

ICHWA
CHA -
es guía

"Nuestra selva canta a través de todos los seres vivos que hay en ella; nosotros le cantamos a la selva, y queremos que así sea para siempre". (Pachita Samá, 2016)

de madrugada (05-15). Volarán las
S (recolección)

COMPORTAMIENTO: Cuando las ramas de un árbol, al moverse, suenan como el llanto de un bebé frente a una mujer embarazada, la mujer debe limpiarse el cuerpo con esas mismas ramas para evitar que su hijo/a sea llorón/a.

UBICACIÓN Y ALERTA: El sonido, la dirección y la fuerza del **VIENTO** orienta a los lugareños/as en la selva. Ayuda a reconocer el camino de vuelta y advierte sobre la presencia de Supays (espíritus).

(reconocimiento espacial a través de los sonidos)

COMPORTAMIENTO: Los lugareños/as pueden pedir, a los árboles sagrados como el **UCHUPUTU**, ayuda, visión o poder.

UBICACIÓN: Saladero cerca de la fuente del sonido.

COMPORTAMIENTO: No cazar, orinar o defecar cerca.

ALERTA: Posible ataque de animales peligrosos, truenos, lluvia y neblina.

UBICACIÓN:
Agua o río cerca

CICLOS: El pez
ucha challua está
época de desove.

COMPORTAMIENTO:
Buscar el origen del sonido.

ALERTA: Posible boa cerca.
Algunas veces, aunque
no se oye.

UBICACIÓN: Manada de
huanganas cerca. De
20 a 300 individuos.

② **ALERTA:** Posible ataque de huanganas.
Subirse a los árboles, al menos 80cm
de altura para estar a salvo.

AMAZON OF RIGHTS

AMAZONGRAPHY

Ecuador

"El Oriente"

September 2025

Los **SUPAY** son espíritus dueños de animales, plantas y elementos. Se comunican con los lugareños/as a través de sonidos y sueños, en los que se muestran con forma humana para compartir información sobre la selva, dar premoniciones, otorgar poderes o hacer pactos de cuidado mutuo.

Los sonidos que emiten permiten que los lugareños/as identifiquen eventos, horas, animales, peligros y/o posibilidades específicas.

HUANGANAS:

- ① Sonido del choque de los dientes.
- ② Sonido parecido al murmullo de un motor.

Las **MISHAS** (piedras de poder que escogen a los lugareños/as) algunas veces emiten sonidos para ser escuchados.

Las **BOAS** suelen emitir un sonido de "h" en la noche, cuando están en el agua.



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Huagana / Igara /

interpretación gráfica

Amazonography Summary	4
Amazonography Authors	5
Amazonography Glossary	6
Amazon of rights project summary	9
Research Team	9
 1 Introduction	 11
 2 Historical and legal context	 15
The Amazon and the making of Ecuador	16
Early developments over the natural environment	20
Emergence and development of Rights of Nature in Ecuador	25
 3 The Amazon in the Ecuadorian legal system	 31
Contemporary legal framework for the Amazon	32
Legal application of Rights of Nature in/to the Amazon	36
Social practices and mobilization of eco-centric normativity	39
Eco-centric normativity beyond/against Rights of Nature	42
Visual representation of law and eco-centric normativity in the Amazon	46
Outlook and future scenarios	56
Credits	58

AMAZONGRAPHY SUMMARY

The Oriente, or Ecuadorian Amazon, is presented as a mosaic of its many fragments in this Ama-zongraphy. It invites readers to explore a cartography of interconnected rivers and ecosystems, where life merges, perishes, or finds renewal. Through paintings, drawings, and audiovisual works, the Amazongraphy adopts a hermeneutic approach to the materiality and textuality of law, revealing its expressions within visual regimes. Art becomes a pathway to eco-centric practices and contemporary realities, allowing for a reflection on past visualities and historical perspectives of the Amazon. Long before legislation took shape, these representations depicted the land and foreshadowed the formation of nation-states.

Our analysis extends to past and contemporary legal frameworks for the Amazon, including special territorial circumscription, the integration of Rights of Nature into Ecuador's constitution, environmental rights, Indigenous laws, and norms related to rivers, fish, toucans, seeds, and other elements of the ecosystem. These frameworks illustrate how mobilization, practices, and representation around Rights of Nature (RoN) bring polyphonic interpretations of rights—expressed and embodied through both state language and intercultural representation. Simultaneously, existing eco-centric jurisprudence acts as a compass, guiding the reinterpretation of legal frameworks for an Amazon of rights.

Such reinterpretation encourages the exploration of “legal grafts”—a botanical metaphor where a blackberry is grafted onto a tree tomato to create a new fruit that combines their characteristics. This concept supports the integration of Ecuadorian legal innovations into other Amazonian contexts while adapting them to local realities, aligning with what we aim to propose or develop in the Amazongraphy described here. Art, in its resilience, continues to “shape and be shaped by its creators,” reflecting as already written in 1889 by painter and writer Juan León Mera: Nature itself as the “eternal and divine artist”—that does not destroy its works but instead receives new forces from their (de)composition.

AMAZONGRAPHY AUTHORS

JENNY GARCÍA RUALES

Jenny García Ruales is an Amazonian anthropologist, raised between the Pacific coast, the Andean mountains, and the Ecuadorian Amazon. Her biography weaves together being here and there, where activist writing and academia have taken her by the hand. She is pursuing her PhD at the Philipps University of Marburg and the Max Planck Institute for Social Anthropology in Germany. Additionally, she specializes as an anthropological legal expert at the Universidad Andina Simón Bolívar in Quito. Her doctoral research is situated within Environmental Anthropology and Constitutional Anthropology. Currently, she is the research coordinator in the Amazon of Rights project. This project compares legal frameworks across the Amazon regions and utilizes regimes of visibility as a method of juridical inquiry. Among the themes that accompany her are the Rights of Nature and creative research.

ANDRÉS MARTÍNEZ MOSCOSO

Andrés Martínez Moscoso, with a Ph.D. in Politics and Constitutional Studies from the University of Alicante (Spain), serves as a full-time professor and director of the Institute of Legal Research at the College of Jurisprudence of Universidad San Francisco de Quito. With dozens of publications in indexed journals, Andrés is recognized nationally and internationally for his expertise in water management and environmental law. In addition to his academic work, Martínez Moscoso serves as the Executive Secretary of ICON-S International Society of Public Law and is a member of the World Commission on Environmental Law (WCEL) of the International Union for Conservation of Nature.

HOLGER CISNEROS

Member of the Kichwa People of Sarayaku.

To cite this report (Amazongraphy)

García Ruales, Jenny, Andrés Martínez Moscoso, and Holger Cisneros. *Amazongraphy Ecuador “El Oriente”*. Edition Amazon of Rights Project, September 2025. Available from:

<https://amazonofrights.com/countries/ecuador/publications/amazongraphy-ecuador-el-orient.pdf>

AMAZONGRAPHY GLOSSARY

NORMATIVE ORDERS

The concept of ‘state’ normative order refers to what is also called ‘formal’ law, which flows from legal sources recognized by traditional Western legal theory and is enforced by state institutions.

‘Community’ normative order refers to what others call ‘informal’ laws or ‘customary’ law, e.g. norms recognized by a specific community (Indigenous, other minority) and enforced by it in some form of regularized procedure. Where community normative orders are recognized by state law, we refer to this as legal pluralism.

‘More-than-human’ normative order refers to the possibility that there may be laws that flow from nature or an ecosystem itself, e.g. the “laws” imposed by the Amazon River through regularities in its ecological process (e.g. high tide and low tide etc.); this is different from “natural law” in Western legal philosophy but may have interesting connections to that idea.

The main assumption of the project is that there is a plurality of law, and that people on the ground navigate and strategically use this plurality in daily lives.

ECO-CENTRIC NORMATIVITY

Eco-centric normativity/norms refers ways of normative thinking, or normative practices, that decenter humans as traditional subjects and sources of law and make nature a more central point of reference.

Eco-centric normativity may include rights of nature as defined below, to the extent that recognition and interpretation of such rights is based on nature’s intrinsic worth, rather than the instrumental functions of RoN for humans (e.g. to enable sustainable human development). But eco-centric normativity also goes beyond rights of nature recognized in state legal systems; it can encompass community norms and indigenous worldviews that do not think of nature in terms of “rights” (a Western concept) and may treat nature (consciously or unconsciously), or parts of it like rivers, as a *source* of norms (more-than-human normativity).

RIGHTS OF NATURE

Rights of nature designate legal entitlements held by nature as such (or one of its component parts) and recognized by, and enforceable in, the legal system of the state. Rights of nature imply that nature (ecosystems or parts of it) are a subject of law, as opposed to an object (of property rights etc.). Rights of nature are different from rights to nature (e.g. property rights to land) and the human right to a clean and healthy environment, which entitle humans as rights-bearers.

To the extent that rights of nature are informed by indigenous cosmologies, they are a hybrid concept combining indigenous ideas of nature as living being (subjectivity) and Western ideas of rights. Different conceptions of rights of nature can be more or less eco-centric, and they may also incorporate anthropocentric elements.

AMAZON

The term “Amazon” can have at least four different meanings:

1. The river, or system of rivers, originating in the Andes, with tributaries from Ecuador, and flowing from Peru via Colombia to Brazil and into the Atlantic Ocean;
2. The broader ecosystem that includes flora, fauna, animals and other living beings and natural entities in the Amazon region, e.g. tropical rainforest, animals, spirits, etc.
3. The geographical region encompassing parts of Ecuador, Peru, Colombia, Brazil;
4. Territorial/ administrative units within each of these countries (federal states, provinces, districts officially named “Amazon” or similarly), e.g. the federal state of Amazonia in Brasil.

For the purposes of our research, we use “Amazon” primarily in the meaning #1) because we want to capture the transboundary nature and legal variation of the ecosystem named “Amazon”, but we would like to capture other uses of the term that are legally and politically relevant, so we ask you to specify the meanings.

SOCIAL PRACTICES / LEGAL PRACTICES / SOCIAL CONFLICTS

How do we describe the empirical world?

Law on the books vs law in action

“in operation” = empirical practices

VISUAL PRACTICES / REGIMES OF VISUALITY

E.g. Art or imagery, iconic paintings, photos, movies, documentary films, visual ethnographies, artworks, artefacts.

INDIGENOUS

We are using the Science Panel for the Amazon definition, also for other communities dwelling in the Amazon:

<https://www.theamazonwewant.org/wp-content/uploads/2021/11/Definition-of-Indigenous-peoples-and-local-communities-1.pdf>

We complement it by referring to the definitions from the Special Rapporteur on Indigenous Peoples or the Declaration on Indigenous Peoples from the OEA:

<https://www.oas.org/es/sadye/documentos/DADPI.pdf>

Most importantly, we need to consider how Indigenous Peoples recognize and identify themselves in each context, and how that may be regulated in each Constitution. For example, in Ecuador, Indigenous Peoples identify as Peoples and Nations (Pueblos y Nacionalidades), which is also how they are recognized in the Constitution.

AMAZON OF RIGHTS PROJECT SUMMARY

The Amazon of Rights project explores how eco-centric normativity interacts with social realities in the Amazon River system, a critical ecosystem of global importance. Using comparative law and visual ethnographic methods, particularly documentary film, as socio-legal research tools, the project examines the legal status of the Amazon River as a subject and object of rights across different jurisdictions. It investigates how eco-centric norms shape and are shaped by the social practices and legal imaginations of local communities, Indigenous Peoples, activists, and legal practitioners. While Rights of Nature have been celebrated as a new eco-centric legal paradigm rooted in Indigenous cosmologies, local variations in normative understandings and practices remain underexplored. The project aims to capture this plurality of eco-centric normative orders, both within state-recognized frameworks like constitutions and case law, and in non-state, community-based practices that involve more-than-human entities.

For more on the project: amazonofrights.com

RESEARCH TEAM

[Cecilia Oliveira](#)

[Luis Eslava](#)

[Michael Riegner](#)

[Jenny García Ruales](#)

[Igor Karim](#)



1

INTRODUCTION

The Ecuadorian Amazon, or *Oriente*, is a region of “contrasts”¹ that continues to be “discovered”.² The term “discovered,” a historically loaded concept, prompts us to question who exactly has been doing the discovering. The landscape of the Oriente is marked by domestication practices of Indigenous Peoples and Nations, mestizos and colonos, urbanization³ and significance that has been continually redefined through its evolving relationship with the state, its people, and the natural world.⁴

Historically, state narratives depicted the Oriente as both a mythical frontier and a resource-rich land to be harnessed—a duality exemplified by national slogans such as “El Oriente es un mito” (The Oriente is a myth) and “El Ecuador es y será un país amazónico” (Ecuador is and will be an Amazonian country). The imagery of the first oil booms and nationalist fervour centred on Amazonian identity reflects this tension. However, Ecuador’s legal engagement with the Amazon remained slow, initially focusing on agricultural expansion, vacant lands, and territorial disputes before evolving into broader frameworks of international environmental law.

The concept of Rights of Nature (RoN), enshrined in Ecuador’s 2008 Constitution, marked a pivotal shift, stemming from intercultural dialogues that sought to redefine the meaning of rights beyond human actors. The RoN framework has since transformed jurisprudence, influencing mobilisation, participation, and legal interpretations within the Amazonian context. RoN challenges and operates alongside traditional environmental law, reshaping how claims are made, contested, and broadened, as we demonstrate through various cases in this report. The Amazon holds a complex position in Ecuador’s legal system, with contemporary frameworks and legislation such as the proposed Special Amazon Territorial Circumscription aiming to reconcile its ecological, economic, and cultural dimensions. Our analysis suggests that the efficacy of classical environmental law and RoN should be assessed through comparative studies spanning from 2008 to 2024, capturing their varying impacts on environmental governance and justice.

One of the case studies that we portray is the Kawsak Sacha Declaration of the Kichwa People of Sarayaku, serving as an illustrative example of the interaction between RoN and counter Indigenous proposals. This interaction connects with both state legal language and the specific cosmic meanings in the Amazon. Strengthening RoN will not depend solely on jurisprudence developed by the Court but also on

1. Potes, Verónica. *Análisis de la Aplicación del Derecho Ambiental en la Amazonía Ecuatoriana y el rol de las Fiscalías Ambientales*. Quito: CEDA, 2010, 11.

2. Available at <https://www.science.org/content/article/laser-mapping-reveals-oldest-amazonian-cities-built-2500-years-ago>, last accessed May 17, 2024.

3. Campaña, Pablo. The State’s View of Amazonia: Forest Planning in Brazil, Colombia, Ecuador, and Peru Between 1968-1978“. *Historia Crítica* 88, (2023): 93-115.

4. For a reading of overcoming the Andes-Amazonia divide, see Pearce, Adrian et al. *Rethinking the Andes-Amazonia Divide. A Cross-Disciplinary Exploration*. London: UCL Press, 2020.

contributions from all actors through *mingas jurídicas* (collective legal work). This concept refers to collective legal efforts akin to the act of *mingas*—shared activities like planting and cultivating manioc or building paths⁵—but applied here as forms of “Indigenous lawyering”⁶ that materialise in assemblies, decision-making processes, and the co-creation of legal concepts and frameworks.⁷ *Mingas jurídicas* thus symbolise a nexus between legal and political activism, as well as artistic ones.⁸

Existing jurisprudence will play a crucial role in fortifying RoN’s application in diverse forms. These legal precedents serve as a compass, guiding the reinterpretation of legal frameworks across the Amazons. Such reinterpretation invites the exploration of “legal grafts”—a botanical metaphor for integrating Ecuadorian legal innovations into other Amazonian contexts while adapting them to local realities. Nonetheless, RoN’s legal framework cannot fully counter the tangible crises facing the region, from fires and droughts to mining and contamination of rivers and fish species. Our exploration of cases highlights the multifaceted nature of law’s materiality and its diverse aesthetic expressions. Law transcends written codes; it is narrated, visualised, and enacted through collaborations across different levels and forms, including art, activism, and environmental defence. This report emphasises how eco-centric normativity emerges when actors articulate the Amazon as a living entity, just like Pacha Mama within the state Constitution.

By incorporating law, art, anthropology, and history, we propose a rich comparative legal ethnography, revealing a possible Amazon of Rights. Artistic expressions—ceramics, paintings, films, and archives—offer powerful mediums for exploring political, environmental, and legal issues.

5. García Ruales, Jenny. “Forest Moralities, Kindred knowledge and Sacha Runakuna: Kawsak Sacha as Law”. *The International Journal of Human Rights*, no. 28, 10 (2024): 1662–68; Yaucén Remache, Mario and Jenny García Ruales. “¿Con (con)sentimiento o no? Corazonamientos decoloniales plurales sobre el derecho de propiedad desde la Selva Viviente (Kawsak Sacha)”. *The Journal Direito e Práxis*, forthcoming.

6. Viaene, Lieselotte, and María Ximena González-Serrano. “The Right to Be, to Feel and to Exist: Indigenous Lawyers and Strategic Litigation over Indigenous Territories in Guatemala.” *The International Journal of Human Rights*, no. 27 (2023): 1–23.

7. García Ruales, Jenny. “Forest Moralities, Kindred knowledge and Sacha Runakuna: Kawsak Sacha as Law”. *The International Journal of Human Rights*, no. 28, 10 (2024): 1662–68; Yaucén Remache, Mario and Jenny García Ruales. “¿Con (con)sentimiento o no? Corazonamientos decoloniales plurales sobre el derecho de propiedad desde la Selva Viviente (Kawsak Sacha)”. *The Journal Direito e Práxis*, forthcoming.

8. García Ruales, Jenny, Luis Eslava and Viviana Morales Naranjo. “Legal “heartfelt thinking”: How “Mingas” Help Evolving the Law. *Verfassungsblog*. 2025/2/07. Available <https://verfassungsblog.de/mingas-rights-of-nature/>.



2

HISTORICAL AND LEGAL CONTEXT

THE AMAZON AND THE MAKING OF ECUADOR

The Ecuadorian Amazon, known as “the Oriente,” has long been a subject of fascination and imagination, often portrayed as an exotic, wild space contrary to notions of development.⁹

“Paisaje del Oriente, confluencia del Pastaza con el Palora” is the title of this oil painting below by Rafael Troya from 1907. Palora and Pastaza are rivers that meet; the Pastaza is described in the novel of *Cumandá*, published 40 years before this painting, as “the confused river, the king of rivers, who in his confusion ends in the monarch river, the Amazon”.¹⁰



Figure 1. Rafael Troya, *Paisaje del Oriente*, 1907, oil on canvas. Credits: MAAC Modern and Contemporary Art Reserve, Guayaquil¹¹

Hundred years before this oil painting on canvas, on 10 August 1809, the first cry (*grito*) for independence was heard in Quito. However, the Battle of Pichincha in 1822 marked independence from Spain and annexation to Greater Colombia. A key protagonist was Simón Bolívar, with this dream of Latin American integration even reflected in the current 2008 Ecuadorian constitution, alongside the prominence of *Pacha Mama*. In the first political constitution of 1830,¹² when Ecuador became an

9. Taylor, Anne-Christine. “Una Categoría Irreductible en el Conjunto de las Naciones Indígenas: Los Jívaro en las Representaciones Occidentales.” In *Imágenes e Imagineros* edited by Blanca Muratorio, 75–108. Quito: Flacso, 1994; Autoría Colectiva, *El Oriente es un Mito: Segundo Foro Ecología Política*. Quito: Abya Yala, 2003.

10. Mera, Juan León. *Cumandá: O un Drama entre Salvajes*. Ciudad de México: ZIP, 1871, impresión de 1980, 6.

11. Reproduced from Valdez Rosa and Guillermo Morán. “Paisaje/Territorio Imaginarios de la Selva en las Artes Visuales (Ecuador: 1907-2019).” *Revista de Arte Contemporáneo* 9 (2020): 194.

12. Available at <https://www.ministeriodegobierno.gob.ec/wp-content/uploads/downloads/2014/03/CONSTITUCION%CC%81N-POLI%CC%81TICA-DEL-AN%CC%83O-1830.pdf>, last accessed December 12, 2024.

independent republic, there was no mention of environment or nature, nor of the Amazon in the 1906 constitution,¹³ a year before the oil painting of the Pastaza and Palora Rivers. Little was known about that eastern (“Oriente”) landscape, as the title of the painting suggests, and its populations, adding further to its name. The formation of administrative units would come much later.

The forging of Ecuadorian national identity in the 1940s, following the war with Peru, sought to reclaim the Amazon and assert Ecuador’s Amazonian identity. The reclaim to the Amazon River’s access gained momentum, tracking back to Francisco de Orellana’s expedition from Quito in 1542, when the Amazon River was known as the “San Francisco de Quito River,”¹⁴ asserting Ecuador’s past, present, and future as an Amazonian nation, backed by state support. This was reaffirmed in political slogans still in use, such as President Jaime Roldós’s declaration: “Ecuador is and will always be an Amazonian country, now and forever”.

In 1968, almost thirty years later if this claim of Amazonian identity, President Galo Plaza Lasso famously declared that “the Oriente is a myth,” revealing two possible interpretations: “one as an absence of otherness, the unrecognized fable; the other as a delirium and fantasy, the false paradise of oil”.¹⁵ Though the first display of the an oil barrel in Quito happened in 1972, companies like Royal Dutch Shell had already entered the Amazon region during the 1920s and 1930s, advancing a political agenda to integrate the Oriente into national society with notions of progress and civility.¹⁶

These apparently mid-20th century progressive interpretations were influential, shaping public policies and national political development. They “revive memories” of extractive oil models and, currently, mining models. The oil boom, described as a “petroleum model as the regulatory axis of the country’s economic and social development,” represents a “construction of a social imaginary of development symbolised in a product: thus, we move from the first barrel of oil to the first gold ingot; and, secondly, the dependence of the Ecuadorian economy on cheap raw materials (unprocessed) and global production networks.”¹⁷

This petroleum and mining model neither delivered nor continues to deliver the promised development, perpetuating its narrative by pushing for even greater exploitation, where “gold has no seed”.¹⁸ This has not only fuelled “the dilemma between oil exploitation for

13. Available at https://www.cervantesvirtual.com/obra-visor/constitucion-de-la-republica-de-ecuador-el-23-de-diciembre-1906/html/f0fff13c-6845-4a40-9b68-f7e78aea9665_2.html, last accessed December 12, 2024.

14. Villacís Teran, Enrique. *Elogio del Ecuador*. Ministerio de Defensa, Programa Cultural. Quito: Instituto Geográfico Militar, 1972, 46.

15. Ponce, Javier. “Introducción.” In *El Oriente es un Mito: Segundo Foro Ecología Política* edited by Autoría Colectiva, 11-13. Quito: Abya Yala, 2003. For the first video documenting the urban celebration of the first barrel of oil extracted from the Amazon in 1972, available at <https://www.youtube.com/watch?v=6j4uxEppUDY&t=38s>, last accessed May 16, 2024. Archivo de la Cinemateca Nacional Ulises Estrella.

16. *Ibid.*

17. Torres Guzmán, Nataly. “Límites para la construcción del futuro post-petrolero: crisis capitalista y la megaminería.” In *La Explotación del Yasuní en Medio del Derrumbre Petrolero Global* edited by Melissa Moreano and Manuel Bayón Jiménez, 147-154. Quito: FES-Abya Yala, 2021, 147.

18. Available at <https://gk.city/2024/07/03/el-oro-no-tiene-semilla/>, last accessed December 12, 2024.

development or nature protection for sustaining life,”¹⁹ but also, as early as the 1990s, led to socio-environmental issues²⁰ such as social degradation linked to this Oriente as a myth, intertwined with disputes over oil blocks, border conflicts, and ancestral boundaries between communities and settlers in Amazonian territories.²¹

The deterioration of life in the Oriente represents an environmental disaster where life is no longer at the center. This leads to the construction of “subjects based on what can be obtained from oil”.²² Feminist theories warn of potential consequences like the “masculinization of territory,” when an oil or mining company enters a territory. Examples of this include the division of communities, material dependence on the oil company, increased alcoholism, pollution, and the impacts on women seeking food for their children.²³

In some ways, the same interests and conflicts that have persisted since the formation of the nation-state still have a legacy today. To this problem, we must add the Amazon as a basin and the conflicts that affect the entire basin as such.²⁴ Problems and conflicts of interest over Ecuadorian Amazonian territories have been expressed mainly in the blurred lines of who decides what happens in these territories and the rivers that flow through them (conflicts over land and water rights) in terms of environmental management and articulations. The productive matrix, centred on income derived from oil and mining extraction, reflects a conflict of interest tied to the country’s economic and social development. There is also external interest in obtaining rents here, compounded by alliances with political allies, mainly the state but also private actors, which have fragmented communities, particularly due to the lack of public policies and the absence of income redistribution to the territories.

Similarly, there are conflicts surrounding efforts to move away from this matrix and envision a post-extractive Ecuador, with alternatives reflected in misaligned discourses. This continues to result in clashes over property titles, unconsulted consultations, lack of consent, masculinisation of territories, criminalisation, river and forest pollution, deforestation (more recently, balsa logging), noise pollution, and the rupture of eco-social fabrics. In general, these processes disrupt ecosystems and the life projects of all inhabitants of the Ecuadorian Amazon.

19. Colectivo Miradas Críticas del Territorio desde el Feminismo. *La Vida en el Centro y el Crudo Bajo la Tierra. El Yasuní en Clave Feminista*. Quito: Acción Ecológica, 2014, 11.

20. Colectivo Miradas Críticas del Territorio desde el Feminismo, *Vida en el Centro*.

21. Potes, Verónica. *Análisis de la Aplicación del Derecho Ambiental*, 17.

Describes for 2010: “poverty, erosion and deforestation, loss of biodiversity, irrational exploitation of natural resources, contamination of air, water, and soil, poor waste generation and management, deterioration of environmental and urban conditions, deterioration of the lives of indigenous peoples and cultural values”. For an actual analysis see, Science Panel for the Amazon, available at <https://www.theamazonwewant.org/L>, last accessed May 16, 2024.

22. Colectivo Miradas Críticas del Territorio desde el Feminismo, *Vida en el Centro*, 11.

23. More in, Colectivo Miradas Críticas del Territorio desde el Feminismo. *La Vida en el Centro y el Crudo Bajo la Tierra. El Yasuní en Clave Feminista*. Quito: Acción Ecológica, 2014.

24. See for the current situation of the Amazon in a diversity of scopes, the reports of the Science Panel for the Amazon: <https://www.theamazonwewant.org/spa-reports/>

Environmental disasters that have shaped legal and political discourse include the Chevron-Texaco case, where toxic waste dumping has caused severe ecological harm, and the C ndor Mirador mine case,²⁵ which highlights mining-related issues. Other cases that have received media attention and have had significant consequences in terms of jurisprudence development, both within the Inter-American Court and under Indigenous law, include the Kichwa Indigenous People of Sarayaku’s struggle against Ecuador due to the entry of the oil company,²⁶ and oil exploitation in Yasun  National Park, with all its consequences, including displacement.

These events have shaken both the legal and political spheres by strengthening civil society and generating alliances and opposition for the defence, mobilisation, and recognition of rights,²⁷ They have also fostered the development of distinct strategies, questioning who is mobilising the rights of nature and for which political purposes. These efforts have been directed against hydroelectric dams, oil rounds, the lack of consultations, the enforcement of court rulings, referendums, and the call to “Yasunise” (*Yasunizar*) the world, revealing persistent conflicts that resonate within the political landscape and constitutional framework.

25. Case available at <https://theamazonpost.com/wp-content/uploads/Chevron-Ecuador-Opinion-3.4.14.pdf> , last accessed May 17, 2024.

26. IACtHR, 27th of June 2012, File Number Series C No 245 – Kichwa Indigenous People of Sarayaku v. Ecuador.

27. Acci n Ecol gica. *Ecuador ni es ni Ser  ya Pa s Amaz nico*. Quito: Acci n Ecol gica, 2003.

EARLY DEVELOPMENTS OVER THE NATURAL ENVIRONMENT



Figure 2. Engraving of the Canelos-Pastaza mission in Ecuador, 1927. Credits: Oriente Dominicano Magazine.²⁸

Anthropologist Lisset Coba's archival research sheds light on the historical and dominant role of the state and religious institutions for "civilization" and colonial dominance²⁹ of nature beings and the Amazon.³⁰ The cover of the *Oriente Dominicano* Magazine, published by The Misiones de Canelos y Macas in 1927, featuring palm trees and a cross, symbolises the colonial Christian presence in the Amazon rainforests. Evangelisation labeled everything other-than-human as "devil",³¹ leading to misunderstandings between spiritual-forest beings and their legal statutes.

Influences like this one, as well as the Orient as a myth, have permeated the Ecuadorian legal history. It reflects a "feminized and subjugated nature, perpetuating the notion of the rainforest as a wild frontier awaiting civilization."³² The "imaginaries of the rainforest," conceived since pre-colonial times, and the "visual repertoire" that has accompany them, are enduring representations.³³ Cultural products, from coins to

28. Reproduced from Coba, Lisset. "Memorias de la Gran Marcha. Política, Resistencia y Género en la Amazonía Ecuatoriana." *ARENAL* 28, no. 2 (2021): 597–626, 605.

29. Coba, Lisset. "Memorias de la Gran Marcha. Política, Resistencia y Género en la Amazonía Ecuatoriana." *ARENAL* 28, no. 2 (2021): 597–626.

30. Coba, Lisset. "Memorias de la Gran Marcha". Vallejo, Ivette and Kati Álvarez. "Miradas, Líneas Temáticas y Genealogía Conceptual de la Antropología de la Amazonía Ecuatoriana: Hacia un Estado de la Cuestión." In *Antropologías Hechas en Ecuador* edited by Catalina Campo Imaquino et al., 32–60. Quito: Abya Yala-UPS, 2022.

31. Ortiz Tirado, Pablo Xavier. "Espacio, Territorio e Interculturalidad: Una Aproximación a sus Conflictos y Resignificaciones Desde la Amazonía de Pastaza en la Segunda Mitad del Siglo XX." PhD Thesis. Universidad Andina Simón Bolívar, Sede Ecuador, 2012, 35.

32. Cf. Valdez Rosa and Guillermo Morán. "Paisaje/Territorio Imaginarios de la Selva en las Artes Visuales (Ecuador: 1907-2019)." *Revista de Arte Contemporáneo* 9 (2020): 190–214.

33. *Ibid.*

34. Muratorio, Blanca. *Imágenes e Imagineros*. Quito: Flacso, 1994, 11.

To solidify the narrative of the Nation State, emphasising “the feats of Quito,” “the discovery of Ishpingo (La Canela),” and “Gonzalo Pizarro, that Spaniard, almost Ecuadorian, penetrates from Quito into El Dorado, followed by Captain Francisco de Orellana, and he, on the Ecuadorian wooden brigantine, discovers the river that is like the sea, called the River of San Francisco de Quito.”³⁵ Painter Oswaldo Guayasamín was tasked by the State with immortalising “The Discovery of the Amazon River” in an acrylic on canvas in 1960.³⁶ While showcasing the river, the snake, a bird, vegetation, and the Amazons, the painting also glorifies colonial conquest, revealing an anthropocentric view and the exploitation of natural resources. This reflects how “the history of dispossession in and of the jungle is inextricably linked to the construction of the wild and the wild body of women. The myth of the warrior Amazons (...) makes sense in the representation of women who resist, even today, against mining and oil companies”.³⁷



Figure 3. Oswaldo Guayasamín, *El Descubrimiento del Río Amazonas*, 1960, acrylic on canvas, Private Collection, Quito. Credits: Picture by Ricardo Bohórquez.³⁸

The relationship between humans and nature has been closely linked to the concept of property and “vacant lands” (tierras baldías). This is evident in the apparent “discoveries”, colonisations, and portrayals of imaginations not only in paintings but also in textual narratives, like the one we find in the account of writer Juan León Mera’s journey, which we encounter in a state document from 1972 during his trip to the Oriente:

35. Villacís Terán. *Elogio del Ecuador*, 46.

36. Valdez Rosa and Guillermo Morán. “El Discurso del “País Amazónico” en el Mural el Descubrimiento del Río Amazonas de Oswaldo Guayasamín.” *Arte y Activismos en América Latina* 8 (2019): 73–80.

37. Vasquéz, Eva et. al. *Brujas, Salvajes y Rebeldes. Mujeres Perseguidas en Entornos de Moralización, Extractivismo y Criminalización en Ecuador*. Quito: Traficantes de Sueños, 2021, 17.

38. Reproduced from Valdez Rosa and Guillermo Morán. “Paisaje/Territorio Imaginarios de la Selva en las Artes Visuales (Ecuador: 1907-2019).” *Revista de Arte Contemporáneo* 9 (2020): 202.

Within this vast orchard, amidst the palms and primordial vegetation, among precious woods such as cedar, oak, mahogany, guayacán, and coralwood; surrounded by natural gardens with flowers native to sunlit lands; across terrains rich in oil, coal, gold, silver, and quartz, the Ecuadorian inhabitant has harvested millions of naranjillas annually, thousands of tonnes of sugarcane, and oranges, pineapples, papayas, and lemons; along with other crops like coffee, rice, peanuts, and maize. They have also established renowned pastures for top-grade cattle, which are recorded in national statistics with promising figures. One's imagination drifts far across these lands and rivers.

Villasís Terán. *Elogio del Ecuador*, 215.

The first frameworks that influenced were more anthropocentric in nature, reflecting this imagination and relationship with the Amazonian inhabitants, characterised more by utilitarian relationships, agricultural expansions, and land use than by a focus on environmental protection. Alongside the years of the engraving on the cover of the *Oriente Dominicano* magazine, with religious crosses and palm trees, these frameworks contained regulations regarding disputes over the possession of “vacant” lands and territorial administration, with agreements between the Church and the state, not only in the form of laws but also with parallel institutions.³⁹

Historical factors, such as the long-standing border conflict with Peru, deeply influenced the legal framework of the time and continue to leave lasting consequences. The contemporary legal framework for the Amazon, though formally restructured, remains shaped by its origins as a tool for resource exploitation. During the conflict, both countries introduced regulations aimed at establishing “living borders” for geostrategic and military purposes, neglecting issues of Amazonian governance. Simultaneously, incentives for the “colonisation” of the territory were implemented, offering extensive land grants and support for agriculture and livestock farming to Ecuadorian civilians, primarily from the highlands.⁴⁰ In the latter part of the 20th century, Ecuador’s policies towards the Amazon provided special treatment—not to address inequalities, but to encourage population growth and settlement. Provisions were made to create new parishes and cantons, manage land use, and facilitate the acquisition of property titles over “colonised” land.

Ecuadorian environmental law drew direct inspiration from Western models in the 1970s and 1980s, primarily focusing on preventing pollution and contamination to safeguard human health—an anthropocentric perspective.⁴¹ However, Ecuador’s environmental regulation remained fragmented, largely in secondary legislation, with

39. Examples here include the Territorial Heritage Law of 1927 and the Law on Wastelands and Colonisation of 1936. In 1964, the first Agrarian Reform Law was enacted, aimed at the colonisation of the Ecuadorian Amazon Region (RAE) and the promotion of agricultural development. Several measures were implemented to encourage the planned relocation of rural populations from other regions to the Oriente, which at the time was still perceived as uninhabited, unproductive, and uncultivated.

40. In 1979, the Law on Agricultural Promotion and Development was enacted, with the central aim of securing land ownership in rural areas.

41. An example of one of the first international environmental law frameworks in Ecuador can be found in the 1978 Constitution, Article 19: “Without prejudice to other rights necessary for the full moral and material development derived from the nature of the person, the State guarantees: 2. The right to live in an environment free from contamination. It is the duty of the State to ensure that this right is not violated and to safeguard the preservation of nature. The law shall establish restrictions on the exercise of certain rights or freedoms to protect the environment.” Available <https://constitutionnet.org/sites/default/files/1978-codificada-en-1984.pdf>, last accessed December 12, 2024.

laws on natural resource exploitation often taking precedence. This emphasis on regulating activities rather than maintaining a pollution-free environment persisted despite constitutional recognition since 1983, referring to the right to live in an environment free from contamination. The Organic Environmental Code of 2017 aimed to address these issues, however, institutional effectiveness remains a challenge, with the National Environmental Authority struggling to enforce numerous environmental protection regulations. Nevertheless, Ecuador maintains a strong commitment to environmental conservation as exemplified in the case of the Yasuní ITT oil block.⁴²

However, parallel to these environmental state developments, cosmologies shaped by the Amazon as a source of law have turned into legal and political claims, underscoring Ecuadorian legal history.⁴³ The Sarayaku Agreements were the outcome of, a 10-day negotiation in the territory of Sarayaku, in which the Comuna Alama de Sarayaku (CAS), the Organización de Pueblos Indígenas de Pastaza (OPIP), other Indigenous organisations such as CONAIE (Confederación de Nacionalidades Indígenas del Ecuador) and COFENIAE (Confederación de Nacionalidades Indígenas de la Amazonía Ecuatoriana), along with representatives of the state and the oil company,⁴⁴ participated, were forged in the late 1980s in response to oil exploitation in the Bobonaza basin and incursions into Indigenous territory by Block 10.

These agreements, consisting of “five documents with 78 points, addressed the main demands of Indigenous peoples in Ecuador and, especially, in the Amazon”.⁴⁵ Another key element has been the rallies that have “lit the fuse” since the 1990s, from the Amazon to Quito, with a pivotal event in 1992 when property rights were recognised. The Sarayaku agreements and the rallies have laid the groundwork for a broader vision of plurinationality, interculturality, Indigenous justice, and collective rights, aligning with principles such as *Sumak Kawsay* and *Pacha Mama*. These elements and principles were gradually enshrined in constitutions from the 1990s and materialised in their current form in the 2008 Ecuadorian Constitution.

Clashes arise primarily over oil and mining concessions on Indigenous territories and crimes involving fauna and flora, where intercultural justice is undermined by a lack of understanding and enrichment of hegemonic legal norms with cultural interpretation. The Ecuadorian legal framework often struggles to achieve genuine intercultural

42. This has been seen in episodes such as the organization of marches in defense of water, or in the referendum on the non-exploitation of the Yasuní ITT oil block.

43. The first to theorise about the collective concept of good living (*Sumak Kawsay*) in the early 1990s was Carlos Viteri Gualinga, a Kichwa anthropologist, who delved early on into the relationship between humans and nature. Not only have *Sumak Kawsay* and other conceptions of nature influenced *Pacha Mama*, but also concepts like “*Sacharuna*” and the legal status and being of forest entities in relation to humans have also played a significant role. *Sacharuna*, the Kichwa term meaning “entities of the forest” or literally “person of the forest,” encapsulates Amazonian personhood of entities belonging to more than one realm. Viteri, Carlos. “Mundos Míticos Runa: Pueblos y Culturas de la Amazonía Ecuatoriana.” In *Mundos Amazónicos* edited by Noemi Paymal and Catalina Sosa, 144–157. Quito: Ediciones Sinchi Sacha, 1993; García Ruales, Jenny. “Corazonando from the Amazon.” In *BEYOND BIOS. The Life of Matter and the Matter of Life*, edited by Sophie Chao, Christine Winter and David Schlosberg. (forthcoming Duke Press).

44. Hidalgo-Capitán, Antonio Luis and Ana-Patricia Cubillo Guevara. *El Origen del Buen Vivir: El Plan Amazanga de la OPIP*. Huelva: Ediciones Bonanza, 2019, 70.

45. Ibid.

dialogue and justice for Peoples, Nations, and collectives, compounded by inconsistent regulation and limited public awareness of these rights.⁴⁶

46. Narváez Collaguazo, Roberto.
“La Justicia en un Estado
Plurinacional con Garantismo
Penal.” *Revista de Derecho FORO*, no.
34 (2020): 123–145, 128.

Key ecological issues include insufficient wastewater treatment and illegal mining, which frequently spark conflicts in transboundary basins with Peru and Colombia. These operations, often tied to drug trafficking and money laundering, contribute significantly to ecosystem contamination. The lack of environmental expertise among judicial administrators and the absence of specialised environmental courts further exacerbates the challenges.

EMERGENCE AND DEVELOPMENT OF RIGHTS OF NATURE IN ECUADOR

Since 2008, the Rights of Nature, as enshrined in the country's twentieth Constitution, passed on 20 October 2008, have been described by the Constitutional Court as “weaving an intercultural convergence of the knowledge of Indigenous peoples and modern Western science. It resorts to the universal archetype of the mother and thus recalls the essential relationship between human beings and nature.”⁴⁷ Multiple references to Nature as a subject of rights in the constitution include Articles 10, 71, and 72. Legislatively, the Organic Environmental Code (2017) has precise provisions regarding the Rights of Nature, especially aiming to adopt an eco-centric approach. Procedurally, the General Organic Code of Processes (COGEP) (2015) indicates that for Nature to exercise its rights as a subject, it can be represented by any individual without the need to demonstrate direct interest, or alternatively by the Ombudsman. Judicially, the Constitutional Court of Ecuador, as the highest body of constitutional interpretation, has pronounced, particularly in four domains with regards to the Rights of Nature:⁴⁸

- Wildlife: Estrellita (*Lacroix lacroix*) case.⁴⁹
- Forests: Los Cedros Protective Forest case.⁵⁰
- Mangroves: Mangroves case.⁵¹
- Rivers: Aquepi River, Monjas River.⁵²

Civil society, academics, international NGOs, and environmental activists played a decisive role, as they were the ones who, through strategic litigation, brought forth legal actions, applied social pressure, and obtained judicial rulings in favour of Nature in these four domains. These actors recognised the constituent process in the city of Montecristi in 2007, the Constituent Assembly, as the ideal scenario to introduce the concept of Nature or Pacha Mama as a subject of rights. However, this process was not exempt from “attacks and ridiculisations,” with statements such as: “Will a plant be able to sue? Will the mangrove or the forest fit into a court of law? Will the white cockroach be able to defend itself against its inevitable extinction?”⁵³

47. Ecuadorian Constitutional Court, January 19, 2022, File Number: 2167-21-EP/22–Monjas river. A river, a forest, or other ecosystems are seen as life systems whose existence and biological processes merit the highest possible legal protection that a Constitution can provide: the recognition of rights inherent to a subject. The river is an element of nature that is part of a larger ecosystem, which can be identified as a watershed. The functions of the river allow and sustain life for both the human species and other species and vegetation. The Court has recognized that rivers, in their natural state, “fulfill various ecosystem functions such as providing water for humans, self-purification, flood and drought control, maintaining habitat for fish, birds, and other wildlife, maintaining sediment flows, nutrients, and salinity of estuaries...” Ecuadorian Constitutional Court, December 15, 2021, File Number: 1185-20-JP–Río Aquepi.

48. *Ibid*, 23.

49. Ecuadorian Constitutional Court, January 19, 2022, File Number: 253-20-JH/22–Mona Estrellita.

50. Ecuadorian Constitutional Court, November 19, 2021, File Number: 1149-19-JP/21 – Los Cedros.

51. Ecuadorian Constitutional Court, September 2021, File Number: 22-18-IN/21 – Manglares.

52. Ecuadorian Constitutional Court, December 15, 2021, File Number: 1185-20-JP–Río Aquepi; Ecuadorian Constitutional Court, January 19, 2022, File Number: 2167-21-EP/22–Río Monjas.

53. María José Narváez Álvarez and Jhoel Escudero Soliz. “Los Derechos de la Naturaleza en los Tribunales Ecuatorianos.” *Iuris Dictio*, no. 27 (2021): 69–84, 83.

At the national level, activists, for example from *Acción Ecológica*, played a crucial role.⁵⁴ Legal scholar and activist Esperanza Martínez, for instance, positioned herself politically against oil extraction and, a year after the recognition of the Rights of Nature (RoN), was already theorising them⁵⁵. Academics from the Universidad Andina Simón Bolívar, including Ramiro Ávila Santamaría and Agustín Grijalva, also made significant contributions to these discussions and later advanced jurisprudence in their roles as former judges of the Constitutional Court.

Initially, the Indigenous movement was wary of the possibility of recognizing nature as a subject of rights, fearing it could affect the management of their communal property and the state administering the territories on behalf of Nature.⁵⁶ However, this stance changed over time, influenced by cases like the Texaco case in the Amazon (1964–1992). The narrative of constitutional norms aimed at protecting Nature as an entity rather than merely an object of appropriation was embraced by former President Rafael Correa (who was in power for ten years). He even launched a major media campaign, “Chevron’s Dirty Hand,” to position Ecuador against the transnational company, focusing on the environmental harm inflicted on Nature and Indigenous Peoples and Nations,⁵⁷ and to prevent the expiration of legal actions in cases of environmental damage—all to avoid a repetition of the Texaco case.

The political movement PAIS, to which Correa belonged and now known as Revolución Ciudadana, played a crucial role in advocating for the inclusion of Nature as a subject of rights, from the perspective of New Latin American Constitutionalism, in a way that disrupted traditional environmental law. In their constitutional proposal, the movement aligned with the New Latin American Constitutionalism, which breaks away from the tradition of liberal constitutions, embracing the interconnection between Indigenous Peoples and Nations, collectives, with their territories. Regarding the later developments, it’s important to note that after this constitutional shift, laws like the mining law came into play, leading to a divide that still affects the left-wing movements today. This shift has sparked tensions and differing narratives, particularly around environmental issues and development.

In the environmental field, the government of Rafael Correa used significant cases of environmental contamination where classical environmental law was not sufficient to respond. Hence the need to “search” for other responses, leading precisely to the recognition of Nature as a subject of rights. Unlike the Ecuadorian constitution of 1998, the current one (2008) broadens the way in which environmental rights

54. Available <https://www.accionecologica.org/>, last accessed May 16, 2024.

55. See, Acosta Alberto and Esperanza Martínez. *Derechos de la naturaleza. El Futuro es Ahora*. Quito: Abya Yala, 2009.

56. This critic continues to resonate within Amazonian territories. However, more recently, the Constitutional Court has established that the collective property rights of Peoples and Nations take precedence over those of Nature; see Ecuadorian Constitutional Court, 1 July 2020, File No. 20-12-IN/20, *Triángulo de Cuembí*.

57. Available <https://www.comunicacion.gob.ec/el-gobierno-ecuadoriano-presentara-al-mundo-la-mano-sucia-de-chevron/>, last accessed May 16, 2024.

are exercised. Any person, community, People, or Nationality may demand from the public authority the fulfillment of Nature's rights. To apply and interpret these rights, the principles established in the Constitution should be observed as appropriate. Traditionally, collective rights required justification on behalf of the claimant. However, as mentioned before, Nature's rights allow any person to represent them, with the Ombudsman being the responsible institution.⁵⁸ Nature's rights can be activated through a jurisdictional guarantee, known as the Protection Action (*Acción de Protección*), ensuring direct and effective protection of constitutional rights by acts or omissions of any non-judicial public authorities, policies resulting in the deprivation of constitutional rights' enjoyment or exercise, or violations by private individuals. Until the referendum of April 2024, which established constitutional courts of first and second instance to hear cases concerning the rights of Nature, or Nature as a subject of rights, any first-instance judge in Ecuador could enforce these rights. All judges, when dealing with jurisdictional guarantees, assume the role of constitutional judges mandated by the Constitution to uphold nature's rights.

The Constitutional Court of Ecuador, especially the 2019–2021 bench, developed the concept and jurisprudence of Nature's rights. Drawing from Ávila Santamaría's "ecosystemic theory",⁵⁹ the Court asserted that while specific recognition of all elements of Nature as subject of rights is not required,⁶⁰ the jurisdictional recognition of a specific holder allows the establishment of state obligations towards them and appropriate remedial measures. This principle, known as the inter-species principle, considers the unique characteristics of each species. Thus, nature is recognized as a functioning whole in an ecological basis rather than focused on individual entities, as demonstrated by cases referring to mangroves, forests, rivers, and wildlife (ecological principle).⁶¹

Traditional environmental law prioritizes human well-being by focusing on water, soil, and air quality. In contrast, Nature's rights recognize ecosystems as subjects deserving protection for what they represent, for the value they hold.⁶²

The Constitutional Court has been instrumental in providing clarity on this notion. It has emphasized the importance of each element of nature for the "existence, maintenance, and regeneration of vital cycles, structure, functions, and evolutionary processes".⁶³ For instance, it recognized the Monjas river in Quito as a rights holder, highlighting the interconnectedness of ecosystems.⁶⁴ Not only has the Constitutional

58. Regarding the representation of Nature: Art. 38.- Representation of nature. Nature may be represented by any natural or legal person, community, or by the Ombudsman, who may also act on its own initiative. Nature cannot be sued or counterclaimed. The Ombudsman shall respond in accordance with the law and this Code. Actions for environmental damage and damage to persons or their property as a result thereof shall be exercised separately and independently.

59. The theory posits that all components of an ecosystem function as an integrated whole, each with its own characteristics, contributing to and participating in the ecosystem. See Ávila Santamaría, Ramiro, "Rights of Nature vs. Human Rights? An Urgent Shift of Paradigms," in *Environmental Constitutionalism in the Anthropocene: Values, Principles, and Actions*, edited by Domenico Amirante and Silvia Bagni, 68–85. London: Routledge, 2022; and Ramiro Ávila, "La teoría sistémica del derecho en la jurisprudencia de la Corte Constitucional," *Ecuador Debate* 1, no. 16 (2018): 127–138.

60. See, Ecuadorian Constitutional Court, December 15, 2021, File Number: 1185-20-JP-Río Aquepi.

61. Ecuadorian Constitutional Court, February 2023, *Guía de Jurisprudencia Constitucional*, 30.

62. Even that was the idea developed in its latest sentence, Oroya vs. Peru Case: The eco-centric turn taken by the IACHR is interesting, which in its analysis indicated that there is an intimate relationship between the right to water and the right to a healthy environment. And it explains that the protection given to drinking water (access, use, and exploitation) is based on an anthropocentric premise; while that which protects bodies of water as living elements of the environment is understood from a substantive vision protected from the eco-centric perspective.

63. Ecuadorian Constitutional Court, September 2021, File Number: 22-18-IN/21 – Manglares, paragraph 28-29.

64. Ecuadorian Constitutional Court, January 19, 2022, File Number: 2167-21-EP/22–Monjas river. It is a systemic perspective that protects natural processes for their own value.

Court provided substance to the rights of Nature, but other courts have contributed with judicial development in various instances. Many of the limitations that have been criticised regarding the Rights of Nature have been addressed in the rulings, such as the plurality in representation,⁶⁵ including *amicus curiae* and collectives, and the inclusion of different voices, where even birds have a voice.⁶⁶

In its preamble, the Ecuadorian Constitution celebrates Nature or *Pacha Mama*, of which we are a part of, and which is vital to our existence. Therefore, the concept of Nature developed in Article 71 of the Constitution includes human beings as an inseparable part of it,⁶⁷ and of the life that reproduces and is realized within it. However, it's important to note that many classical principles of environmental law are utilized, including the precautionary principle, the polluter pays principle, sustainable development, and pollution that can affect individuals, among others.⁶⁸

The main criticism against the enforcement of the Rights of Nature stems from the lack of serious quantitative and qualitative studies comparing the effectiveness of classical environmental law measures (e.g., from 1998-2008) with the implementation of nature's rights from 2008-2024. The purpose of such studies would be to draw conclusions about whether these rights have helped improve ecosystem protection, biodiversity, reduce deforestation, and lower pollution levels (water, soil, air, etc.). After 16 years of constitutional implementation, no serious studies have determined whether these goals have been achieved. It remains unclear whether the Rights of Nature have contributed to reducing deforestation, pollution, or protecting wildlife.

It is also concerning that the current bench of the Constitutional Court (three years) has not prioritized environmental and Rights of Nature protections and advance their jurisprudence. The current composition of the Court, with new judges, has not given sufficient importance to environmental matters, instead prioritising issues related to classical constitutional procedural law. Additionally, there is a lack of environmental training among first-instance judges, hindering their ability to enforce and defend the Rights of Nature. Conflicts between rights are addressed on a case-by-case basis, as all rights hold equal hierarchy in the Constitution.⁶⁹ This approach is problematic, as it complicates the navigation of each case, despite the jurisprudence already developed. Each case presents a new challenge, even though established rulings could be applied.

65. Gutmann, Andreas. *Hybride Rechtssubjektivität*. Baden-Baden: Nomos, 2021, 264.

66. Provincial Court of Justice of Esmeraldas, 11th of January 2017, File Number: 08100-2010-0485 – La Chiquita.

67. The Constitutional Court has also highlighted in its jurisprudence this.

68. This situation has been questioned and consulted with the magistrates (Grijalva and Ávila), regarding the fact that at the end of the day, the same classical Environmental Law is used for the defense of ecosystems. They have indicated that this is not the case, but that as tools regulated in the Constitution, they are taken as a complement, but not the basis or foundation. From a theoretical or doctrinal point of view, the difference is clear: Protected legal interest, autonomy of action and jurisprudential development.

69. The Constitution of the Republic establishes that all rights are of equal hierarchy. Art. 11.- The exercise of rights shall be governed by the following principles:

1. All principles and rights are inalienable, irrevocable, indivisible, interdependent, and of equal hierarchy. While the Organic Law of Jurisdictional Guarantees and Constitutional Control establishes Methods and rules of constitutional interpretation.

2. Proportionality Principle.- When there are contradictions between principles or rules, and it is not possible to resolve them through the rules of antinomies solution, the principle of proportionality will be applied. For this purpose, it will be verified that the measure in question protects a constitutionally valid purpose, which is suitable, necessary to guarantee it, and that there is a due balance between protection and constitutional restriction.

3. Weighing.- A preference relationship must be established between principles and rules, conditioned to the circumstances of the specific case, to determine the appropriate decision. The greater the degree of non-satisfaction or affectation of a right or principle, the greater the importance of the satisfaction of the other.

Two last points to conclude, how actors understand and enforce these rights, particularly within the framework of Indigenous law, and how these rights are differentiated and articulated, adds complexity in the enforcement. It is also becoming increasingly difficult to maintain an overview of the implementation of rulings, which makes it essential to monitor each case and involve those who have been part of the most significant legal demands.



Con la aprobación del Rmo. P. Prefecto

Quito.—Imprenta de Santo Domingo

Fig. 3. Grabado misión de Canelos-Pastaza-Ecuador, impresión en Portada Revista Oriente Dominicano.

3

THE AMAZON IN THE ECUADORIAN LEGAL SYSTEM

CONTEMPORARY LEGAL FRAMEWORK FOR THE AMAZON

The 2008 Constitution recognises the right of the population to live in a healthy and pollution-free environment, as achieving good living or *Sumak Kawsay*, requires a healthy environment. Climate change, however, is not regulated in the Constitution, but in the Organic Environmental Code (CODA) (2017), understood as an anthropogenic phenomenon causing adverse environmental effects. CODA establishes public policies for climate change prevention, control, adaptation, and mitigation.⁷⁰ It comprises instruments and management mechanisms articulated, by the National Environmental Authority (MAATE) in line with the National Climate Change Policy and Strategy (2017),⁷¹ addressing climate change through planning, programs, and projects at different levels government levels (provincial, municipal, or metropolitan) and state sectors.

The 2008 Constitution achieved the dual objective of a National Constituent Assembly and a so-called “Citizen Revolution.” On the environmental front, it enshrined Rights of Nature, which means that the Amazon as an ecosystem is also a rights-bearing entity. This included a prohibition on non-renewable resource exploitation in protected areas and zones declared as intangible (Article 407).⁷² The Constitution also recognized certain collective rights for communities, Peoples and Nations. Building on the 1998 constitution, allowing participation, use, usufruct, administration, and conservation of renewable natural resources on Indigenous lands, it explicitly includes the possibility of prior, free, and informed consultation and commercialization of non-renewable resources found on Indigenous Territories, as well as the right to participate in the benefits from such projects (Article 57, #7).

In the area of resource use and state control, the Constitution reinforced the state’s role in key economic sectors, concentrating power in the executive branch of government. From the first article, it asserts that non-renewable natural resources are inalienable, irrevocable, and imprescriptible state heritage. The Constitution strengthened the state

70. Establishing adaptation and mitigation measures for climate change. The first define 1. Quality of life, 2. Current and future scenarios, and, 3. Climate variability models included in the National Development Plan; as well as the second for i. Production and consumption with low greenhouse gas emissions, ii. Protection and preservation of biodiversity, ecosystems and human health, iii. Emission reduction for public and private companies via incentives, and, iv. Measures and actions to avoid deforestation and environmental degradation.

71. Available <https://www.ambiente.gob.ec/wp-content/uploads/downloads/2017/10/ESTRATEGIA-NACIONAL-DE-CAMBIO-CLIMATICO-DEL-ECUADOR.pdf>, last accessed May 16, 2024.

72. *Zona intangible* refers to “protected areas of great cultural and biological importance where no extractive activity can take place due to their high value for the Amazon, Ecuador, the world, and present and future generations.” See <https://www.wrm.org.uy/es/articulo-s-del-boletin/ecuador-la-zona-intangible-tagari-taromenane-del-yasuni#:~:text=Seg%C3%BAn%20el%20decreto%2C%20las%20zonas,las%20presentes%20y%20futuras%20generaciones%E2%80%9D>, last accessed 16 May 2024. However, the exceptional approach applied in the case of the Yasuní ITT by the government of Rafael Correa Delgado is well known.

by granting it exclusive competencies over energy resources, minerals, hydrocarbons, water, biodiversity, and forest resources (Article 261, #11). It reserved for the central government the power over strategic sectors like non-renewable natural resources, hydrocarbons transport – deemed the state’s inalienable and imprescriptible heritage. However, exploitation of non-renewable natural resources must comply with environmental principles and recognize Nature’s rights (Article 408). The state must also participate in the benefits from resource exploitation, receiving no less than the exploiting company.

Another point to highlight was the role given to the territories of the Amazon provinces as “The territory of the Amazon provinces is part of an ecosystem that is necessary for the planet’s environmental balance of the planet,” allowing this provision a comprehensive planning of these areas taking into account social, economic, environmental, and cultural aspects (Article 250). This focus on Amazonian territories is reinforced by the transitorial provisions (specifically the twenty-eighth), which specify that any law regulating the share of decentralised autonomous governments in revenues from the exploitation or industrialisation of non-renewable resources cannot decrease the revenues established under prior regulations.⁷³ Moreover, the Constitution itself, within its transitional provisions, mandated that Congress ensure the Amazon’s decentralised autonomous governments receive revenue from the exploitation of their non-renewable natural resources. It also stipulated that no new regulation could, under any circumstances, diminish rights previously acquired.

73. (Law 010 of the Fund for the Amazon Regional Ecodevelopment and Strengthening of its Sectional Organizations, as well as others in the electrical field).

A key achievement was also recognizing to subnational governments the right to participate in the state revenues from resource exploitation or industrialization within their territory, opening a direct path for resource delivery through constitutional recognition (Article 274). The Amazon region (comprising the provinces of Sucumbíos, Napo, Orellana, Pastaza, Morona Santiago, and Zamora Chinchipe) has a unique treatment regarding natural resources exploration and exploitation. In 2010, with the Organic Code of Territorial Organization and Decentralized Administration (COOTAD),⁷⁴ the Amazonian ecosystem was classified as a territory requiring special jurisdiction governed by a dedicated law, published in 2018. The Ley Orgánica para la Planificación Integral de la Circunscripción Territorial Especial Amazónica counts with an own institutional framework, including a secretariat and council:

74. (Official Registry S. No. 303, October 19, 2010).

Article 1 – Purpose

The purpose of this law is to regulate the Integral Planning of the Special Amazon Territorial Circumscription and its territorial organisation, considering social, economic, cultural, and environmental aspects. It establishes policies, guidelines, and special regulations to guarantee human development, respect for the rights of nature, conservation of ecosystems and biodiversity, sustainable development, the right to education at all levels, cultural heritage, social memory, interculturality, and plurinationality. Additionally, it seeks to promote a sustainable socio-economic, cultural, and environmental model based on the principles of Sumak Kawsay, aiming to address existing inequalities and foster equitable development within the Circumscription.

Central to these objectives is the active participation of Comunas, Pueblos y Nacionalidades, as well as the enforcement of their collective rights. Their contributions to biodiversity management and conservation are explicitly recognised (Article 3), even for those communities residing within protected areas.

In line with this framework, the Organic Code of Territorial Organisation, Autonomy, and Decentralisation (COOTAD) mandates collaboration between central and decentralised autonomous governments to ensure the effective implementation of sustainable development policies and compensatory measures. Additionally, it regulates municipal taxes, such as a 1.5 per thousand tax on the assets of traders, industrialists, and financiers operating within the municipality. A significant reform mandates that a portion of resource revenue remains within Amazonian territory. Previously, companies exploiting Amazonian resources maintained fiscal domiciles in Quito, with no royalties reaching the region. This change requires fiscal domiciles to be in Amazonian provinces, ensuring revenue supports local projects and services. For service companies involved in hydrocarbon exploration and exploitation, the reform specifies that fiscal domiciles within the Special Amazon Territorial Circumscription must align with local economic activities, as defined by the Organic Law for Integral Planning of this Circumscription, rather than defaulting to the capital.

The contemporary legal framework for the Amazon remains rooted in resource exploitation and contradictions, where there is state goodwill to create protective laws, yet ongoing friction between the state and its inhabitants persists. Contextual factors include the state's difficulty as a national project in implementing structural changes towards a post-extractivist model without relying on oil and mining. There is also a lack of political consensus. Correa's government embodied a contradictory

stance, resulting in ruptures and friction with the Indigenous movement, leading to criminalisation and alliances that remain unresolved with successive governments.

Other factors include a lack of coordination between Indigenous Peoples, civil society, NGOs, and the state. Differing positions not only hinder collaboration with state environmental management but also affect proposals for conservation based on intercultural principles and contested perspectives, underscoring a misalignment with Indigenous rights. Additionally, Peoples and Nations in the Amazon have distinct organisational processes, and some lack management plans within the framework of their own law, or there is insufficient articulation between Peoples and with the state. Moreover, they are not fully aware of the rights available to them or what these actually entail. Similarly, state policies reflect a mix of heterogeneous positions and insufficient public policies concerning extractivism.

LEGAL APPLICATION OF RIGHTS OF NATURE IN/TO THE AMAZON

The entire Oriente or Ecuadorian Amazonian ecosystem hold rights, under the constitutional recognition of Pacha Mama, signifying that all ecosystems and elements of nature inherently possess rights without the need for specific declarations⁷⁵. An overview of 21 cases from across all seven Amazonian provinces is available on the webpage of the *Observatorio Jurídico de los Derechos de la Naturaleza*.⁷⁶

The cases vary in terms of judicial levels, for instance, in the Constitutional Court or in first or second instances in provincial courts. It may be helpful to highlight that while the Constitutional Court has limited development in this area, other judgments are often not extensively reasoned, making it challenging to extract substantive elements. The judgments in first and second instances develop content, not as precedents in the strict sense, but as forms of judicial developments.

One landmark case of Rights of Nature in the Amazons, at the Constitutional Court is the case: File Number 273-19-JP/22, which deals with the non-observance of prior consultation in the A'I Cofán community of Sinangoe – Sucumbíos.⁷⁷ The Constitutional Court reviewed the ruling that accepted the protection action presented by the Ombudsman's Office and the president of the A'I Cofán Community of Sinangoe. The action related to the granting of 20 mining concessions and 32 concessions being processed around the Chingual and Cofanes Rivers, also impacting the Aguarico River. The Constitutional Court ratifies the rulings issued within the original process and the ordered reparation measures.

As for other cases in different instances reveal differences regarding:

1. *Claimants*: ranging from civil society, collectives, communities, individuals, even the state itself, to nature as a claimant.

75. Ecuadorian Constitutional Court, December 15, 2021, File Number: 1185-20-JP-Río Aquepi.

76. For the observatory, see <https://www.derechosdelanaturaleza.org.ec/mapa-de-casos/>.

77. Ecuadorian Constitutional Court, January 27, 2022, File Number 273-19-JP –A'I Cofán de Sinangoe.

2. *Argumentation*: spanning from concepts such as “the river is life” to the broader notion that “the relationship with the land is not merely one of possession and production, but also a material and spiritual element essential for cultural identity, which must be preserved for future generations.”⁷⁸ There are also references to intercultural perspectives, and the prominence of plants, stones, and various forms of knowledge and relationality, underscoring intercultural dialogue. Nature’s rights are often argued in conjunction with other rights depending on the case, such as collective rights (consultation, ancestral land possession, cultural practices), the right to housing (Article 30), elements of human rights, and a healthy environment.

78. Ecuadorian Constitutional Court, 1 July 2020, File No. 20-12-IN/20, *Triángulo de Cuembi*.

3. *Affected Natural Entities*: These range widely, from river systems, highlighting tributaries and their broad ecological scope, to forest ecosystems and their flora and fauna, and even nature in general and atmospheric scope.

The conflicts at stake also vary, involving protected forests with collective properties, clashes between management plans, demands to terminate mining licenses, claims to collective ownership, requests for full reparations, and disputes over roads, farms, oil spills, and hydroelectric dams.⁷⁹ This influences the development of case law, which may involve mandates to autonomous governments, licensing permissions, and the relationship between free, prior, and informed consultation and the Rights of Nature, or between Nature’s rights and property rights.

79. The cases can be found here, <https://www.derechosdelanaturaleza.org.ec/mapa-de-casos/>.

Some cases have seen rulings, with varying impacts on Nature’s rights (e.g., a positive one like the A’I Cofán de Sinangoe or a negative for nature such as the Cóndor Mirador case). In certain instances, positions have had to be clarified due to enforcement issues, while some protection actions were dismissed or led to inconclusive outcomes. Others remain unresolved or have been selected for further analysis. Like the File Number 1632-19-JP Upper Basin of the Nangaritza River: On June 18, 2019, lawyer Darwin Andrés Riera Duchitanga (the applicant) filed a protection action against the Ministry of Environment (MAE), Ministry of Energy and Non-Renewable Natural Resources (MERNNR) and the Mining Regulation and Control Agency (ARCOM). The applicant alleged that the mining concessions that had been issued within the Protected Forest and Vegetation Area of the Upper Nangaritza River Basin, in the Nangaritza canton of the Zamora Chinchipe province, violated the RoN since this area was part of the Podocarpus-El Cóndor

Biosphere Reserve and the Cerro Plateado Biological Reserve. The case presents novelty and lack of precedent insofar as the Constitutional Court has not issued a ruling regarding the conflict that could arise from the mining concession within an area that, at first glance, is part of the National System of Protected Areas of Ecuador (SNAP).

With the selection of this case, the Court could develop the standards and limits of use of protected areas, the RoN in situations of extraction activities near protected areas, and the responsibilities of the entities in charge of monitoring and following up on such activities. There are other cases pending decision before the Constitutional Court, highlight socio-environmental conflicts in the Amazon, particularly concerning metal mining, Indigenous territories, and restrictions on such activities in national parks. Contextual factors complicating the analysis of RoN include how these rights align with Indigenous cosmovisions and customary laws, as well as challenges in mapping borders and jurisdictions. For instance, articulating RoN with national and riverine boundaries—such as the Amazon in Colombia or the Marañón River in Peru—requires consideration of interconnected water flows, diverse yet overlapping cosmologies, and cross-border eco-normativity and entities.

SOCIAL PRACTICES AND MOBILIZATION OF ECO-CENTRIC NORMATIVITY

The social practices and mobilisation of eco-centric normativity and the Rights of Nature in the Ecuadorian Amazon vary depending on the specific case and the strategies employed. This includes the creation of juridical devices within the framework of customary law (*derecho propio*), such as the Declaración Kawsak Sacha of the Kichwa People of Sarayaku, or cases brought to court—for instance, the Piatúa case to halt a hydroelectric project, the A'I Cofán de Sinangoe case demanding free, prior, and informed consent against mining incursions, and all three opposing extractivism. Similarly, the Siekopai People have reclaimed their territory and collective rights, illustrating, to some extent, the heterogeneity of social and legal practices within eco-centric normativity.

This also raises the question of how these strategies are labelled and interpreted, ensuring they are not reduced solely to RoN. These efforts revolve around the notion of Pacha Mama, recognising other living entities with agency, such as forests or rivers. In most cases, it is not only about RoN but also about utilising the state's legal framework to make claims,⁸⁰ invoking recognised rights that have been influenced by Indigenous Peoples themselves. Additionally, these claims are framed within customary law (*derecho propio*) and specific concepts of nature, such as Kawsak Sacha or *Pë'këya*, intersecting with property rights, free, prior, and informed consent, and other rights available to Peoples and Nations in the Ecuadorian context.

For example, in the case of the Indigenous Kichwa People of Sarayaku, a conflict existed in the early 2000s with the Ecuadorian state granted oil concessions on their territory without consultation. This culminated in a favourable ruling by the IACHR in 2012.⁸¹ It is within this context, particularly following the Sarayaku Agreements of the late 1980s, that the *Kawsak Sacha* Declaration (2018) has been developed. This legal proposal seeks to recognise the territory as a “living forest, conscious with rights”.⁸² Already in the title of the document it is visible the usage of RoN. The Declaration is a ten-pages collective document that

80. García Ruales, “Forest moralities, kindred knowledge and *Sacha Runakuna*,” 1673.

81. IACtHR– Kichwa Indigenous People of Sarayaku v. Ecuador.

82. Pueblo Originario Kichwa de Sarayaku. *Declaration Kawsak Sacha–The Living Forest*.

develops the concept of Living Forest, presenting arguments of why the forest is alive and deserve rights. By employing the language of Rights of Nature, it becomes a juridical proposal enunciated from the territory itself.

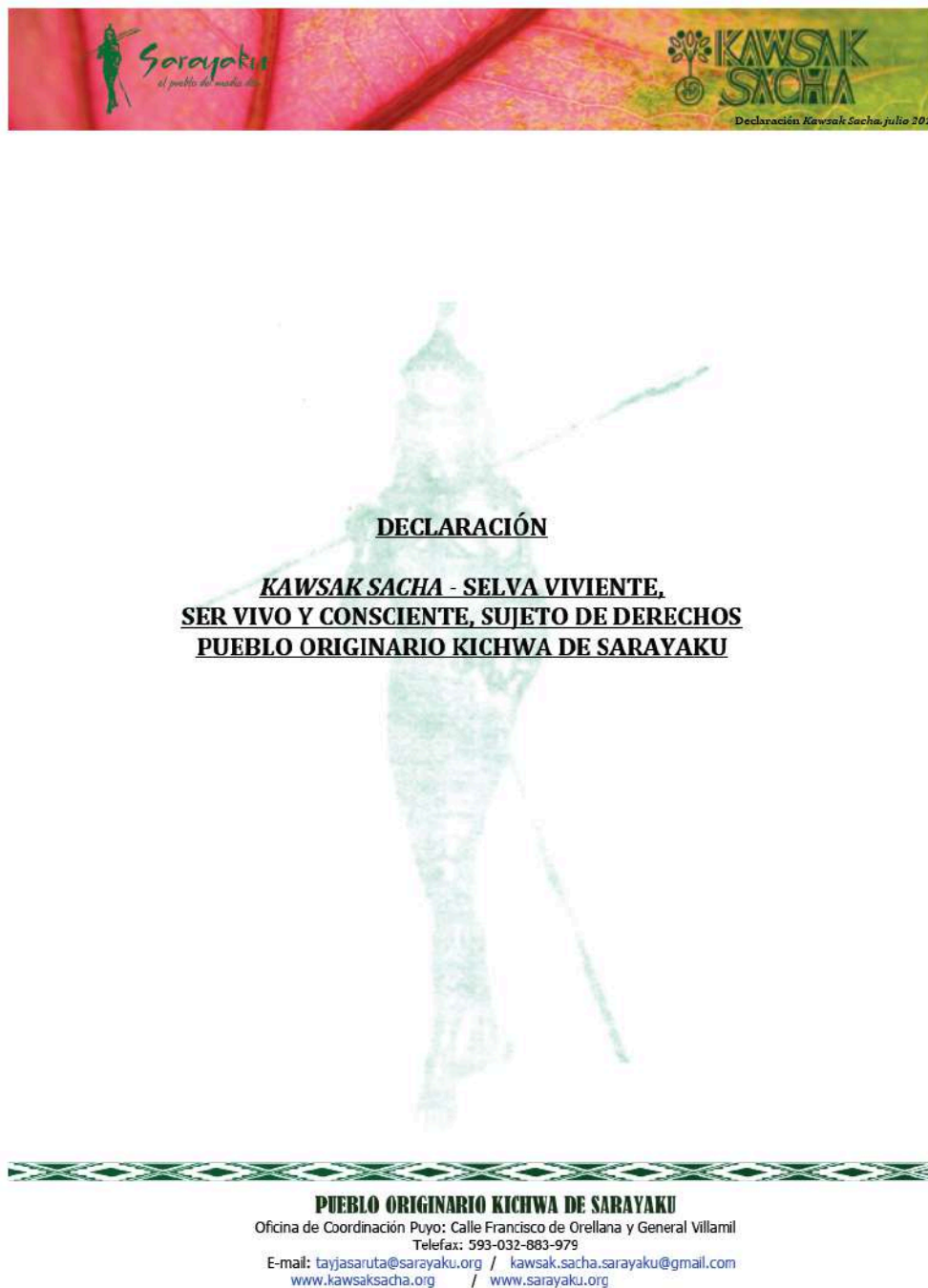


Figure 4. Cover of the Kawsak Sacha Declaration. Credits: The Kichwa People of Sarayaku.

While at the court level, one significant case occurred in 2019 when a hydroelectric project on the Piatúa River was suspended. The river was described as a living entity and subject of rights,⁸³ aligning with the

83. Earth Law Centre, *Amicus Curiae*. November 2020; File Number 1754-19-JP –Río Piatúa.

sentiments and claims of the Kichwa communities dwelling in the territory. This description also highlighted the sacred rocks believed to house spirits, which are thought to cure illnesses and aid in healing.⁸⁴

84. *Ibid.*

Other relevant case is the one of the Siekopai Nation, which successfully claimed their ancestral territory, Pë'këya, following the long-standing war with Peru and the displacement and dispossession they endured. This was achieved through a landmark ruling by the provincial court in Sucumbíos in November 2023. Pë'këya refers to the heart of the territory and illustrates how RoN (together with other rights) were mobilized in this context: “The rights of nature are at stake, because in Pë'këya the spirits of the forest reside. The entire relationship of balance between the Siekopai and other beings is at stake.”⁸⁵

85. Available at <https://amazonfrontlines.org/es/chronicles/sin-nuestro-territorio-ancestral-pekeya-vamos-a-desaparecer/>, last accessed May 16, 2024.

These practices can be seen as expressions and components of eco-centric normativity, with the RoN reflecting these ideas. The A'i Cofán community of Sinangoe in Sucumbíos province serves as a significant case study, particularly following the positive ruling by the Constitutional Court in 2022 in the context of large-scale mining concessions granted by the state, as well as artisanal mining activities within and beyond their territory.⁸⁶

86. Ecuadorian Constitutional Court, January 27, 2022, File Number 273-19-JP –A'i Cofán de Sinangoe.

Ecocentric normativity is always recognized as intertwined with human rights, as affirmed by the Constitutional Court regarding how RoN operate alongside human rights.⁸⁷ RoN are mobilized for historic compensation, recognition of ancestral lands and forms of life, opposition to extractivism, and claiming for collective rights and self-determination. This often leads to clashes with state conservation measures, such as national parks and ecological corridors. Efforts are met with resistance, resulting in the criminalization of protests and even the murders of environmental defenders.⁸⁸

87. Ecuadorian Constitutional Court, February 2023, *Guía de Jurisprudencia Constitucional*.

88. Acosta, Alberto. “Who Killed Eduardo Mendua? One More Murder. At the Rate we are Going, it will Not be the Last.” International Rights of Nature Tribunal. March 6, 2023. Available at <https://www.rightsofnaturetribunal.org/who-killed-eduardo-mendua/>, last accessed June 14, 2024.

The mobilization of Rights of Nature leads to diverse ends and effects depending on the kind of conflict. Positive rulings of some cases have led to demands for their implementation and ongoing monitoring to prevent further state actions. In conclusion, the mobilization of Rights of Nature in the Ecuadorian Amazon has been carried out by various actors (see section *Legal application of Rights of Nature in/to the Amazon*), including Peoples and Nations, as well as the state. In most instances, this mobilisation occurs collectively and through alliances with NGOs, engaged academics, and environmental social movements.

ECO-CENTRIC NORMATIVITY BEYOND/AGAINST RIGHTS OF NATURE

It is challenging to determine if Indigenous interpretations are distinct from “Rights of Nature”, as Indigenous Peoples and Nations have been shaping state law through a two-process approach, by adopting and adapting the language of the state. The *Kawsak Sacha* (Living Forest) Declaration (2018), explored by anthropologist Jenny García Ruales through collaborative work, raises questions about how it differs from Rights of Nature as recognized in the constitution and its purpose, as under the Constitution this forest has already rights. As García Ruales reads the Living Forest as a source of law that shapes the normativity in the territory, the law itself operates and shapes the law without needing official legal personality for that purpose. The concept of Amazonian personhood becomes even more complicated with legal makers/entities taking many forms and personhoods belonging to the different realms of *Kawsak Sacha*. It is also a source of law not only because of the forest, but because it is from the forest that people have learned to develop *own law* and permeates the way knowledge is managed. This includes learning to listen attentively while hunting, noticing that there are fewer animals, for example, and thus learning to regulate. At the same time, the Amazon is a source of law because it has permeated the very landscape and what exists there, influencing legal frameworks with their specificities as ecosystems.

Within Sarayaku territory, the *Kawsak Sacha* Declaration resonates with sentiments regarding the necessity of the Declaration due to “the persistence of extractivism,” “the need for the execution of nature’s rights,” and the desire for a “legal instrument for self-armoring”.⁸⁹ However, it also aims to re-signify indigenous practices through the concept of *Kawsak Sacha*.⁹⁰

89. García Ruales, “Forest moralities, kindred knowledge and *Sacha Runakuna*,” 1665.

90. Ibid, 1679.

For the Kichwa People of Sarayaku, *Kawsak Sacha* is perceived as a concept that, despite being articulated in a collective written document using the language of the rights of nature, contains various interpretations within the territory. The understanding of *Kawsak Sacha* in relation to the Rights of Nature can vary significantly

depending on whom you ask and how deeply individuals are immersed in these rights. Some affirm that it serves as a “pathway to autonomy” and represents the “true application of the Rights of Nature.”⁹¹ This perspective is echoed by several members of Sarayaku. Holger Cisneros reflects on the memories surrounding the drafting of the declaration, noting that the issue of legal personhood was not relevant at the time and that there remains a lack of knowledge regarding its content and operationalisation. Speaking on behalf of the collective, he asserts that Kawsak Sacha embodies a new vision that recognises Indigenous territories under a special category for governance and preservation. This vision aligns with constitutional rights and seeks to enforce existing rights alongside international treaties and legal pluralism within the framework of building a plurinational and intercultural state.

Kawsak Sacha as a category takes into account and include the distinct levels of manejo territorial, articulation of life plans within the territorial development, as well as forms of protection, conservation, and safeguarding of *Kawsak Sacha*. It involves exercising autonomous governance in the territory, strengthening the own institutional framework, financial, administrative, and technical autonomy, and principles of reciprocity, equity, unity, complementarity, solidarity, and sharing.

The *Kawsak Sacha* proposal is also being articulated by the *Kichwa Nationality political Umbrella organization* (Pakkiru) (2018), which represents the Nationality to which Sarayaku belongs and has played a role in the Sarayaku agreements. However, difficulties arise when considering the category for all Kichwa territories in the Pastaza province, such as what components should the Declaration should contain, such as economic aspects. And because each territory, form of law and senses and sounds of justice, and life plans and strategies differ within (like the Piatúa case) differ.

Different interpretations and expressions of eco-centric normativity sometimes go beyond, align with, or oppose the Rights of Nature discourse. This variability arises from ongoing conflicts and the inherent difficulty in sharply differentiating between RoN and other expressions of eco-centric normativity.

A notable example within the Kichwa Nationality is the compelling proposal of the Kawsak Sacha People.⁹² They, alongside artists such as *Sozapato* and a collective, have gathered sounds to develop a cartografía Sonora or sonic cartography (2021).⁹³ This cartography does not

91. Ibid, 1665. Another proposal is Naku (2016) from the Sapara nationality, advocating for the protection of their territory: “A true recognition of the Rights of Nature would have to grant that the beings of the forest also have “voice” and “vote.” That is to say, it must understand that the beings of our forests are not simple mute entities. On the contrary: they feel, think, and express opinions”. This underscores the emphasis on the “true recognition of Rights of Nature” in this written document, and acknowledges the agency of forest beings. Castillo, M. et al. *La Cultura Sapara en Peligro. ¿El Sueño es Posible? La lucha de un Pueblo por su Supervivencia frente a la Explotación Petrolera*. Quito: Terra Mater, Nación Sapara del Ecuador y NAKU. 2016, 8.

92. Pueblo Kichwa de Kawsak Sacha, not to be confused with Pueblo Kichwa de Sarayaku and the Kawsak Sacha Declaration.

93. Available at <https://sachawarmi.org/en/sacha-taki-songs-of-the-forest/>, last accessed May 16, 2024.

explicitly reference RoN or use that terminology, however, it offers an approach to existing normativity through sound.⁹⁴ The purpose of mobilising sound is to showcase the health of the territory and its cultural heritage. The project aims to reflect the forest's vitality through distinctive sounds, including those of macaws and boas,⁹⁵ emphasizing not a specific entity but rather all entities that contribute to the legal soundscape of the forest. It would be interesting to further explore their positioning as Kichwa peoples in relation to the Declaration of the Living Forest and their role as co-authors of nature, especially in light of recent developments regarding sound and nature co-authorship.⁹⁶

94. See for example, Parker, James. "The soundscape of justice." *Griffith Law Review* 20, no. 4 (2011): 962–993.

95. Available at <https://pakks.org.ec/>, last accessed May 16, 2024.

96. Available at <https://www.theguardian.com/world/2024/oct/25/legal-bid-for-ecuador-forest-to-be-recognised-as-song-co-creator>, last accessed December, 2024.

97. Reproduced from Sacha Taki Project, available at <https://sachawarmi.org/en/sacha-taki-songs-of-the-forest/>, last accessed May 16, 2024.

98. García Ruales, "Corazonando from the Amazon."

99. Fitz-Henry, Erin. "Multi-Species Justice: A View from the Rights of Nature Movement." *Environmental Politics* 31, no. 2 (2022): 338–359.

Within the RoN framework, anthropologist Erin Fitz-Henry calls for the preservation of the rich diversity of human and more-than-human relations in Indigenous contexts regarding RoN and multispecies justice, emphasising the importance of embracing "ontological and cosmological differences". As aptly pointed out by Kirsten Anker, within the discourse of RoN, there exists a risk of perpetuating the 'noble savage' image without due recognition of the specificities and differences within Indigenous law and knowledge systems. See, Kirsten Anker, "Ecological Jurisprudence and Indigenous Relational Ontologies: Beyond the 'Ecological Indian.'" In *From Environmental to Ecological Law* edited by Kirsten Anker et al., 68–85. London: Routledge, 2020. García Ruales, "Forest moralities, kindred knowledge and *Sacha Runakuna*."

100. The prominence of the catfish also caught attention in the documentary by the Universidad San Francisco de Quito (USFQ), described as an "epic journey" following the traverse of the Amazonian catfish through the Amazon basin and the health of its rivers. Available at https://www.youtube.com/watch?v=gObGXRPG1sE&ab_channel=UnivrsidadSanFranciscoDeQuitoUSFQ, last accessed May 16, 2024.

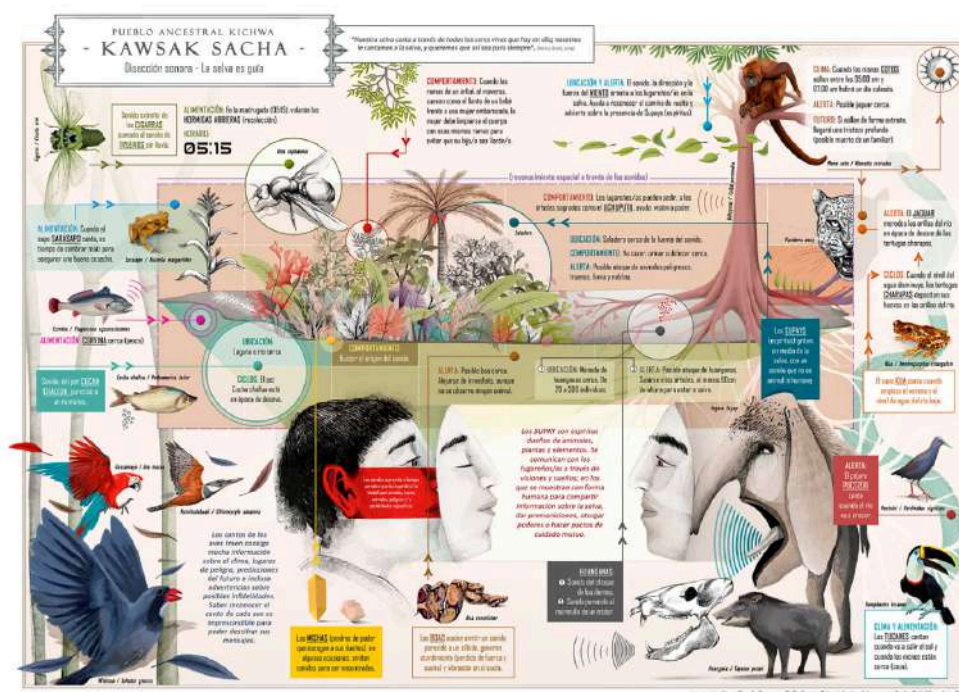


Figure 5. Graphic interpretation of Kawsak Sacha, Disección Sonora- La Selva es Guía, 2021. Credits: Sofía Zapata Ochoa.⁹⁷

These examples illustrate different approaches, readings and expressions of eco-centric normativity, sustaining a worldview and an act of cosmopoliving (*cosmovivir*) a specific cosmos.⁹⁸ As one person in Sarayaku remarks, "every forest is different," meaning that sounds, legal efforts, mobilization of law, and strategies differ and should be approached in their own terms with own law stories, legal rhythms and makers.⁹⁹

It is so that the Siekopai Nation is depicted in the film *Ñakomasira*, which tells the story of "a mere (giant catfish) that devoured all travelers who dared to cross" ¹⁰⁰ and explores the relationship with aquatic spiritual beings. *Ñakomasira* dwells in the aquatic world within Pë'këya, the heart of the Siekopai territory, which is located in a protected area

currently under dispute. The Siekopai won a legal judgment regarding their ancestral territory, which is not just land but embodies a concept—more specifically, a heart—that encompasses or illustrates various languages, revealing dissonances and consonances with the language of RoN.

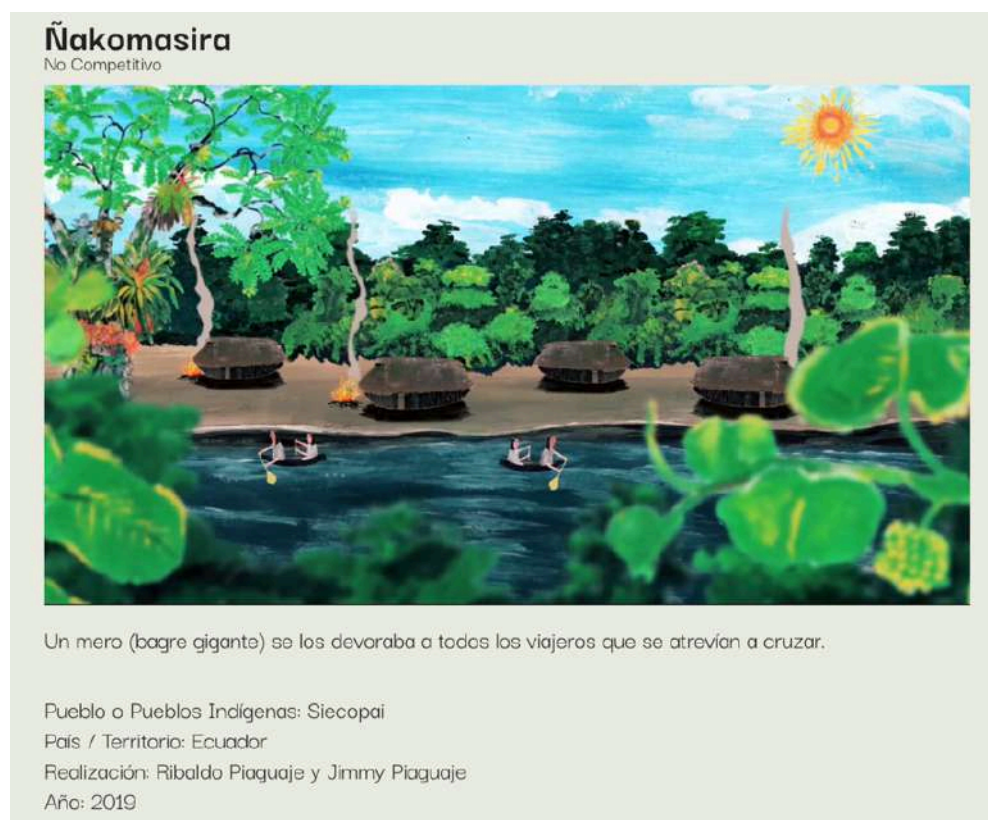


Figure 6. Ñakomasira, 2019. Credits: Ribaldo Piaguaje and Jimmy Piaguaje.¹⁰¹

101. Reproduced from the social media of Kanua.

Ángel Gonzalez, activist legal practitioner from Amazon Frontlines who has accompanied this case, reflects that it goes far beyond mere recognition by the state and involves normative frameworks where it is challenging to delineate boundaries. As described by the Siekopai: “In Pë’këya reside our greater spirits from the aquatic world: Okome, Okoyai, and Emuyai. On land is Makata’ñë, the spirit governing animals. Another spirit, Ñañëjupo, is linked to our people, the Ñañë-Siekopai, and represents the spirit of God Siekopai.”¹⁰²

In conclusion, *Pacha Mama* opens the door to the diversity of natures,¹⁰³ cosmos and normativities, protagonist and legal makers shaping the normative framework and Indigenous institutionalism alongside the forest and river inhabitants. This fosters a co-governance between both in the Living Forest, in Pë’këya or sonic cartography becoming the Amazon as a source of laws.

102. Available at <https://amazonfrontlines.org/es/chronicles/recuperando-pekeya-el-corazon-del-territorio-siekopai/>, last accessed December 12, 2024.

103. Gutmann, Andreas. *Hybride Rechtssubjektivität*. Baden-Baden: Nomos, 2021, 204.

VISUAL REPRESENTATION OF LAW AND ECO-CENTRIC NORMATIVITY IN THE AMAZON

Material culture, notably paintings, ceramics, pottery and utensils, has played a pivotal role in visually representing the Amazon.¹⁰⁴ Women's ceramic production represents and embodies strokes mirroring forest and water entities.¹⁰⁵ These creations are guided by forest entity or *supay Nunguli*, instructing how to weave, how much to take, and have been taken within political rallies from the Amazon to Quito, even acting there as political counsels. Textures with vegetal beings such as the *wituk* (*Genipa americana*), in the form of strokes on the ceramics, but also on the bodies marking the rhythm and pattern of the forest and its maps, are the same texture that permeated Pacha Mama in the making of law.

In 2019, the Museum of Anthropology and Contemporary Art (MAAC, Ecuador) curated an exhibition showcasing representations of the Amazons in modern Ecuadorian art (1941-1972), classified into five axes: "Colonial survivals," "Magical forest, lost paradise," "An imaginary frontier," "The forest and ecological debates," and "The forest on the border between art and activism".¹⁰⁶ Notable artworks include Oswaldo Guayasamín's cubist indigenous and nationalist mural on the Amazon River (1960), César Andrade's oil painting on "vegetal love" (1957), Paula Barragán's forest paper illustration (2013), and Gustavo Toaquiza's canvas portraying forest life (2016).

In various artworks, interpretations can emerge through a hermeneutic lens that reads them as expressions of nature's rights. This perspective suggests that while artists may not have explicitly painted with these themes in mind, their works can resonate with contemporary legal interpretations advocating for the rights of nature. Scholars have begun to explore these connections, linking artistic expressions to legal frameworks that support environmental rights. Ecuadorian jurist Viviana Morales Naranjo, in her article "Colours, Light, and Shadows," delves into the intercultural significance of paintings, highlighting how artists "resort to brushes and watercolours to assert that nature is not a commodity but a subject with rights," reaffirming "relationships of

104. Vallejo, Ivette and Kati Álvarez. "Miradas, Líneas Temáticas y Genealogía Conceptual de la Antropología de la Amazonía Ecuatoriana."

105. Ceramics within the Kichwa Nationality have been documented, especially by anthropologist Dorothea Scott Whitten since the 1960s.

106. Valdez Rosa and Guillermo Morán. "Paisaje/Territorio Imaginarios de la Selva." The exposition is available at <https://www.paralaje.xyz/paisaje-territorio-imaginarios-de-la-selva-en-las-artes-visuales/>, last accessed May 16, 2024.

reciprocity, complementarity, and correspondence”.¹⁰⁷ Similarly, scholar, Daniel Bonilla, refers to the Rights of Nature using the painting of the Virgin of Potosí as a “hybrid archetype of state law with Andean elements”.¹⁰⁸

Indigenous perspectives, through Wio Gualinga, from the Kichwa Indigenous People of Sarayaku, has illustrated in a graphic representation the concept of *Kawsak Sacha* or Living Forest (2024). Filmmaker Eriberto Gualinga, also from Sarayaku, explores themes with sound narratives and sensory activation, showcasing the political and resistance stories. His films include “Helena de Sarayaku” (2022),¹⁰⁹ and “Kawsak Sacha, La Canoa de la Vida” (2018).¹¹⁰ His latest film still in production, “La Ruta de la Sal”,¹¹¹ traces ancestral routes and memories to the Peruvian Amazon.

Sarayaku’s Wakchatik communication team, in collaboration with allies, has also produced the short film “Pandu” (2021), which tells the story of *Yachak* (wise person) who possesses the power to change between human and jaguar forms. This character encounters forest entities like *Yakuruna* and *Sachawarmi*, who assist him in escaping from military forces that entered the territory to protect their land.



Figure 7. Cover of the shortfilm *Pandu*, 2021. Credits: The Kichwa People of Sarayaku.

Collaborative efforts with allies, collectives, and NGOs have significantly contributed to the visual representation of the Amazon.¹¹² The Floating Film Festival *Kanua* consisted of a canoe powered by solar energy.¹¹³ The audience comprised the inhabitants of the Amazon crossing three rivers, fostering visual own representation with various themes and narratives. Films like “Yoco Cofán: Wisdom and Territory,” deals with

107. Morales Naranjo, Viviana. “Colores, Luz y Sombras: Los Derechos de la Naturaleza en la Pintura Ecuatoriana”. *Revista Cálamo*, no. 20 (2024): 98–119, 111.

108. Bonilla, Daniel. “Los Derechos de la Naturaleza: Su Arquitectura Conceptual.” *Naturaleza y Sociedad. Desafíos Medioambientales*, no. 4 (2024): 98–119. For another reading of RoN in the Ecuadorian constitution, see Gutmann, Andreas. *Hybride Rechtssubjektivität*. Baden-Baden: Nomos, 2021.

109. Trailer Available at <https://www.youtube.com/watch?v=6hGJjqNhAr8>, last accessed May 16, 2024.

110. Available at <https://vimeo.com/273674796>, last accessed May 16, 2024.

111. Trailer Available at https://www.tiktok.com/@trayamus_kuy2/video/7347819704888691973, last accessed May 16, 2024.

112. Among them, it is worth noting other key collectives like *Sacha Manchi*, and *Sacha Samay*.

113. Available at <https://kanua.org/>, last accessed May 16, 2024.

complicity when creating laws or “vegetal laws” as sources of knowledge¹¹⁴ and guides through the Yoco, and the creation of the Indigenous guard of the A'i Cofán community of Sinangoe to protect from the entry of the mining company.¹¹⁵ Another film featured was Ñakomasira and the aquatic worlds of the Siekopai Nation.

Other visual representations preserving Amazonian history that we encountered/found are in the Archival work at the National Cinematheque of Ecuador preserves Amazonian history,¹¹⁶ including what is considered “the first Ecuadorian anthropological documentary” in which the Ecuadorian Amazon is portrayed, “The Invincible Shuaras of the Upper Amazon” (1926). This silent, black-and-white documentary employs Amazonian cartographies, alternating between depictions of the Shuaras and larvae, dragonflies, and insects, with descriptions such as “it was a picturesque journey for a brave enthusiast of untamed nature, but quite gruelling for 99% of mortals.” The film was screened at the Teatro El Edén in the city of Guayaquil and advertised in colonialist tones on posters as “Grand debut of the first film shot in our Oriente,” highlighting among its “protagonists” giant forests, imposing waterfalls, colourful butterflies (...) and the mysterious life of animals.”

The catalog features community perspectives and films from festivals like ECOADOR, titled this year represented by a colourful frosh with the theme *Let's Be the Voice of Nature*,¹¹⁷ reflecting an eco-centric normativity, current rulings of the Constitutional Court, and multi-faceted visual representation and regimes of “*el Oriente*”, the Ecuadorian Amazon.¹¹⁸

114. For another vegetal reading of law in the Amazon, see Iván Darío Vargas Roncancio, *Law, Humans and Plants in the Andes-Amazon: The Lawness of Life* (Routledge: Milton Park, Abingdon, Oxon, 2024); García Ruales, Jenny. “Forest moralities, kindred knowledge and *Sacha Runakuna*,” 1673.

115. Ecuadorian Constitutional Court, January 27, 2022, File Number 273-19-JP –A'I Cofán de Sinangoe.

116. Available at <https://cinematecanacionalcce.com/>, last accessed May 16, 2024. <https://cinematecanacionalcce.com/100-anos-de-cine-ecuatoriano-gye/>

117. Available at <https://www.ecoador.org/>, last accessed May 16, 2024.

118. Available at https://www.youtube.com/watch?v=0PdI6xx7s3M&ab_channel=UniversidadSanFranciscodeQuitoUSFQ, last accessed May 16, 2024.

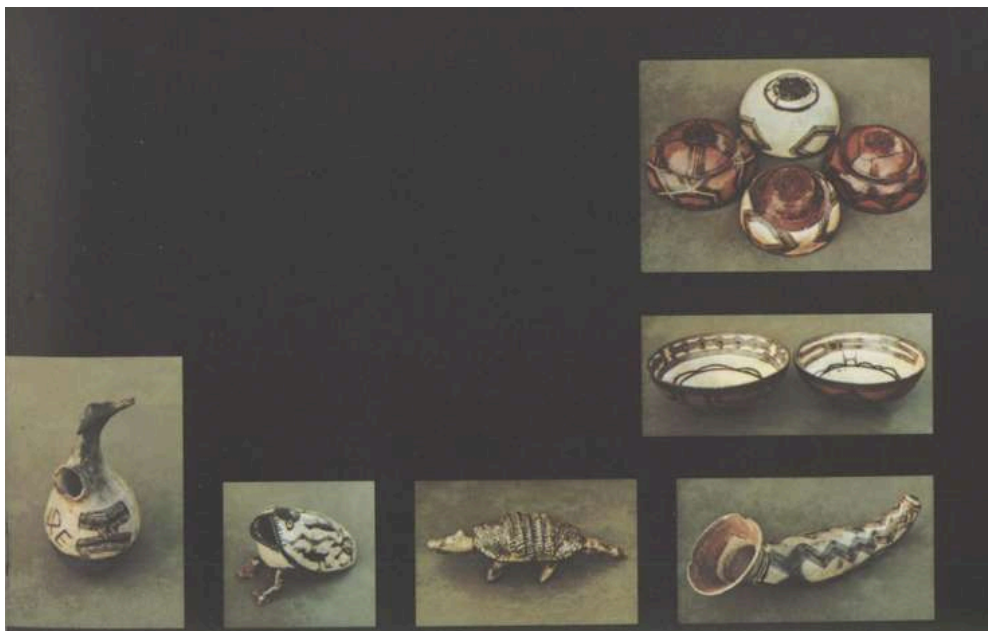


Figure 8. Pictures of Sarayaku pottery. Credits: Patricia Kelly and Carolyn Orr.¹¹⁹

119. Reproduced from Kelly, Patricia and Carolyn Orr. "Sarayacu Quichua Pottery". Language and Culture Archives, SIL Museum of Anthropology, no. 1 (1976): vii-37, 13.

Inside border design patterns

as drawn by
Pepita Hualinga

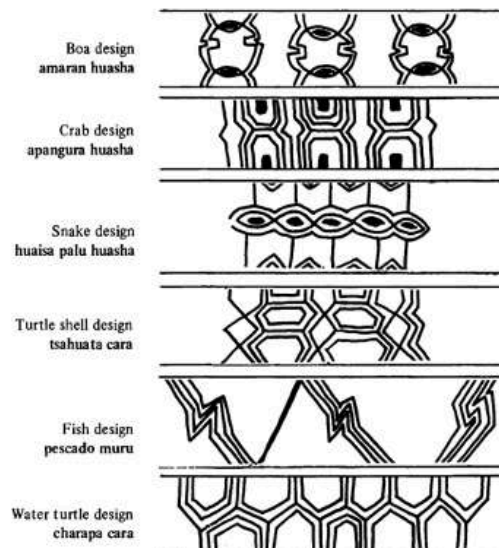


Figure 9. Inside border design patterns. Credits: Pepita Gualinga.¹²⁰

120. Reproduced from Ibid, 21.



Figure 10. César Andrade Faini, *Amor vegetal*, 1975, oil on manosite. Credits: Picture by Ricardo Bohórquez.



Figure 11. Jungla de papel II, 2013, pigment print/cotton. Credits: Paula Barragán.¹²¹

121. Reproduced from Valdez Rosa and Guillermo Morán. "Paisaje/Territorio Imaginarios de la Selva en las Artes Visuales (Ecuador: 1907-2019)." *Revista de Arte Contemporáneo* 9 (2020): 199, 201.

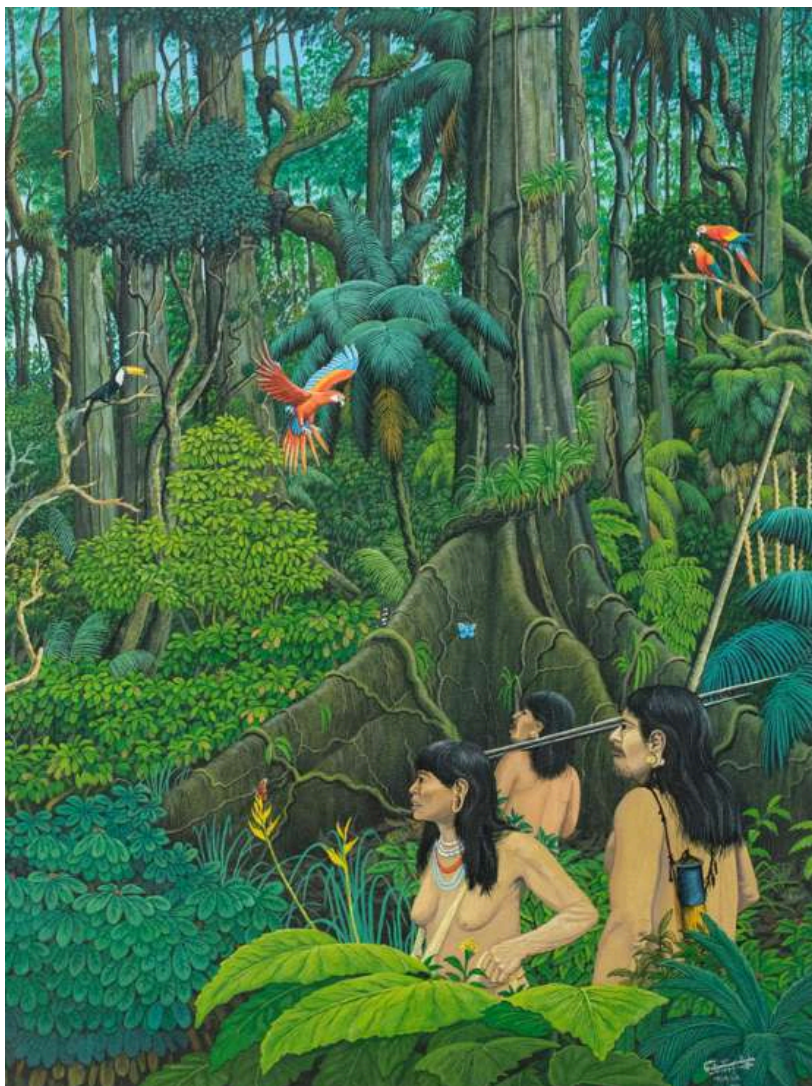


Figure 12. Vida en la selva. Credits: Gustavo Toaquiza.¹²²

122. Reproduced from Valdez Rosa and Guillermo Morán. "Paisaje/Territorio Imaginarios de la Selva." The exposition is available at <https://www.paralaje.xyz/paisaje-territorio-imaginarios-de-la-selva-en-las-artes-visuales/>, last accessed May 16, 2024.

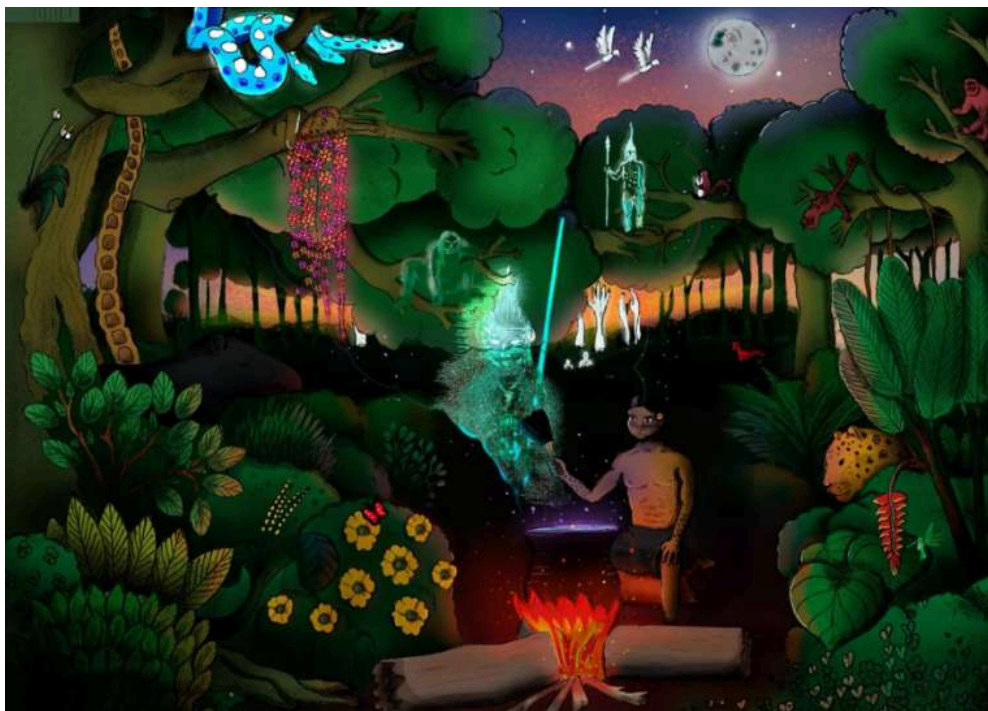
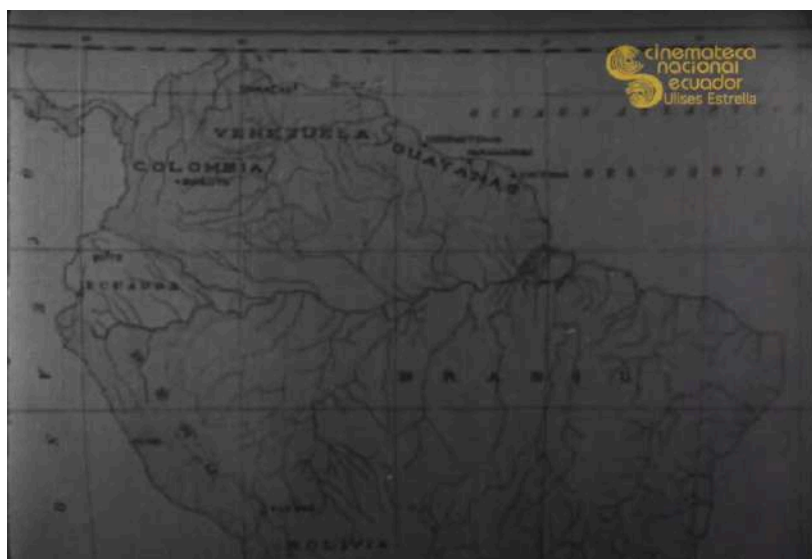
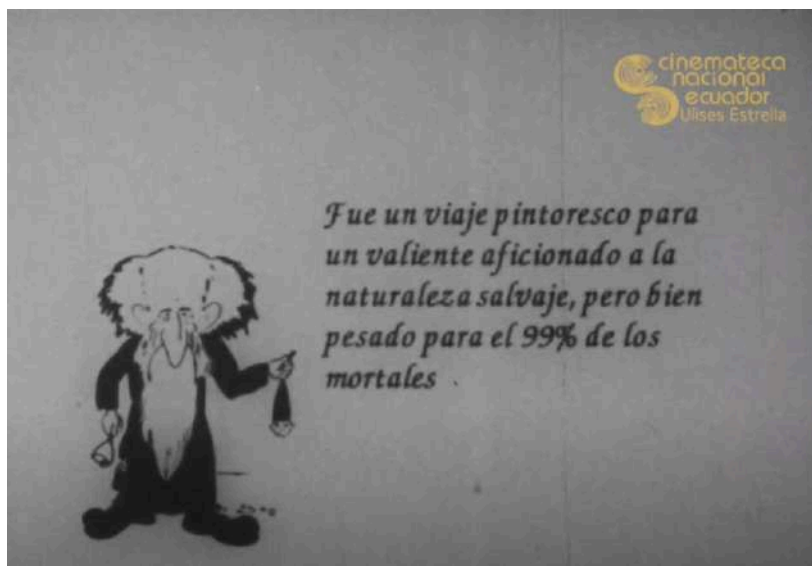


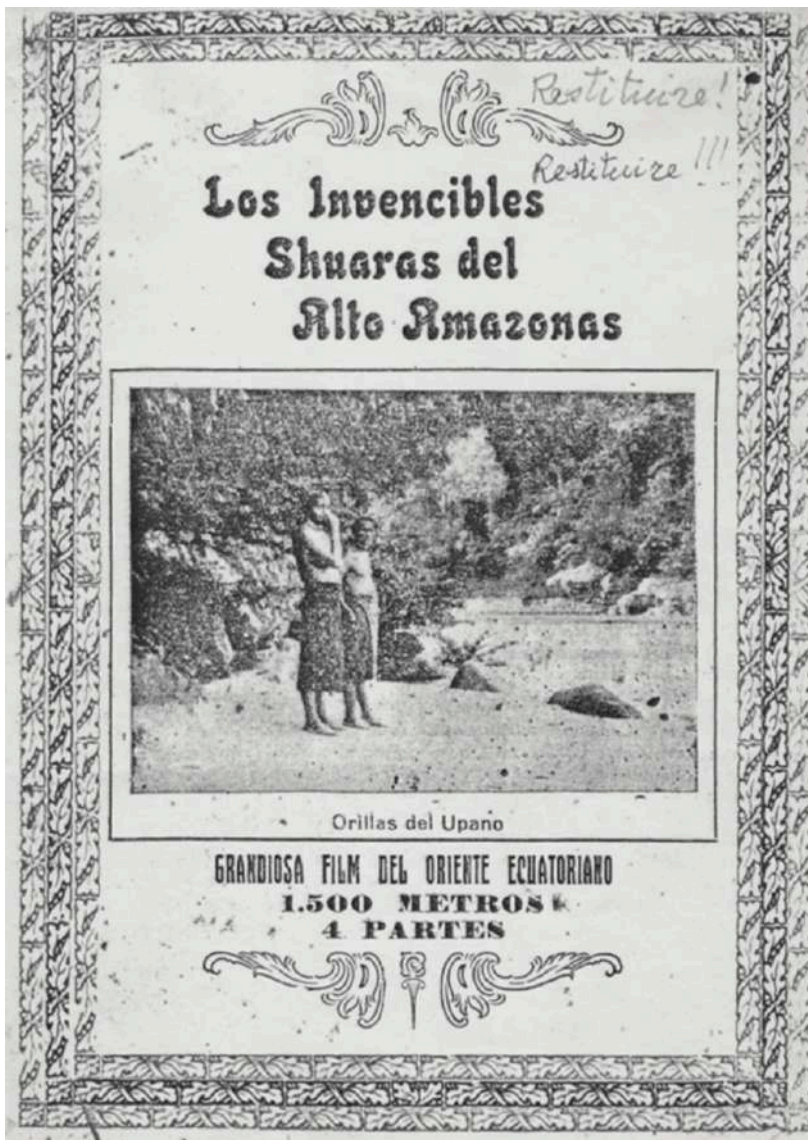
Figure 13. Illustration of the concept of Kawsak Sacha (Living Forest) Credits: Wio Gualinga.



Figure 14. Kanua Poster, the first floating Amazonian cinema festival in 2023. Credits: Kanua.



Figures 15, 16, 17. Screenshots of the documentary *The Invincible Shuaras of the Upper Amazon*, Carlos Crespi, 1926. Credits: Cinemateca Nacional Ecuador Ulises Estrella, fair use.



"The difficulties encountered in the composition of the film were extremely grave. The proud, arrogant, indomitable, suspicious jíbaro flees from the photographic and cinematographic machine out of fear of being bewitched."

Carlo Crespi, 1927. Archivo Universidad



Figures 18, 19. Screenshots of the documentary The Invincible Shuaras of the Upper Amazon, Carlos Crespi, 1926. Credits: Cinemateca Nacional Ecuador Ulises Estrella, fair use.



Figure 20. Advertising for the ECOADOR International Environmental Film Festival, 9th edition in 2024. Credits: ECOADOR Film Festival.

OUTLOOK AND FUTURE SCENARIOS

For the Rights of Nature to manifest further, cases must find their way into the Courts, have decisions rendered, and be effectively enforced with judicial independence. Achieving this requires a reprioritisation of the agenda within Ecuador's Constitutional Court, particularly as the incoming justices face a backlog of cases compounded by the country's ongoing socio-political crisis. Strengthening RoN will not depend solely on jurisprudence developed by the Court, but also on institutional state structures, adequate financing for these purposes, and contributions from all actors through *mingas jurídicas* (collective legal work). This concept refers to collective legal efforts akin to the act of *mingas*—shared activities like planting and cultivating manioc or building paths—but applied here as forms of “Indigenous lawyering”¹²³ that materialise in assemblies, decision-making processes, and the co-creation of legal concepts and frameworks.¹²⁴ *Mingas jurídicas* thus symbolise a nexus between legal and political activism, as well as scholarship, and art.¹²⁵

Existing jurisprudence will play a crucial role in strengthening the application of RoN in diverse forms. These legal precedents act as a compass, guiding the reinterpretation of legal frameworks across the Amazon. Such reinterpretation encourages the exploration of “legal grafts”—a botanical metaphor, for example, where a blackberry (*Rubus glaucus*), is grafted onto a tree tomato (*Solanum betaceum*) to create a new fruit that combines their characteristics. This concept supports the integration of Ecuadorian legal innovations into other Amazonian contexts while adapting them to local realities, aligning with what we aim to propose or develop in the Amazongraphy described here.

In some cases, RoN debates may align with the political and legal strategies of Indigenous Peoples and Nations, as seen with Sarayaku's Kawsak Sacha (Living Forest) Declaration (2018). However, these alignments are not guaranteed and depend on territorial contexts and organisational processes. Key questions remain about the applicability of Indigenous categories across the Amazon Basin. Sarayaku's Declaration, which frames the Amazon as alive, challenges us to consider how concepts like Living Forest resonate with other

123. For more on this concept, see: Lieselotte Viaene and María Ximena González-Serrano, ‘The Right to be, to Feel and to Exist’, *The International Journal of Human Rights*, no. 27 (2023): 1–23.

124. García Ruales, Jenny. “Forest moralities, kindred knowledge and Sacha Runakuna”, *The International Journal of Human Rights* (2024): 1–25.

125. García Ruales, Jenny. “Forest moralities, kindred knowledge and Sacha Runakuna”, *The International Journal of Human Rights* (2024): 1–25;

García Ruales, Jenny, Luis Eslava and Viviana Morales Naranjo. “Legal ‘heartfelt thinking’: How ‘Mingas’ Help Evolving the Law. *Verfassungsblog*. 2025/2/07. Available <https://verfassungsblog.de/mingas-rights-of-nature/>

communities and their forms of organization and management practices.¹²⁶ This dialogue extends beyond Indigenous perspectives to the role of NGOs, such as GARN, advocating for transboundary recognition of Amazons rights. These efforts, while transformative, also raise concerns about imposing agendas of eco-centric frameworks, such as legal personhood, that may not align with local cosmologies or practices.

The future of RoN jurisprudence will remain deeply politicised, reflecting the extractivist pressures in the region and the increasing authoritarianism of the current president, Daniel Noboa. Referendums in Yasuní and Chocó Andino (2023) illustrate the tensions between extractive industries and environmental protection. These cases underscore the need to address who determines the fate of territories, particularly when such decisions intersect with the criminalisation of rights defenders, as seen in the Mecheros case (2021) and the criminalisation of the nine girls who acted as plaintiffs. It is in cases like these that future scenarios in the Amazon will unfold, with implications extending beyond the region to atmospheric and planetary relevance, as demonstrated here by the effects of burning gas.¹²⁷

Beyond extractivism, RoN cases will increasingly address multispecies justice, encompassing expressions of entire forested or riverine ecosystems or specific entities such as rocks, plants, and supays. Potential cases involving species like the catfish could highlight their vulnerability and the disruption of their life cycles, reflecting interspecies and ecological principles central to the recognition of the Rights of Nature in Ecuador. Advocating for these species and their ecosystems—affected by factors such as drought and mercury-contaminated migratory fish in Amazonian rivers, including the catfish that traverses the entire basin—emphasises the vulnerability of aquatic life and its interdependence with human communities. These scenarios challenge jurisprudence to account for the cosmologies of aquatic worlds and cross-border ecosystems. Echoing scholar Michelle Lim, adopting “fiction as a legal method” may be crucial for imagining and articulating these plural voices.¹²⁸

Ultimately, an Amazon of Rights will depend on the ability to integrate diverse eco-centric normativity perspectives, resist extractivism, and navigate regional and global shifts shaped by the trajectory of RoN in Ecuador and the cross boarder articulation of rights and management plans.

126. García Ruales, “Kawsari.”

127. In this case, in which Amazonian girls brought a case to court demanding that the *mecheros* (gas flaring) due to the burning of natural gas be turned off, Rights of Nature were intertwined with other rights. The girls who won in court are suffering from health issues because of daily contact with gas flaring. This case relates to the community’s right to a healthy environment, respect for their territory, and as they are girls and minors, it is complemented by the intergenerational principle and violations of Rights of Nature, “as the burning of gas affects the air, biodiversity, and directly sends greenhouse gas emissions, which are a product of oil operations that cause a laceration of damage to the environment and biodiversity. These impacts, derived from oil activities, are the main source of pollution”. Provincial Court of Pastaza, File Number 21201-2020-00170, –Mecheros. Additionally, the case is emblematic, as it follows the line generated in the region in the case of Colombia (STC 4360-2018), about children and youth against the State for its lack of attention to climate change mitigation. Available <https://www.escrib.net.org/caselaw/2019/stc-4360-2018>, last accessed May 16, 2024. Available at <https://www.derechosdelanaturalez.a.org.ec/casos/mecheros-petroleros-en-el-ecuador/>, last accessed May 16, 2024.

128. Lim, Michelle. “Fiction as Legal Method—Imagining with the More-than-Human to Awaken Our Plural Selves.” *Journal of Environmental Law*, 33, no. 3 (2021): 501–505.

CREDITS

To cite this report : García Ruales, Jenny, Andrés Martínez Moscoso, and Holger Cisneros. *Amazongraphy Ecuador “El Oriente”*. Edition Amazon of Rights Project, September 2025. Available from:

https://amazonofrights.com/countries/ecuador/publications/amazongraphy_ecuador_el-oriente.pdf

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Design process: Web to print with [paged.js](#)

Graphic design and programming: Sarah Garcin