

Rights of Nature

FUTURE GENERATIONS V. MINISTRY OF THE ENVIRONMENT AND OTHERS

Colombia Supreme Court. Decided 5 April 2018.

Children and young adults tackle deforestation in the Colombian Amazon.

Parties

- **Plaintiffs:** 25 children and young adults (ages 7-25), represented by **Dejusticia**
- **Defendants:** The President, the Ministry of the Environment and Sustainable Development, and the Ministry of Agriculture and Rural Development; 14 municipalities

Key Facts

- The Colombian government agreed to net-zero deforestation target under the Paris Agreement and its National Development Plan (2014-2018).
- The government failed to reduce deforestation in the Colombian Amazon, and instead deforestation in the area increased by 44% between 2015 and 2016.
- Deforestation accelerates and exacerbates climate change and its impacts. The Plaintiffs allege that the Amazon deforestation threaten future generations through accelerating the climate crisis.
- Furthermore, deforestation threatens the Amazon's 15,000 tree species, up to 57% of which are endangered.
- According to the Court, the causes of the deforestation include land grabbing (60-65%), illicit crops (20-22%), illegal extraction of mineral deposits (7-8%), infrastructure, agro-industrial crops and the illegal extraction of wood.
- The youth plaintiffs brought this case as a "tutela", a legal instrument available to all Colombians to secure their fundamental constitutional rights against other individuals, corporations, or the government.
- A lower court ruled against the youth plaintiffs. Youth plaintiffs filed an appeal on February 16, 2018.

Key Rights

Rights to life, health, minimum subsistence, freedom, human dignity, food, water, and a healthy environment.

The Court's Decision

- The Colombian Amazon (like Colombia's Rio Atrato) is the subject of rights equivalent to those of a human being, and it is therefore entitled to protection, conservation, maintenance, and restoration.
- Fundamental rights of life, health, minimum subsistence, freedom, and human dignity are substantially linked to and determined by the environment.
- Deforestation in the Amazon causes imminent and serious damage to all Colombians of present and future generations, as it leads to rampant emissions of carbon dioxide into the atmosphere, producing the greenhouse effect, which in turn transforms and fragments ecosystems, and alters the water resource. The increasing deterioration of the environment is a serious attack on current and future life and on other fundamental rights; it gradually depletes life and all its related rights.
- The protection of fundamental rights not only involves the individual, but implicates the "other." This includes the unborn, who also deserve to enjoy the same environmental conditions that we have.
- **We are all obligated to stop exclusively thinking about our self-interest. We must consider the way in which our daily actions and behaviours affect society and nature.**

The Court's Order

- The government was ordered:
 - to formulate and implement short-, medium-, and long-term action plans to reduce deforestation to net-zero by 2020 and address adverse climate impacts.
 - to create an **Intergenerational Pact for the Life of the Colombian Amazon** in consultation with the plaintiffs, affected communities, climate scientists, and research groups.
- Amazonian Municipalities must implement updated local land management plans to include measures to reduce deforestation.

What now?

- One year after the decision, deforestation in the Amazon had increased.
- The government's proposed development plan allows the deforestation of 800,000 hectares of land over four years, with no plans for reforestation.
- Limited efforts have been made to create the **Intergenerational Pact**.
- None of the 81 municipalities under the Court's mandate have updated their local land management plans to curb deforestation.
- In April 2019, the 25 youth plaintiffs returned to the court to seek a declaration that the government and other defendants had failed to fulfill the four orders of the Supreme Court.

International Impact

- The decision, though not adequately implemented by the Colombian government, has been described as "one of the most robust environmental court rulings in the world" (Professor Michael Gerrard, Director of the Sabin Center for Climate Change Law at Columbia University). Not only is this case part of a trend toward youth plaintiffs holding their government accountable for the future impacts of climate inaction (see also **Juliana v. United States**, **Urgenda Foundation v. The State of Netherlands**, and **Rabab Ali v. Federation of Pakistan**), but Colombia was one of the first countries to recognise nature's legal rights.
- Both in this case and in the Constitutional Court's decision regarding the legal rights of the **Atrato River**, Colombia fueled an international movement that has seen nature's rights legally protected in Ecuador, India, New Zealand and Australia.
- The case was also the first step for a **Campaign on Zero Deforestation in Colombia** (change.org)

Key Issues

Youth Rights to a Healthy Planet, Deforestation, Climate Change Impacts and Mitigation, Separation of Powers, Legal Standing to Institute Action.

Key Principles

Intergenerational Equity, Precautionary Principle, Solidarity, Participation.

International Agreements Cited

The Paris Agreement; UNFCCC (and Rio Declaration); Stockholm Declaration; International Covenant on Economic, Social and Cultural Rights; Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques (as well as the additional protocol to the Geneva Convention), Amazon Cooperation Treaty, International Covenant on Economic, Social and Cultural Rights.

References & Further Reading

Judgment: [In Spanish](#)
[Unofficial translation of excerpts](#)
See also:
[Dejusticia decision summary](#)
[Climate case chart](#)
[Dejusticia Blog post](#)
[Dejusticia Petition](#)
[Columbia Law Blog](#)