of practice is neither marginal nor static. Comparative law demonstrates that nonhuman rights can be specified and made administrable; nonhuman rights holders have been recognized across different legal systems and entity types, including individual animals, entire species, rivers, lagoons, forests, waves, marine-coastal ecosystems, and nature writ large. In less than two decades, constitutional courts, national legislatures, municipal councils, and Indigenous and tribal authorities across six continents have recognized nonhuman rights holders and built functioning mechanisms to vindicate their rights. Indeed, the Eco Jurisprudence Monitor, the leading tracker for ecocentric laws and jurisprudence globally, indicates that over 250 court cases, constitutions, laws, and policies on rights of nature have been approved worldwide, with dozens more still pending.[80]

Nor is that practice foreign to this legal system's own commitments. The Inter-American Court has addressed this question directly, and its reasoning parallels developments already underway in Mexican law. In OC-23/17, the Court held that the autonomous right to a healthy environment protects the components of the environment as legal interests in themselves, deserving of protection independent of their utility to human beings, and observed the then-emerging trend of Nature's legal personhood and rights.[81] In OC-32/25, the Court took the

[80] As of 18 August 2026, 278 results appear with the "Rights of Nature" and "Approved" filters, further filtered by "Court Case," "Legislation," "Declaration," "Indigenous Declaration," "Indigenous Law," "Policy," and "Constitution." This removes "Civil Society Tribunal," "Civil Society Declaration," "Position Statement," and "Private Sector Governance" from the data set of legal provisions. Using the same filters, but changing "Approved" to "Submitted" provides 59 results, indicating dozens of efforts remain pending. Eco Jurisprudence Monitor, Initiative Index. Disponible en línea: https://ecojurisprudence.org/?post_type=ejm_initiative

[81] Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-23/17, Medio ambiente y derechos humanos (obligaciones estatales en relación con el medio ambiente en el marco de la protección y garantía de los derechos a la vida y a la integridad personal), 15 de noviembre de 2017, parr. 62. Disponible en línea: https://www.corteidh.or.cr/docs/opiniones/seriea_23_esp.pdf

further step of recognizing Nature and its components as subjects of rights, reasoning that such recognition "does not introduce content alien to the Inter-American system" but expresses the interdependence of human rights and the environment.[82] That reasoning converges with the Mexican Supreme Court's recognition of Nature's intrinsic ecological value[83] and Rights-of-Nature constitutional provisions adopted in Mexico City (CDMX) and the states of Oaxaca, Mexico, Colima, and Guerrero.[84] A domestic trend in Mexico is well underway. The comparative record therefore shows how a principle this legal order has already begun to embrace has been made operative elsewhere.

Finally, the considerations that moved those authorities are present here in concentrated form. The harms petitioners identify infringe on interests and rights that other jurisdictions have found legally cognizable. In this context, these burdens are visited on a marine, migratory population whose losses cannot be undone but for which comparative practice provides models of protection. Recognition is not only feasible, but on these facts, warranted.

## IV. Comparative Experience Demonstrates That Rights Recognition Can Produce Concrete, Enforceable Obligations by Providing Context-Specific Remedies in Accordance with the Best Available Science

Before turning to comparative practice, it bears emphasis that the Inter-American Court has already addressed what protective measures must look like if they are to be effective, and it has done so in terms that speak directly to the questions of remedial design before this court. That reasoning arises in three distinct doctrinal settings, and amici identify each so that its scope is not overstated.

First, as part of the obligations the Inter-American Court derives from the right to a healthy environment in the context of the climate emergency and "clarify[ing] its position on the protection of nature as a subject of rights," it held that States "must not only refrain from acting in a way that causes significant environmental damage, but have the positive obligation to adopt measures to guarantee the protection, restoration and regeneration of ecosystems," and that "[t]hese measures must be compatible with the best available science and recognize the value of traditional, local and indigenous knowledge."[85] Where environmental harm has already occurred, the State "must mitigate this, even if the incident occurs despite the adoption of all necessary preventive measures," and to that end "must 'rely upon the best available scientific

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[82] OC-32/25, párrs. 279–286.

[83] Suprema Corte de Justicia de la Nación, Amparo en Revisión 307/2016, párr. 76.

[84] Ciudad de México, Constitución Política de la Ciudad de México, art. 13, apartado A, numeral 3; Ciudad de México, Ley Ambiental de la Ciudad de México, publicada en la Gaceta Oficial de la Ciudad de México núm. 1404, de 18 de julio de 2024, art. 1; Estado de México, Constitución Política del Estado Libre y Soberano de México, arts. 5 y 18; Estado de Oaxaca, Constitución Política del Estado Libre y Soberano de Oaxaca, art. 12; Estado de Colima, Constitución Política del Estado Libre y Soberano de Colima, art. 2, fracción IX; Estado de Guerrero, Constitución Política del Estado Libre y Soberano de Guerrero, art. 2.

[85] Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-32/25, párrs. 269, 283.

data and technology.'"[86] Protection and restoration are therefore not, in the Court's framing, discretionary policy choices; they are the content of an obligation, and their design is constrained by science.

Second, the Court specified the institutional forms this obligation takes. States

> "must: (i) design and implement mechanisms to identify and record the main challenges to ecosystemic resilience at the local and national levels; (ii) establish and implement strategies and policies for the protection of ecosystems harmed by the effects of the climate emergency, and to expand protected areas and terrestrial, maritime and coastal biological corridors; (iii) design and implement strategies and policies that accord priority to the protection of ecosystems that the IPCC has identified as particularly susceptible [to] experiencing impacts of climate change in the region of Latin America and the Caribbean and that include… wetlands and coastal systems (such as mangroves and coral reefs)…; (iv) cooperate with other States to establish and implement mechanisms for the protection of transboundary ecosystems…; (v) establish regional platforms for climate information sharing, impact and risk assessments, planning of appropriate adaptation measures based on science and traditional, local and indigenous knowledge, and (vi) establish and implement monitoring and assessment mechanisms for the strategies and policies that have been developed."[87]

Identification and recording mechanisms, spatial protection through protected areas and corridors, cooperation across jurisdictional boundaries, science-based planning, and monitoring and assessment bodies are thus already recognized within the Inter-American system as the concrete architecture through which ecosystem protection obligations are discharged. These forms recur in the comparative material surveyed below.

Third, and separately, in addressing the right of access to justice and an effective remedy under Article 25(1) of the American Convention and Article 18 of the American Declaration, the Court set out how remedies for climate-related harm should be fashioned. Reparation should provide full restitution, "which consists in the restoration of the previous situation and, if this is not feasible, measures must be adopted to guarantee the rights that have been violated and to redress the consequences of those violations."[88] In the climate context the Court added that such measures "should be adapted to the nature of the harm and consider the particular circumstances of its effects on individuals and on Nature," and "should also be aimed at enhancing the adaptation and resilience capabilities of the individuals affected and the ecosystems impacted."[89] All such measures "must be: (i) based on the best available science and knowledge, and (ii) designed and implemented fully guaranteeing the procedural and

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[86] Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-32/25, párr. 364 (quoting UNGA Res. 61/36, Principle 5(b)).

[87] Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-32/25, párr. 366.

[88] Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-32/25, párr. 556.

[89] Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-32/25, párr. 557.

substantive rights of the individuals and communities concerned."[90] The Court further drew the attention of "domestic and international authorities and jurisdictions that determine measures of reparation" to "consider the necessity and pertinence of not limiting reparation to pecuniary measures of compensation, and evaluating the opportunity to establish mechanisms to monitor or follow-up on the implementation of any measures of reparation that require this owing to the circumstances of the case."[91]

That last instruction is addressed to bodies in the position of this court — authorities that determine measures of reparation. Two propositions follow, and they frame the comparative survey below. A remedy must be shaped to the harm it answers and to the entity that bears it; and its adequacy is measured by whether it can be expected to work, informed by the best available science. The Court also specified criteria by which the best available science is to be identified; criteria amici apply in subsection b. Comparative practice confirms and concretizes these propositions.

a. Courts and Legislatures Have Given Effect to Rights Recognition Through Concrete, Context-Specific Measures

In 2008, Ecuador became the first country in the world to enshrine the Rights of Nature in its national constitution; as a result, this jurisdiction has produced a rich jurisprudence, demonstrating the capacity of the courts at all levels to fashion remedies responsive to the existing and potential rights violations before them.

In *Río Monjas*, Ecuador's Constitutional Court ordered a three-part reparation package consisting of works to stabilize the riverbed, the drafting of a watershed-specific plan with short-, medium-, and long-term measures calibrated to ecological tasks that together would "stabilize, restore, decontaminate, and reestablish the ecological balance of the" channel, watershed, and the river's tributaries, and the issuance of an ordinance aimed at ensuring other watersheds in the Quito canton are restored and managed comprehensively.[92] Recognizing that the river "is dynamic and may change the shape of its channel over time," the Court included a "general ecological protection zone" designation for the entire territory along the watershed, among the numerous minimum measures specified.[93] The same court annulled the environmental registration and water permits granted for two mining concessions in the Los Cedros protected forest and issued numerous reparation and non-repetition measures directed at both the mining concessionaires and the government.[94] Concessionaires were ordered to remove all infrastructure and reforest affected areas, while the Ministry of Environment was directed to promote a participatory management and care plan, revise the regulations governing environmental licenses and water use for extractive activities to avoid future rights of

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[90] Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-32/25, párr. 559.

[91] Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-32/25, párr. 559.

[92] Corte Constitucional del Ecuador, Sentencia No. 2167-21-EP/22 (Río Monjas), párrs. 154-165.

[93] Corte Constitucional del Ecuador, Sentencia No. 2167-21-EP/22 (Río Monjas), anexo 2.

[94] Corte Constitucional del Ecuador, Sentencia No. 1149-19-JP/21 (Los Cedros), párrs. 344–345.

nature violations, and train involved public servants on the parameters of the decision — all while imposing quarterly on-site monitoring visits by the Ombudsman's Office for one year to ensure compliance.[95]

Ecuador's lower courts have fashioned relief of comparable specificity, including in the marine context. In the *Bajo Alto* mangrove case, the court ordered immediate restoration of the mangrove forest, the destruction of shrimp farm containment walls that were preventing "seawater from circulating into the mangrove," and the removal of all machinery and pumps environmentally affecting the estuary.[96] The remedy was thus drawn directly to the ecological mechanism of the injury — the interruption of tidal exchange — rather than to any abstract measure of harm. In both the *Irquis River* and *Portoviejo River* cases, the lower courts combined prohibitions of harmful activities (logging, pollution, etc.) and specific remedial measures, with supervisory compliance measures led by the Ombudsman's Office and, in the latter case, civil society organizations.[97] Across these decisions, the remedy is built from the particular harm; the works, prohibitions, planning horizons, and supervisory mechanisms are selected because of what the specific river, forest, or mangrove system requires, not drawn from a standard repertoire.

Ecuadorian courts have further held that the content and scope of the remedy must also be fixed by reference to ecological criteria, thereby demonstrating how the best available science is integrated into remedies. In *Aquepi*, the Constitutional Court ordered a technical and impartial audit of an irrigation project, subject to correction or even cancellation, and "the comprehensive studies necessary to determine the average flow, structure, functions, and life cycle of the Aquepi River and its ecosystem," including species at risk of extinction, contaminating agents, and basin-wide mapping.[98] Science thus supplied the predicate for the remedy rather than merely informing it. In the marine and coastal context, the Court has likewise treated ecological criteria as the condition on which activity in a recognized rights-bearing ecosystem may proceed, upholding the public-infrastructure exception to the statute governing mangrove ecosystems only where such construction serves community access to public services and "it is demonstrated that it does not interrupt the vital cycles, structure, functions and evolutionary processes of the mangrove ecosystem."[99]

Ecuador is not the only jurisdiction whose courts have fashioned context-specific remedies grounded in scientific evidence. The Brazilian federal court that established a judicial chamber

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[95] Corte Constitucional del Ecuador, Sentencia No. 1149-19-JP/21 (Los Cedros), párrs. 344–345.

[96] Unidad Judicial de El Guabo, Acción de Protección No. 07317-2020-00466 (Bajo Alto), p. 10.

[97] Unidad Judicial de Familia, Mujer, Niñez y Adolescencia con sede en el cantón Cuenca, Ecuador, acción de protección No. 01204-2024-06520, caso de los derechos del río Irquis, sentencia de 27 de junio de 2025, sección "SEXTO: RESOLUCIÓN", órdenes 1–7. Disponible en línea: https://ecojurisprudence.org/wp-content/uploads/2025/10/sen-Irquis-.pdf; Unidad Judicial Multicompetente de Santa Ana, No. 13315-2025-00701 (río Portoviejo), párr. 44.

[98] Corte Constitucional del Ecuador, Sentencia No. 1185-20-JP/21 (río Aquepi), párr. 105.

[99] Corte Constitucional del Ecuador, Sentencia No. 22-18-IN/21 (Manglares), párr. 83 y Decision párrs. 1, 3.

for the Lagoa da Conceição did not simply convene an advisory body; it named authorities and scientific institutions to designate qualified members, among them university laboratories specializing in phycology, chemical oceanography and marine biogeochemistry, marine studies, and water reuse, thereby matching disciplines to the lagoon and its harm (improper effluent discharge).[100] Their charge was to report on the main problems identified for "the protection of ecological integrity, maintenance and restoration of the essential ecological processes" of the lagoon.[101] The same instinct — that a court should fix the content of relief by reference to what the entity before it actually requires, as determined by science — operates at the smallest scale as well. In *Sandra*, an Argentine court ordered named scientific experts to prepare a report specifying the measures the city government must adopt for the orangutan and proactively designated the forthcoming technical report as binding.[102]

Context-specific remedial architecture of this kind is not confined to judicial decisions; legislatures and Indigenous governments have built the same specificity into legal instruments from both a reactive and proactive posture. Aotearoa New Zealand's Te Urewera Act conserves land by prohibiting its disposition in any form (alienation, mortgaging, etc.) and requires its blended Indigenous and Crown co-governance Board to prepare a management plan that identifies whether new "specially protected" or "wilderness" areas are needed.[103] Of import, the Act requires wilderness areas to "be sufficiently large, remote, and buffered to be affected by human influences only in minor ways" and specifies numerous prohibited activities, including the use of vessels in the area.[104] The Yurok Tribe's Klamath River ordinance envisions active repairs to vindicate restoration rights to include cleaning and eliminating pollution, changing harmful practices, and restoring healthy water quality levels and harmed parts of the ecosystem.[105] The ordinance also supplies an enforcement regime of injunctions, damages, and per-violation, per-day penalties, including with compulsory consideration of restoration costs in determining the penalty.[106]

Two additional instruments are expressly marine. Panama's sea turtle law obliges the State to deploy spatial management tools, including protected areas, special management zones, reserve zones, and other conservation and rehabilitation measures, and restricts activity within designated turtle habitat to "responsible sighting, open field therapy, scientific research, conservation projects, low impact ecotourism and environmental education."[107] The Brazilian municipal Rights of the Waves ordinance includes an accountability dimension, establishing

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[100] 6.ª Vara Federal de Florianópolis, decisão sobre a Lagoa da Conceição, 2021, p. 4.

[101] 6.ª Vara Federal de Florianópolis, decisão sobre a Lagoa da Conceição, 2021, p. 4.

[102] Poder Judicial de la CABA, Expte. A2174-2015/0 (Sandra), Resuelvo 2.

[103] Te Urewera Act 2014, ss 44-46, 130.

[104] Te Urewera Act 2014, ss 114(3), 119(1)(b).

[105] Yurok Tribal Code ch. 21.60, Rights of the Heyhl-keek 'We-roy Ordinance, § 21.60.120(a)(2).

[106] Yurok Tribal Code ch. 21.60, Rights of the Heyhl-keek 'We-roy Ordinance, § 21.60.210-220.

[107] Ley 371 de 2023 de Panamá (tortugas marinas), arts. 6, 7.

liability for those who violate the waves' intrinsic rights.[108] Across these instruments, the operative move is the same: a recognized right generates a context-specific enforceable obligation and, in some instances, a mechanism for holding violators to account.

While the rights categories described in Section III establish that whales hold the substantive interests petitioners assert, this comparative experience establishes that such interests are administrable with context-specific remedies. Petitioners' requested critical-habitat designation in the Gulf of California is best understood as a regulatory analogue to the zoning, management, and protection tools that comparative authorities have already attached to nonhuman rights holders.[109] What the comparative material demonstrates is not that any jurisdiction has designated critical habitat for a cetacean, but that designating, zoning, restoring, and enforcing on behalf of a nonhuman rights holder is a familiar and workable exercise of state authority rather than an untested one.

b. The Context-Specific Measures Required Here Follow From the Inter-American Court's Own Definition of the Protection Obligation, Applied Through the Scientific Standard It Prescribed

The jurisprudence of the Inter-American Court provides instruction on the form protection must take in this setting. In its advisory opinion on the climate emergency, the Court held that "the protection of ecosystems should take into account all their components, including human beings, and the relationships that exist between them," and that "such decisions should be based on the best available science."[110] The object of protection is thus the functioning whole and the relations among its parts, not separable elements. Moreover, this principle is not abstract. When the Court enumerated the measures through which the ecosystem-protection obligation within the right to a healthy environment is discharged, it did not stop at site protection: States must "expand protected areas and terrestrial, maritime and coastal biological corridors," "accord priority to the protection of ecosystems" such as "wetlands and coastal systems," and "cooperate with other States to establish and implement mechanisms for the protection of transboundary ecosystems."[111] This court therefore is not being asked to accept a novel ecological proposition; connectivity across space, particularly in marine contexts, is already a component of State obligations as the Inter-American system defines it.

What connectivity requires in a given ecosystem is a scientific question, and the Inter-American Court has specified the type of science such questions must be answered with in environmental matters: the best available science.[112] Further, the Court set out criteria for identifying it, including whether the knowledge "is the most up-to-date;" "is based on peer-reviewed

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[108] Câmara Municipal de Linhares, Lei n.º 4.225/2024 (Direitos das Ondas), art. 2, inciso VIII.

[109] Ley 371 de 2023 de Panamá (tortugas marinas), art. 6; Corte Constitucional del Ecuador, Sentencia No. 95-20-IN/24 (ecosistemas marino-costeros), párr. 55.

[110] Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-32/25, párr. 367.

[111] Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-32/25, párr. 366.

[112] Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-32/25, párr. 485.

methodologies, practices and internationally recognized scientific standards"; "clearly communicates the uncertainties and assumptions in the scientific basis of its conclusions"; and "is verifiable and reproducible through the publication of the non-confidential data and models used to reach its conclusions."[113] The Court identified the IPCC reports as the current best available science for climate matters,[114] but its findings do not suggest that this identification is exhaustive across subject matters. These criteria supply a workable standard against which the ecological measures petitioners seek, and any measures the State may propose in their place, can be evaluated.

Applied to the conservation of area-based and connected habitat, those criteria are readily satisfied. They point to the assessments and technical guidance produced by internationally recognized scientific bodies working in this field, among them the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services, whose assessments are prepared through peer-reviewed processes and whose summaries for policymakers are approved by member States, of which Mexico is one,[115] and the International Union for Conservation of Nature, whose World Commission on Protected Areas has issued technical guidance addressed specifically to conserving connectivity through ecological networks and corridors.[116] Such outputs are current, developed and peer-reviewed through internationally recognized processes, explicit as to their assumptions and uncertainties, and reproducible in their methods.

Yet the relevance of connectivity to area-based conservation is not a matter left to scientific bodies alone. The Convention on Biological Diversity, to which Mexico is a party, and the Kunming-Montreal Global Biodiversity Framework adopted under it commit States to conserving areas of particular importance for biodiversity through systems of protected areas and other effective area-based conservation measures that are, in the Framework's own terms, ecologically representative and well connected.[117] Thus, what level of connectivity is required in this case must be informed by the best available science, and it is also a characteristic of protected-area systems that States have themselves already undertaken to achieve.

Amici do not ask this court to weigh competing ecological evidence, nor suggest that the Inter-American Court addressed whales, or that it has held any particular configuration of measures

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[113] Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-32/25, párr. 486.

[114] Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-32/25, párr. 487.

[115] IPBES, *Technical Guidelines for the Assessment Process*, https://www.ipbes.net/assessment-guide_technical-guidelines; IPBES Global Assessment page, https://www.ipbes.net/global-assessment; IPBES, *Members and Observers*, https://www.ipbes.net/node/3874. At IPBES 10 in 2023, the Plenary approved a methodological assessment of integrated biodiversity-inclusive spatial planning and ecological connectivity, which remains forthcoming. IPBES Decision IPBES-10/1, Annex II (scoping report); IPBES, *Spatial Planning and Connectivity Assessment*, https://www.ipbes.net/spatial-planning-assessment.

[116] Hilty, J., Worboys, G.L., Keeley, A., Woodley, S., Lausche, B., Locke, H., Carr, M., Pulsford, I., Pittock, J., White, J.W., Theobald, D.M., Levine, J., Reuling, M., Watson, J.E.M., Ament, R., and Tabor, G.M. (2020), *Guidelines for Conserving Connectivity through Ecological Networks and Corridors*, Best Practice Protected Area Guidelines Series No. 30, Gland, Switzerland: IUCN, xiv + 122 pp., https://doi.org/10.2305/IUCN.CH.2020.PAG.30.en.

[117] CBD Decision 15/4, Kunming-Montreal Global Biodiversity Framework, Target 3 (Dec. 19, 2022).

to be legally required in the Gulf of California. Amici merely ask that the standard the Inter-American Court has prescribed be given effect: that whatever measures are ordered, or are proposed by the State in their place, be assessed against the best available science on habitat protection and connectivity, and that measures incapable of satisfying that standard not be treated as discharging the obligation. That is the same discipline the comparative authorities surveyed above already execute. Ecuador's Constitutional Court required comprehensive studies of a river's flow, structure, functions, and life cycle before the content of the remedy was fixed,[118] and conditioned authorization of activity in a mangrove ecosystem on a demonstration that it would not interrupt the ecosystem's vital cycles, structure, functions, and evolutionary processes.[119] Panama's sea turtle legislation subjects any project in nesting habitat to scientific-technical criteria, while Aotearoa New Zealand's Parliament wrote a spatial-adequacy standard directly into binding law, requiring that wilderness areas "be sufficiently large, remote, and buffered to be affected by human influences only in minor ways."[120] Scale, insulation from surrounding pressure, and scientific determination of protective content are, in these instruments, legal requirements.

The application of that standard to the whales before this court is set out in the petition and will be further elucidated in the record; it need not be duplicated here. Amici note only what follows, as a matter of remedial logic, if the record establishes that the population's feeding, breeding, migratory, and highly complex communicative processes[121] are carried out across a connected marine range rather than within a fixed area. For such a population, measures confined to discrete sites or to single stressors leave the protected interest substantially unaddressed. A vessel-speed measure in one area does not answer noise exposure along a migratory corridor; a restriction in one polygon does not preserve habitat conditions across the range that sustains the population. Where the recognized right is to exist, to maintain viable populations, and to carry out species-typical behaviors in an integral and healthy habitat, a remedy that does not reach the habitat and its connectivity does not sufficiently secure the right.

That conclusion follows equally from the remedial standard the Inter-American Court articulated under the right of access to justice. Remedies "should be adapted to the nature of the harm,"[122] and reparation is directed at "the restoration of the previous situation" or, failing that, at "measures . . . to guarantee the rights that have been violated and to redress the

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[118] Corte Constitucional del Ecuador, Sentencia No. 1185-20-JP/21 (río Aquepi), párr. 105.

[119] Corte Constitucional del Ecuador, Sentencia No. 22-18-IN/21 (Manglares), párr. 83 y Decision párrs. 1, 3.

[120] Ley 371 de 2023 de Panamá (tortugas marinas), art. 8; Te Urewera Act 2014, ss 114(3), 119(1)(b).

[121] Beguš G, Sprouse RL, Gruber DF, Gero S. 2026. The phonology of sperm whale coda vowels. Proc. R. Soc. B 293: 20252994; Beguš, G., Sprouse, R. L., Leban, A., Silva, M., & Gero, S. 2025. Vowel- and diphthong-like spectral patterns in sperm whale codas. Open Mind, 1-26. https://doi.org/10.1162/OPMI.a.252; Sharma P, Gero S, Payne R, Gruber DF, Rus D, Torralba A, Andreas J. Contextual and combinatorial structure in sperm whale vocalisations. Nature Communications. 2024 May 7;15(1):3617. doi: 10.1038/s41467-024-47221-8. PMID: 38714699; PMCID: PMC11076547.

[122] Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-32/25, párr. 557.

consequences of those violations."[123] A remedy that is not calibrated to how the harm is actually inflicted — across a range, through multiple simultaneous stressors — cannot redress its consequences.

Nor is formal availability sufficient. It is settled in the jurisprudence of the Inter-American Court that remedies must be adequate and effective in fact; a remedy that exists on paper but is incapable of producing the result for which it was conceived does not discharge the State's obligation.[124] A remedy for the violation of an ecosystem-dependent right that does not reach the ecosystem is illusory in precisely that sense. This is the same requirement reflected in the comparative authorities surveyed above: courts that have recognized nonhuman rights holders have paired recognition with measures matched to how the particular entity lives and how it is harmed. What petitioners seek is that pairing, tested against the scientific standard the Inter-American Court has itself prescribed.

## V. Conclusion

The three questions this brief addresses admit of the same answer. Recognizing Nature as a subject of rights is not a departure from Mexican and Inter-American law but a continuation of it: the precautionary principle and *in dubio pro natura*, given force by Mexico's Supreme Court already treat ecological integrity as a protected interest in its own right, and the Inter-American Court has confirmed that such recognition introduces no content alien to the regional *corpus iuris*. The rights petitioners seek can be specified with the precision required to administer them, because each rests on an interest — existence, habitat conditions, ecological relations and species-typical behavior, physical integrity, protection and restoration, and representation — that courts, legislatures, and Indigenous and tribal authorities across six continents have already defined and enforced, including for marine species and marine ecosystems. Finally, recognition can yield obligations concrete enough to bind, because comparative practice supplies working models of context-specific relief, and the Inter-American Court has prescribed the standard against which any measure must be assessed: the best available science, applied to the actual harm at hand. Amici therefore respectfully submit that recognition of the whales of the Gulf of California as subjects of rights is legally available to this court, and that measures capable of securing those rights are administrable and well precedented.

Con base en lo expuesto anteriormente, respetuosamente solicito a usted, Juzgado de Distrito:

1. Tener por presentado el presente *amicus curiae*.

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[123] Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-32/25, párr. 556.

[124] Corte Interamericana de Derechos Humanos, Caso Velásquez Rodríguez vs. Honduras, Fondo, sentencia de 29 de julio de 1988, Serie C No. 4, párrs. 62–66, 166, 167; Corte Interamericana de Derechos Humanos, Opinión Consultiva OC-32/25, párrs. 540, 543, 550, 556.

2. Que este Juzgado considere, al momento de resolver el presente juicio de amparo, la importancia de reconocer los Derechos de la Naturaleza, y a *Las Ballenas* como sujetas de derechos.

3. Se provea de conformidad con lo solicitado.

Atentamente,

**César Rodríguez-Garavíto**

**Ashley Otilia Nemeth**