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The role of cultural pluralism in Indigenous peoples' defense of nature's rights: A case study of Ecuador

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Abstract

Ecuador, by incorporating the Rights of Nature into its constitution, has presented an innovative approach to environmental protection, recognizing nature as a subject with rights. This legal transformation emphasizes the intrinsic value of ecosystems and affirms the right of natural entities to exist, grow, and regenerate. Alongside this, the rights of Indigenous peoples, as guardians of biodiversity, have been strengthened, and their deep connection to ancestral lands is formally recognized. However, the implementation of this legal framework faces challenges, primarily stemming from the conflict between economic priorities and environmental protection. Deforestation in the Amazon, intensified by resource extraction and infrastructure development, poses a threat to global climate balance. Despite international and Indigenous efforts to counter this trend, ineffective law enforcement continues to hinder sustainable conservation. This article, through a dogmatic and analytical approach, concludes that improving this situation requires the development of legal mechanisms, increased participation of Indigenous communities, and a redefinition of economic growth with an emphasis on the long-term health of the planet.

Key words

Cultural pluralism; rights of nature; indigenous peoples; constitution of Ecuador; granting legal personality to the Amazon

Resumen

Al incorporar los Derechos de la Naturaleza a su constitución, Ecuador ha presentado un abordaje innovador de la protección medioambiental, reconociendo la naturaleza como sujeto de derechos. Esta transformación jurídica subraya el valor intrínseco de los ecosistemas y afirma el derecho de las entidades naturales a existir, crecer y regenerarse. En paralelo a esto, se han fortalecido los derechos de los pueblos

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indígenas, como guardianes de la biodiversidad, y se reconoce formalmente su profunda conexión con las tierras ancestrales. Sin embargo, la implementación de este marco jurídico se enfrenta a algunos desafíos, derivados principalmente del conflicto entre prioridades económicas y protección medioambiental. La deforestación de la Amazonía, intensificada por la extracción de recursos y el desarrollo de infraestructuras, supone una amenaza para el equilibrio climático global. A pesar de esfuerzos internacionales e indígenas para contrarrestar esta tónica, la ineficaz aplicación de la ley continúa suponiendo una rémora para la conservación sostenible. A través de un abordaje dogmático y analítico, este artículo llega a la conclusión de que, para mejorar esta situación, se requiere el desarrollo de mecanismos jurídicos, la participación creciente de comunidades indígenas y una redefinición del crecimiento económico con especial atención a la salud a largo plazo del planeta.

Palabras clave

Pluralismo cultural; derechos de la naturaleza; pueblos indígenas; constitución de Ecuador; otorgamiento de personalidad jurídica a la Amazonia

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1. Introduction

The interplay between the rights of nature and indigenous rights presents a transformative vision for Ecuador's environmental and legal frameworks. Grounded in the constitutional recognition of nature as a rights-bearing entity, Ecuador has pioneered an ecocentric approach that challenges traditional anthropocentric legal systems. This groundbreaking shift underscores the intrinsic value of ecosystems, emphasizing their right to exist, flourish, and regenerate (Lalander 2016, pp. 1–3). Simultaneously, the Constitution elevates indigenous rights, recognizing the profound connection between indigenous communities and their ancestral territories. These rights not only protect cultural heritage but also position indigenous knowledge as pivotal in promoting ecological balance and sustainability.

Indigenous peoples, as stewards of biodiversity, hold a central role in the preservation of the Amazon rainforest. Their holistic understanding of the natural world contrasts with extractive and industrialized practices that threaten ecosystems. The recognition of indigenous territories as inalienable sanctuaries is intertwined with the broader commitment to the rights of nature, presenting a unified front against the exploitation of natural resources (Dawson *et al.* 2021, pp. 2–3). However, this progressive legal framework often encounters challenges in implementation, particularly when economic priorities conflict with environmental and indigenous protections.

Addressing these challenges requires a multidimensional approach that integrates robust legal mechanisms, community-driven conservation, and sustainable economic policies. By aligning constitutional principles with actionable measures, Ecuador has the potential to set a global precedent for harmonizing human development with ecological integrity. The path forward demands not only the enforcement of existing laws but also the empowerment of indigenous communities and the redefinition of economic growth to prioritize the long-term health of the planet. In light of these dynamics, this paper seeks to answer the following question: How has the cultural pluralism of Indigenous peoples in Ecuador influenced their advocacy for the Rights of Nature within the country's legal system?

2. The importance of the Amazon

The Amazon rainforest, the largest tropical forest on the planet, is rapidly approaching a tipping point in the face of climate change. Covering more than 8 million square kilometers, it plays a critical role in regulating the global carbon cycle. Each year, the Amazon absorbs approximately 2 billion tons of carbon dioxide, equivalent to about 5% of global emissions (Kaiser 2019, Plotkin 2020, Parry *et al.* 2022). However, this carbon storage capacity has diminished in recent decades due to widespread deforestation, resource extraction, and infrastructure development. According to the FAO, nearly 10 million hectares of Amazonian forests are lost annually, leading to carbon release and ecosystem degradation (Ritchie 2024). The impact of deforestation extends beyond carbon storage. It disrupts hydrological systems, affecting rainfall patterns across South America. These disruptions reduce river levels, diminish agricultural yields, and increase the risks of prolonged droughts (Spracklen and García-Carreras 2015). Such changes affect not only the Indigenous peoples of the Amazon but billions worldwide. The IPCC warns that if current deforestation trends continue, the Amazon could lose

between 10% and 47% of its forest cover by 2050, transitioning from a carbon sink to a carbon source (Dwyer 2024). The importance of the Amazon goes beyond carbon absorption and rainfall regulation. It is home to over 400 Indigenous groups, many of whom live in voluntary isolation. These communities rely directly on the forest for food, water, and medicine, and their traditional knowledge of conservation is a vital resource in combating climate change (Schwartzman and Zimmerman 2005).

There is evidence that approximately 17% of the Amazon forests have been lost and an additional 17% are degraded. Continuing to lose this biome would affect the livelihoods of around 47 million people, and would intensify the global climate emergency as it would make it impossible to keep planetary warming below 1.5 degrees Celsius and would jeopardize food security in South America. World Wide Fund for Nature (WWF) launches the Living Amazon Report, which gathers the latest information on this region, its planetary importance, the threats it faces, and the solutions that require an unprecedented global commitment to stop its destruction (WWF 2022, Vergara *et al.* 2022, Igini 2024). At the same time, Indigenous and international initiatives offer promising solutions. Communities such as the Sarayaku tribe in Ecuador advocate for the concept of "Kawsak Sacha" (Living Forest), which emphasizes respect for ecosystems and the spiritual connection between humans and nature. This philosophy is gaining recognition as a model for conservation policies globally (Oikonomakis 2024). Additionally, organizations like WWF and Conservation International are collaborating with governments and local communities to establish protected areas and promote sustainable resource management (Scherrer 2009).

Ultimately, protecting the Amazon is not just a regional issue but a global necessity. Given its pivotal role in regulating water and carbon cycles worldwide, its destruction would accelerate the climate crisis on a planetary scale. International coordination, financial investment, and the incorporation of Indigenous knowledge are essential steps to address this crisis. Without immediate action, the world risks losing not only an irreplaceable ecosystem but also its opportunity to mitigate climate change.

3. The Constitution of Ecuador

The Ecuadorian Constitution, adopted in 2008, provides a significant framework for integrating the protection of nature and Indigenous rights into its legal and philosophical foundations. By explicitly recognizing nature as a subject of legal rights, this constitution introduces a groundbreaking approach to environmental protection and sustainability that goes beyond traditional anthropocentric legal systems. Article 10 identifies nature, or "Pachamama,"as a legal entity with rights to exist, flourish, and regenerate its vital cycles, reflecting the Indigenous worldview of interconnectedness and respect for the natural world (Constitution of Ecuador, 2008, Art 10, Lalander 2016, pp. 1–3). This recognition lays the groundwork for subsequent articles that further clarify the responsibilities of the state and society in upholding these rights. For instance, Article 71 emphasizes the collective duty to protect nature and restore damaged environmental systems. This provision offers an innovative approach to environmental conservation, going beyond merely preserving ecosystems and requiring the state and individuals to take proactive measures to safeguard ecological integrity.

Article 72 emphasizes nature's inherent right to restoration, imposing a moral and legal duty to address ecological harm—even if not caused by humans—going beyond mere compensation to people by recognizing nature's independent right to be restored.[1] The level of restoration is unclear but may depend on nature's ability to sustain its life cycles and functions, determined scientifically rather than legally. Restoration isn't limited to monetary compensation, though it can include it if needed. The right to restoration imposes positive duties on the state to implement effective measures, which must be adequate to mitigate environmental harm. However, the constitution leaves the adequacy of these measures to the state's discretion, raising concerns about lack of constitutional accountability for insufficient restoration (Kotzé and Villavicencio Calzadilla 2017, p. 24). Article 73 prohibits actions causing irreversible ecosystem harm, emphasizing preventive measures to avoid species extinction, ecosystem destruction, and permanent natural cycle alterations. It requires the state to anticipate and restrict potentially harmful activities, reflecting a precautionary, forward-looking approach. Article 74 complements this by guaranteeing people's right to a healthy environment and empowering legal protection. Together, these articles create a strong legal framework embedding environmental sustainability in Ecuador's national identity. While Article 74 acknowledges humans' right to benefit from nature, it balances this within the concept of Buen Vivir, recognizing a harmonious human-nature relationship. (Kotzé and Villavicencio Calzadilla 2017, pp. 24–25).

According to Claudia Storini (2021), almost no one has attempted to discuss the principles of the rights of nature from another perspective, particularly from the viewpoint of the Indigenous peoples of the Amazon. For these peoples, these rights have long been recognized; as the author states, before the recent creation of legal rights, rivers, trees, jaguars, and even stones were respected as brothers.[2] This topic requires philosophical examination that discusses the "principle of care for life," thus questioning the legal framework that emerged in Ecuador's 2008 Constitution. This questioning serves a purpose that makes it possible to construct a discourse that goes beyond the boundaries of anthropology, which is a science focused on humans, to support the defense of the principle of complete coexistence among plants, animals, humans, and even inorganic elements. It is necessary to overcome the legitimacy of a dominant order that justifies ownership and accumulation, so that these theories lose their legitimacy under alternative worldviews. Achieving this requires drawing on the theoretical foundations expressed in some articles of the Constitution, such as the appropriation of fundamental elements for life on the planet, like water. Moreover, it cannot be accepted

[1] Art. 396 further provides: "All damage to the environment, in addition to the respective penalties, shall also entail the obligation of integrally restoring the ecosystems and compensating the affected persons and communities".

[2] Indigenous peoples have long upheld values and practices that reflect a deep respect for nature, treating it as a living being with which humans share mutual responsibilities. While these traditions may not frame nature's status using the legal term "rights" as seen in Western systems, they embody principles of protection, coexistence, and balance. In many Indigenous cultures, nature is not owned but honored, with spiritual and moral duties guiding how people interact with the environment. This worldview focuses more on responsibilities than entitlements yet still recognizes nature's intrinsic value and standing. Ecuador's 2008 Constitution reflects an effort to legally express these Indigenous perspectives by granting rights to nature, bridging traditional wisdom with modern law. In essence, the idea that Indigenous communities have long recognized nature's rights is well-founded, even if expressed through different conceptual and cultural lenses.

as an absolute truth that the separation of humans and nature, even from a cultural perspective, contributes to causes the disruption of what is understood as human-induced changes in nature, because in this context, vital activities such as food provision take place. These changes have different meanings in civilized societies and primitive societies, and when we define ourselves as a whole, water, plants, animals, and even stones are our equals in an ontological dimension (Kim *et al.* 2023, pp. 357–359).

Alongside the Rights of Nature, the Ecuadorian Constitution provides comprehensive protections for Indigenous peoples, who are integral to preserving the country's cultural and environmental heritage. Article 56 recognizes Ecuador as a plurinational and multicultural state, emphasizing the distinct identities and roles of Indigenous communities. This recognition is further deepened in Article 57, which outlines a wide range of Indigenous rights, including the preservation of ancestral lands, autonomy in cultural matters, and the maintenance of traditional governance systems. Of particular significance is this article's recognition of the principle of Free, Prior, and Informed Consent (FPIC) for projects that may impact Indigenous territories. FPIC serves as a safeguard against the historical marginalization of Indigenous peoples, ensuring their meaningful participation in decisions affecting their lives and lands. For example, according to Montambeault's study, Indigenous peoples in Canada and Brazil have unilaterally operationalized their rights through the development of community-based consultation and consent protocols. These protocols help Indigenous peoples redefine participatory processes as spaces to assert their status and legitimacy as self-determining communities (Montambeault and Papillon 2023).

The inclusion of the principle of Free, Prior, and Informed Consent (FPIC) in Ecuador's Constitution underscores the country's commitment to upholding Indigenous sovereignty alongside equitable development. Furthermore, Article 57 grants Indigenous communities the right to manage natural resources within their territories, recognizing their ecological knowledge as a vital factor in the sustainable management of natural resources. Article 58 expands these rights by requiring Indigenous participation in local and national decision-making processes, thereby promoting participatory governance. This collaborative approach is crucial for addressing the socio-economic inequalities faced by Indigenous communities, ensuring that development initiatives align with their cultural values and environmental priorities. According to Ward's study, the concept of FPIC is clearly defined: it is the right of Indigenous peoples to make free and informed decisions about the development of their lands and resources. The core principles of FPIC ensure that Indigenous communities are not subjected to coercion or threats, that their consent is sought and freely given before any authorization or activity begins, that they are provided with comprehensive information about the scope and impacts of proposed developments, and that their decisions to grant or withhold consent are respected (Ward 2011, p. 54).

The environmental and indigenous rights provisions in the Constitution are based on a broader commitment to sustainable development and ecological balance. Article 275 defines sustainable development as a national goal encompassing economic, social, and environmental dimensions. This comprehensive view is reinforced by Article 395, which recognizes a healthy environment as a fundamental right and prioritizes the sustainable use of natural resources. Article 396 establishes the state's responsibility for preventing

and compensating for environmental damage, outlining the accountability of both public and private sectors for ecological harm. By emphasizing prevention and accountability, these provisions create a framework for long-term environmental resilience (Constitution of Ecuador, 2008, Arts. 275, 395 and 396).

Article 397 outlines the state's duty to respond swiftly to environmental risks and ensures public access to environmental justice. This guarantees that communities, particularly vulnerable populations, have the means to defend their environmental rights. Article 398 mandates comprehensive environmental impact assessments and social consultations for development projects, aligning with the principles of transparency and inclusivity. These measures not only protect ecological integrity but also enable citizens to actively engage in environmental governance. Furthermore, Article 400 introduces water and biodiversity as public assets, highlighting their intrinsic value and the necessity for their fair management. This article is in harmony with Article 403, which prohibits the privatization of genetic resources and biodiversity on indigenous lands, protecting these assets from exploitative encroachments. The connection between these two articles lies in the fact that both emphasize, on one hand, the value and importance of natural resources (water and biodiversity) as public assets, and on the other hand, the necessity of preventing the exploitation of these resources, particularly in the context of Indigenous rights and the protection of their lands. In other words, both articles establish laws to ensure the protection and sustainable management of these resources, preventing unfair and exploitative use of these assets (Constitution of Ecuador, 2008, Arts. 397, 398, 400 and 403).

The Constitution's emphasis on environmental protection extends to the management of natural resources, as outlined in Article 408. This article designates non-renewable resources such as minerals and fossil fuels as assets that cannot be transferred by the state. It mandates that the extraction of resources align with principles of sustainability and social justice, ensuring that economic activities do not harm ecological or cultural integrity. By linking resource governance to environmental and social goals, the Constitution promotes a model of development that respects both human and natural systems. In this regard, a study mentions:

Article 400 of the Ecuadorian Constitution declares as part of the national heritage the biodiversity and its components, in particular … the genetic heritage, which means that access to GRs constitutes a matter of public interest. Notably, the use of GRs is subject to a benefit-sharing rule related to the exploitation of natural resources which is contained in Article 408 of the Constitution. According to this rule, the state shall benefit in an amount which should not be less than the amount of benefits obtained by the person or entity that exploits the natural resources of the state. In practice, the existence of this rule may create disincentives to users as they may have very limited capacity to bring into the negotiation table other terms of distribution of benefits that take into consideration their concerns and interests (Cabrera 2019, p. 86).

Ecuador's Constitution seeks to redefine the relationship between economic activities and the environment. By requiring the alignment of resource extraction with ecological and cultural integrity, this article emphasizes the importance of considering the environmental and social impacts of economic activities and aims to prevent the harmful consequences of unsustainable development. From a governance perspective, this article

represents a shift in the development paradigm, where the protection of natural resources is seen not as an obstacle to development but as a foundation for sustainable and just development (Kanwal 2023). Additionally, the connection between resource governance and environmental and social objectives reflects a commitment to balancing economic needs with environmental protection, in line with the principles of environmental justice. This approach can also help strengthen government legitimacy and public trust, as the government positions itself as a guardian of natural resources and public interests (Peng *et al.* 2020). However, the success of implementing these goals requires strong oversight mechanisms, transparency in decision-making, and the effective participation of local communities. Only through such a framework can it be ensured that the ambitious goals of this article are realized and that natural resources are managed in a fair and sustainable manner.

The framework of Ecuador's Constitution also reflects a profound recognition of the interconnectedness between indigenous rights and environmental preservation. Articles 56 to 59 emphasize the symbiotic relationship between indigenous communities and their ancestral territories, which serve as both cultural and ecological sanctuaries (Constitution of Ecuador, 2008, Arts. 56 and 59). By highlighting the rights of indigenous peoples to preserve their traditions and lands, the Constitution recognizes their role as guardians of biodiversity and supports their participation in environmental governance. This recognition aligns with global principles of environmental justice, which call for the fair distribution of environmental benefits and burdens among different communities.

The Constitution of Ecuador, in Article 3, Clause 1, guarantees the exercise of individual rights as outlined in international instruments and specifically recognizes access to water as a fundamental human right. Article 12 identifies this right as essential and inalienable, declaring water a strategic national heritage. This recognition is closely tied to food sovereignty, as Article 13 ensures access to healthy and safe food for individuals and communities, linking it further with the right to health in Article 32 and the rights to freedom in Article 66. Moreover, it is unequivocally stated that energy sovereignty must not come at the expense of the right to water or undermine food sovereignty (Constitution of Ecuador, 2008, Arts. 3, 12, 13, 32 and 66).

According to Muteba's study, the Constitution of Ecuador attempts to align various concepts, leading to potential contradictions, as there is no intercultural dialogue between these concepts. According to the authors, each of these concepts originates from different human-centered perspectives and diverse traditions (Rahier 2011).

The 2008 Constitution of Ecuador marks a significant shift from a human-centered legal framework to an ecocentric one by recognizing the rights of nature. This conceptualization acknowledges nature as an integral part of human existence, where humans are seen as part of the natural world, not separate from it. This approach challenges the traditional environmental view of nature merely as a resource for human exploitation and instead promotes harmonious coexistence between humans and nature. The Constitution incorporates the indigenous concept of "Sumak Kawsay" or "Good Living," which means living in harmony with nature. This principle is not only about environmental protection but also about creating new pathways for coexistence among diverse citizens, respecting cultural diversity, and promoting social and environmental well-being. By granting legal rights to nature, the Constitution seeks to establish a legal

and ethical framework that supports sustainable development and ecological balance (Lalander 2016, Kotzé and Villavicencio Calzadilla 2017, Bonilla-Maldonado 2019).

The Constitution of Ecuador demonstrates an advanced approach to rights and social justice through Articles 10, 21, and 57. Article 10 establishes the universality of rights, stating that all rights listed in the Constitution are inherently valid for all individuals, groups, and communities, specifically recognizing nature as a subject with rights. This comprehensive framework reflects Ecuador's commitment to a holistic understanding of justice, integrating human and environmental rights. Article 21 guarantees the freedom of cultural identity and expression, emphasizing the importance of preserving heritage and cultural diversity. It acknowledges the pluralism of Ecuadorian society and affirms the right of individuals and communities to practice and transmit their traditions and languages. Article 57 is particularly important for indigenous communities, as it explicitly supports their collective rights, including autonomy to preserve their lands, customs, and governance systems. This article recognizes the significance of indigenous cultures in shaping national identity and ensures their protection from exploitation or displacement.

Despite the recognition of the rights of nature in the Constitution, the Comprehensive Organic Criminal Code (Código Orgánico Integral Penal) (Vernaza Arroyo and Cutié Mustelier 2022) lacks provisions to penalize violations of these rights. As a result, no crimes are defined against the legally protected interests in this area. The legal protections appear to be affected by ambiguity and imprecise legal language, highlighting the need for a clear and specific determination of what entities qualify as "nature".

At times, the recognition of the rights of nature in Ecuador's Constitution seems to draw from Indigenous elements to deliberately alter an extractive and destructive dynamic rooted in the logic of Western modernity. This process simultaneously creates an expectation of progress, as it does not signal a renunciation of destructive behaviors or a transformation in the societal metabolism (Jaria i Manzano 2013, p. 44; pp. 45–47).

4. Cultural pluralism in Ecuador

Diverse societies, by embracing and reflecting a wide range of identities, beliefs, and values, inherently oppose any form of tyranny or oppression that seeks to homogenize and negate diversity. This opposition is not merely a reaction to injustice but an active approach to building structures where respect for differences and recognition of diverse values form the foundation of sustainable coexistence (Slate 2011). In Latin America, the concept of "mestizaje"—the blending of racial and cultural identities—has historically been a cornerstone of resistance against homogenizing forces. This ideology, rooted in the region's colonial past, has evolved to celebrate the hybrid constitution of nations, recognizing identities such as Afro-Cubans, Japanese Brazilians, and Chinese Peruvians. By affirming cultural plurality, mestizaje counters oppressive narratives that seek to marginalize minority groups, promoting inclusivity and sustainable coexistence. For example, Brazil's acknowledgment of structural racial inequalities has led to policies aimed at addressing systemic discrimination, showcasing how embracing diversity can actively dismantle oppressive systems (Martínez-Echazábal 1998, Telles and Bailey, 2013). Moreover, grassroots movements in Latin America exemplify how diverse

societies resist tyranny. Indigenous and Afro-descendant communities have mobilized against state violence and neoliberal exploitation, asserting their rights and identities. In Bolivia, indigenous protests have challenged historical marginalization, demanding recognition and equitable resource distribution. Similarly, human rights movements across countries like Argentina and Chile have reduced abuses by holding governments accountable. These examples highlight how embracing diversity not only opposes oppression but also builds resilient structures for justice and equity (Franklin 2020, Sarmento-Pantoja 2021).

In this context, interculturalism emerges as a social and political approach that fosters spaces for dialogue, interaction, and mutual understanding, where diverse voices are heard and respected. This process is particularly crucial in societies still grappling with the legacies of inequality and discrimination (Brahmbhatt 2020, p. 133). Democracy, as a system of governance, has the capacity to address conflicts arising from political and social activities not through repression but through managing dialogue and seeking common solutions. Interculturalism, in this regard, serves not only as a tool for conflict resolution but also as a pathway to resist oppressive systems and open doors to justice and equality (Jia and Jia 2017, pp. 29–37). Legal pluralism is a fundamental element of this framework, allowing for the coexistence of multiple legal systems that reflect diverse cultures and communities while fostering equality among them. This pluralism goes beyond merely accepting cultural and social differences; it provides a structure through which marginalized groups can assert and defend their rights (Tanjung 2023, pp. 84–86). Based on Inksater's study (Inksater 2010), interculturalism, particularly in the context of diverse and multicultural societies, is an essential tool for creating sustainable legal pluralism. This process requires acknowledging the concept of "cultural incompleteness," where no culture or legal system is considered perfect or complete, and all can learn from one another. In this framework, legal pluralism relies on interculturalism to establish shared principles and practices for interaction and decision-making. The study also suggests that legal pluralism should shift from a descriptive approach to a transformative one, where different legal systems not only coexist but also evolve through dialogue and mutual interaction. In this way, interculturalism acts as a bridge between various legal systems, enabling the realization of legal pluralism that recognizes the rights of indigenous peoples and other cultural groups while managing tensions in a just manner.

In the Ecuadorian Amazon, Indigenous peoples living in voluntary isolation are among the most vulnerable communities, both culturally and environmentally (Montalvo 2018). Article 57 (Constitution of Ecuador, 2008, Art. 57) of the Ecuadorian Constitution explicitly guarantees their ancestral territories as inalienable, indivisible, and untouchable, prohibiting any extractive activities within these lands. This provision reflects the Ecuadorian government's strong commitment to preserving the autonomy and dignity of these communities, ensuring their right to remain isolated and free from external interference. Violations of these rights, including their autonomy to prevent contact, are classified as cultural genocide (ethnocide), underscoring the importance of safeguarding their way of life and preventing the destruction of their cultural identity.

The Amazon region of Ecuador is home to 10 Indigenous nationalities and 3 Indigenous groups living in voluntary isolation, each with their autonomous territories protected

under the Constitution (CARE *et al.* 2016). These provisions recognize Ecuador as a plurinational state, a concept affirming the coexistence of diverse cultural identities within the Republic. Contrary to concerns that such recognition might pose a threat to the unity of the state, the Constitution explicitly views plurinationalism as an opportunity to strengthen social solidarity through valuing and preserving the country's cultural diversity. The explicit prohibition of extractive activities in the territories of Indigenous groups in isolation serves not only as a legal safeguard but also as an ethical stance against the exploitation of these communities (Walsh 2012).

To understand Indigenous peoples, particularly those in the Amazon, it is essential to grasp their philosophical worldview. In this context, Clement *et al.* (2021) argue that it is crucial to recognize that Indigenous ontologies do not distinguish between culture and nature. For them, all beings, whether human or non-human, are part of a network of socio-ecological interactions. Forests, therefore, are not merely "natural" but are homes to various beings who live in, care for, and nurture them. Every part of the forest mosaic, at different stages of socio-ecological succession, has distinct owners. When humans clear agricultural land, they must respect other forest inhabitants—those who are non-human. When humans abandon their agricultural lands, these other forest inhabitants resume their primary roles as caretakers and stewards of that part of the mosaic.

Based on the study by Clement and others, understanding Indigenous ontologies—which do not distinguish between culture and nature—is deeply tied to the socio-ecological interactions between humans and other living beings. In this perspective, forests are not merely natural environments but are seen as complex and dynamic homes for various beings that live in, care for, and nurture them. The forest, as a socio-ecological system, includes not only humans but also all living entities, from plants and animals to the ecosystems they depend on (Kalaba 2014, Mohammed *et al.* 2017). This perspective fundamentally differs from Western concepts, which often view forests as untouched and purely natural spaces. In this framework, each part of the forest, depending on its stage of development, may have "owners" or carry different responsibilities (Sing *et al.* 2015, Houballah *et al.* 2020). Humans, particularly when converting land for agricultural purposes, must act with sensitivity and respect toward the non-human inhabitants of the forest. This idea of collaboration and coexistence with other forest dwellers emphasizes daily human-environment interactions and proposes a new model of natural resource management (Garibaldi *et al.* 2011). In this model, humans are seen as integral components of the ecosystem rather than as its dominators. When agricultural activities cease, and lands are left fallow, the other forest inhabitants naturally resume their roles as caretakers and stewards of the ecosystem. This natural return to primary roles highlights a profound balance and mutual respect between culture and nature—a dynamic that should not only be preserved but also actively reinforced in human socio-ecological interactions with the environment.

The relationship between nature and Indigenous communities is further complicated by the tension arising when the state classifies natural resources as national interests due to economic gains from resource extraction. While the constitution establishes the state's sovereignty over biodiversity and all its components, it simultaneously enshrines provisions to protect the rights of both Indigenous communities and nature. It is important to note that Ecuador's constitution prohibits intellectual property claims over

collective knowledge or genetic manipulation. It bans the use of genetically modified organisms (GMOs) and establishes biosafety regulations. Furthermore, it prohibits agreements or cooperation contracts that could infringe upon the collective rights of nature, human health, or the sustainable preservation and management of biodiversity (Acosta *et al*. 2022). This duality underscores the state's challenge of balancing economic interests with its constitutional commitment to protect the rights of Indigenous communities and the environment. Such measures reflect a recognition of the intrinsic value of biodiversity and the knowledge systems of Indigenous peoples, while also attempting to safeguard ecological integrity against exploitative practices.

Article 171 of Ecuador's 2008 Constitution guarantees Indigenous justice and the recognition of Indigenous rights, especially in managing natural resources and participating in decision-making. It requires state institutions to respect Indigenous norms and allows Indigenous communities to use their traditional justice systems, particularly for issues related to land and natural resources, supporting their autonomy and cultural practices (Constitution of Ecuador, 2008, Art. 171).

Even though the second paragraph of Article 171 of the Constitution refers to "coordination mechanisms," it is clear that the principle of legal unity is not challenged by legal pluralism. In practice, although such mechanisms have not yet been created or implemented, Indigenous peoples and nationalities have exercised the rights granted to them by the Constitution. This does not mean that the constitutional limitations fall outside the Ecuadorian legal framework; rather, it shows that Indigenous communities can carry out their judicial functions without the need for new laws or the establishment of government-supervised bureaucracies (Añazco Aguilar 2020, p.108). The Organic Code of the Judicial Function (Código Orgánico de la Función Judicial) also aligns with this perspective in Article 343, maintaining content consistent with the Constitution:

> The authorities of communities, nations, and Indigenous nationalities, based on their ancient traditions and customary laws, will carry out judicial duties within their territorial jurisdiction, ensuring the participation and decision-making of women. Authorities will apply their specific laws and procedures to resolve internal disputes, provided they do not conflict with the Constitution and human rights recognized in international treaties. Customary or legal rights cannot be used to justify or avoid punishment for violations of women's rights. (Organic Code of the Judicial Function, 2009)[3]

[3] Law s/n. Organic Code of the Judicial Function. 9 Mar. 2009. In force. Original Text of the Article: ÁMBITO DE LA JURISDICCIÓN INDÍGENA. - Las autoridades de las comunidades, pueblos y nacionalidades indígenas ejercerán funciones jurisdiccionales, con base en sus tradiciones ancestrales y su derecho propio o consuetudinario, dentro de su ámbito territorial, con garantía de participación y decisión de las mujeres. Las autoridades aplicarán normas y procedimientos propios para la solución de sus conflictos internos, y que no sean contrarios a la Constitución y a los derechos humanos reconocidos en instrumentos internacionales. No se podrá alegar derecho propio o consuetudinario para justificar o dejar de sancionar la violación de derechos de las mujeres.

5. Challenges and solutions

5.1. Challenges

In most of the cases brought before the court, constitutional judicial actions are aimed at ensuring access to justice for individuals whose rights have been or are being violated by public authorities, private legal entities, or other individuals. These actions seek to provide effective and prompt judicial protection with full respect for legal rights. Such mechanisms are also applicable for the judicial protection of the rights of nature, as the relevant laws refer to rights recognized in the Constitution, regardless of whether the rights-holder is an individual, a group, a community, or nature itself as a legal subject.

In pursuing these pathways to access justice for legal actions in favor of the rights of nature, several petitions have been filed in Ecuadorian courts. The first such petition was submitted to the Third Civil Court of Loja in December 2010, which rejected the request. This ruling was later reviewed by the Criminal Appellate Court of the Province of Loja in 2011, where the petition for judicial protection was accepted. Ultimately, the case was brought before the Constitutional Court of Ecuador (CCE) through a noncompliance action, seeking enforcement of the ruling (CCE 2018).

Following this case, other legal proceedings were also initiated in Ecuador in which the rights of nature were cited as part of the legal argument. However, none of these cases were filed solely for the purpose of defending the rights of nature. Rather, these rights were invoked as supportive arguments alongside claims involving economic loss, environmental harm, or violations of human rights such as the rights to food, health, or a healthy environment. In many of the rulings issued, there was no conceptual development or clear definition of the legal scope of nature's rights. Instead, they were merely referenced as secondary reasoning in the court's legal arguments. These decisions typically relied on interpretations of certain constitutional provisions and occasionally cited a few legal scholars. For example, in the ruling issued by the Provincial Court of Loja (Criminal Chamber), while the rights of nature were indeed mentioned and their protection was discussed, the actual focus of the case was the plaintiffs' loss of approximately one and a half hectares of valuable land, caused by damage to the Vilcabamba riverbed (Constitutional Court of Ecuador 2015, p. 1, Vernaza Arroyo and Cutié Mustelier 2022).

My interpretation of this issue suggests that although the rights of nature are formally recognized in Ecuador's Constitution and appear to hold a prominent status, in practice, they have yet to be firmly established as an independent foundation within the country's legal system. In most legal cases, these rights are presented as secondary or supportive arguments alongside other claims related to economic damage or human rights violations, rather than as the central focus of litigation. This indicates that a deep, practical understanding of the nature and scope of these rights has not yet been institutionalized in judicial practice. Moreover, the absence of precise and principled interpretations by the courts—combined with a superficial reliance on legal texts or citations from authors—has led to the rights of nature functioning more as symbolic or supplementary elements in legal reasoning rather than as decisive standards for judicial decision-making. As a result, while there have been symbolic advancements, a

significant gap remains between the theoretical recognition and the effective realization of the rights of nature within Ecuador's judicial system.

To accept the petition and declare a violation of the rights of nature, the court first referred to Article 71 of the Constitution, which explicitly recognizes one of nature's rights. Then, the court briefly highlighted the significant innovation introduced by the Constitution in acknowledging these rights. Following this, it quoted extensively from the writings of Alberto Acosta cited in the article, aiming to clarify and emphasize the importance of this legal innovation. This approach demonstrates the court's intention to strengthen the legal foundation of nature's rights by referencing authoritative sources and to underscore the special status that these rights hold within the Constitution (Acosta 2008). Despite being the first ruling in the country on this matter (GARN Communications 2011), the court's reasoning contributed very little at the time to the consolidation of the rights of nature (Suárez 2013, Vernaza Arroyo and Cutié Mustelier 2022).

Another illustrative case is a decision handed down by the Constitutional Court of Ecuador on April 27, 2016. In its rationale, the Court emphasized that the Constitution marks a departure from the conventional framework of the right to a healthy environment—traditionally conceived as a human right—towards recognizing nature itself as a subject of rights. The ruling notes that this shift moves away from an anthropocentric view and aligns more closely with a biocentric perspective that highlights the intrinsic relationship between humans and the natural world (CCE 2016, p. 13). In support of this interpretation, the Court not only expressed this conceptual change but also reproduced in full Articles 71 through 74 of the Constitution, which are directly relevant to the issue. These elements served as the basis for the Court's final conclusion in the case (Vernaza Arroyo and Cutié Mustelier 2022).

In 2017, the Provincial Court of Esmeraldas issued a ruling on a case originally filed in 2010 by the Afro-descendant community "La Chiquita" and the Indigenous "Awa" people. The case was brought against the palm oil companies Los Andes and Palmsa, alleging violations of the rights of nature. The plaintiffs sought to suspend all company operations, citing extensive deforestation, severe biodiversity loss, and river pollution, which they claimed had harmed their health and undermined their food sovereignty. After six years, the court partially upheld the claims, acknowledging that the companies' actions had negatively impacted the plaintiffs' health, water access, and food resources. However, rather than holding the companies accountable for restoring the rights of nature, the court placed that obligation on the state. This was notable because the state was not directly responsible for the environmental damage—unless its failure to prevent or respond to the violations could be demonstrated (Hazlewood 2018, Vernaza Arroyo and Cutié Mustelier 2022, pp. 304-305).

Naturally, there are other rulings as well—both from the Constitutional Court (CCE) and from ordinary courts—in which similar reasoning has been presented: the repetition or citation of the relevant constitutional provisions without offering a systematic interpretation of their scope and substantive content, which is essential for shaping them, along with the inclusion of quotations from the works of reputable authors. These elements are then used to conclude the need to protect these rights. One of these rulings is Decision No. 218-15 issued by the CCE (2015). In this ruling, the court declares that

nature is "a rights-bearing entity whose respect must take precedence over any individual economic interests." This view is mistaken for two reasons: first, nature is a complex entity composed of many biotic and abiotic elements that cannot easily be reduced to a single "entity"; and second, the ruling overlooks the subtle distinction between a rights-holder and other entities that are merely the subject of rights. Nature is the latter, not the former, as has been clearly explained earlier. In other cases, the CCE has repeated the arguments of some authors on this subject and expressed opinions about the recognition of the rights of nature and the necessity of protecting these rights (Zaffaroni 2011, Vernaza Arroyo and Cutié Mustelier 2022, pp. 305-306). Interestingly, however, the court did not accept the common idea that recognizing these rights necessarily requires a biocentric (nature-centered) approach. Instead, the court stated that the Constitution "leans toward a biocentric view of the relationship between nature and society, which may or may not be realized depending on the nature of the relationship between humans and nature as a legal subject (Vernaza Arroyo and Cutié Mustelier 2022, p. 306).

In summary, it can be said that, so far, there has been no significant development through judicial practice in Ecuador regarding the constitutional provisions that recognize the rights of nature and grant nature the status of a legal subject. What has occurred is the use of the rights of nature as an additional element within traditional methods of protecting the environment and natural resources, as well as to safeguard other economic, financial, or environmentally related rights and interests. Therefore, to ensure the protection of the rights of nature and achieve the goals set by the legislator in 2008, the mere existence of legal and institutional mechanisms is not enough. Although these mechanisms exist, they are still insufficient for defenders of the rights of nature to effectively approach the relevant institutions and defend their rights. Ideally, these mechanisms should be exceptions, and the natural state should involve respect for the rights of nature, recognition of nature as a legal subject, and the creation of a new way of life that balances the need to secure human rights with the protection of the rights of nature, so that the fullest realization of these rights becomes possible.

Despite rulings from the Constitutional Court of Ecuador, as mentioned in the previous paragraph, some of the Court's decisions have imposed limitations on the exercise of the specific rights of traditional communities and nationalities. In ruling number 113-14-SEP-CC, in the "La Cocha 2" case, the Court states that there are no unlimited rights, particularly in cases involving crimes against life, and defines the boundaries of Indigenous justice. In cases where the legal right to protect life is involved, the Constitutional Court's ruling subordinates Indigenous justice to public justice (Añazco Aguilar 2020, Barahona Néjer and Añazco Aguilar 2020).

Añazco (2020), in his research, states that the Constitutional Court in the "La Cocha 2" case mentions that Indigenous authorities were permitted to intervene in the case, and the process they followed was deemed appropriate because it was based on legal provisions and current international principles. However, the Constitutional Court warns that the failure to comment on the impact on individuals' lives by the community's general assembly has not been judged, and the focus has only been on the consequences of the death of a community member. This indicates that there is still a

need in the judicial system to develop mechanisms that can strengthen and solidify the multinational and multicultural state envisioned in the Constitution.

The ecosystem housing the Kayapas-Mataje Environmental Reserve suffered significant harm due to the operations of the shrimp farming company Marmza S.A., as highlighted in a complaint by the provincial director of the Ministry of Environment in Esmeraldas. This reflects a perception of ecosystems as dynamic living systems that harness solar energy, recycle nutrients, and sustain complex food chains. However, as the case analysis shows, the judge approached the issue narrowly, limiting the protection of the rights of nature to only the formally designated ecological area. This approach reduced the broader interpretation of those rights to a technical discussion within the confines of environmental law. In 2010, Esmeraldas' provincial environmental office issued an administrative resolution expelling Marmza S.A. from parts of the Mataje Kayapas Reserve (REMACA), where the company had unlawfully expanded its shrimp farming operations. In response, Marmza filed a legal protection suit against the Ministry of Environment, claiming its right to private property and legal certainty had been violated. The company argued that it had legally acquired usage rights from the Ecuadorian Navy and San Lorenzo port authorities in 1993 and 1994, covering a portion of the area (26.45 hectares out of 36.61), and had begun its activities well before the area was declared a reserve in 2002 or the rights of nature were constitutionally recognized in 2008. A lower court sided with Marmza, ruling that the company's activities predated the creation of the reserve and were therefore legal. The Esmeraldas Provincial Court upheld this decision in ruling No. 281-2011, determining that the administrative expulsion violated the company's rights. However, the ruling failed to consider or evaluate the environmental damage caused to the protected mangrove ecosystem, which is identified as vulnerable under Article 406 of Ecuador's Constitution. As such, the core issue—whether Marmza's activities infringed upon the rights of nature—was overlooked entirely. (Constitutional Court of Ecuador 2015, Narváez and Escudero 2021, p. 78).

Ultimately, the Ministry of Environment filed an extraordinary protective action, claiming that the Esmeraldas Provincial Court had erred in violating the right to a fair trial because the judicial ruling did not consider all the rights involved in the dispute and provided no explanation for the reasons prioritizing the property rights and legal security of the company Marmza over the rights of nature.

In judgment No. 166-15-SEP-CC (May 20, 2015), the Constitutional Court of Ecuador examined whether a ruling by the Esmeraldas Provincial Court violated the right to a fair trial, specifically the guarantee of justification in judicial decisions. Referring to Article 76 of the Constitution, the Court emphasized that judicial rulings must be reasoned, transparent, and clearly explain how legal conclusions are reached based on facts and logic. The Court applied a "justification test" established in a previous ruling (No. 227-12-SEP-CC), which uses reasonableness, logic, and comprehensibility as benchmarks. However, the test has been criticized for being overly formalistic and broad, potentially weakening the clarity and reliability of legal analysis. (Constitutional Court of Ecuador 2015, Narváez and Escudero 2021, p. 78).

Based on these elements, the Constitutional Court of Ecuador concluded that the judges' lack of awareness of the rights of nature constitutes a violation of the principle of justification in judicial decisions. In this regard, the Court stated in the relevant section:

> Rights of nature are one of the interesting and important innovations in the current constitution, as it departs from the traditional 'nature-as-object' perspective that views nature as property and protects it only through the right to a healthy environment, and instead reaches a concept that recognizes specific rights for nature. The innovation lies in a paradigm shift in which nature is recognized as a living being, as a legal person, and as a rights-holder. (Constitutional Court of Ecuador 2015, p. 9, Narváez and Escudero 2021, p. 79)

This argument explains the difference between the right to live in a healthy environment (anthropocentric) and the rights of nature (biocentric or ecocentric, depending on the convergence or divergence of biocentric human rights); however, it then merges these two concepts into a single category by stating:

> In this regard, it is important that the Constitution of the Republic of Ecuador emphasizes the dual nature of nature and the environment, considering it not only within the traditional framework of a legal object but also as an independent person with its own specific rights. (Constitutional Court of Ecuador 2015, p. 10, Álvarez and Soliz 2021, p. 79).

Then, the Constitutional Court provided a detailed argument on how the rights of nature, or Pachamama, should be understood within the framework of the Constitution and in light of the values recognized in the preamble and the content of Article 72 of the Constitution, which states that "nature has the right to restoration." This article anticipates the adoption of appropriate measures to mitigate harmful consequences. Therefore, it is the state's duty to guarantee the realization of these rights, which judges must protect.

Therefore, the Constitutional Court pointed to an issue where nature and the environment intersect in a gray area. The Court observed that the Smurdas Provincial Court's ruling initially focused on the property and labor rights established by Marmiza, and as a result, disregarded the contents of the rights of nature.

The Constitutional Court states two points in this regard:

> The failure to analyze and even mention the rights that the Constitution recognizes in favor of nature, in a process that fundamentally involves the protection and preservation of an environmental area, indicates a complete denial of recognizing this area as a protected zone and, at the same time, a denial of acknowledging the people's right to live in a healthy and balanced environmental setting. (Constitutional Court of Ecuador 2015, p. 14, Narváez and Escudero 2021, p. 79)

Considering that this is an environmental area, the site where the Marmaza shrimp farm is located is recognized as a natural asset belonging to the state, and its management is the responsibility of the Ministry of the Environment" (Constitutional Court of Ecuador 2015, p. 15, Narváez and Escudero 2021, p. 79).

The Constitutional Court of Ecuador limited the protection of nature's rights to officially designated environmental reserves under state control, tying recognition of these rights to government-defined categories. While the Court found a lack of logical justification in the original ruling—highlighting a disconnect between legal reasoning and conclusions—it paradoxically still considered the decision comprehensible. This contradiction undermines clarity and trust. The case was remanded to the lower court for a new ruling, though none has been issued. Although the Court acknowledged a

violation of due process, particularly the right to justification, its reasoning remained rooted in conventional environmental law rather than fully embracing the deeper, intrinsic rights of nature. Despite a favorable outcome for nature, the judgment still reflected an anthropocentric legal mindset. Their reasoning relies on technical criteria derived from an environmental conservation viewpoint, which implicitly separates a specific geographical area from those zones where human economic activities are permitted. This means that the rights of nature are only valid if they are located within a protected area. Here, two approaches in constitutional laws where the rights of nature are addressed can be identified:

i) Approaches that recognize nature as an independent legal entity (the biocentric or ecocentric perspective); and

ii) Approaches that understand the rights of nature in relation to human and societal rights, viewing them as both an objective and a limitation for government activities (the anthropocentric, human rights, or environmental perspective).

The court initially embraced the idea of nature as an independent rights-holder, suggesting a legal paradigm shift. However, its reasoning eventually contradicted this stance by falling back on traditional environmental law and prioritizing human rights and property rights. This inconsistency revealed a reluctance to fully recognize the rights of nature as truly autonomous. Instead of advancing a new legal framework, the court reinforced existing norms, ultimately placing land ownership above ecological considerations. The case shows that without moving beyond formal legal categories and traditional frameworks, the rights of nature risk being reduced to symbolic gestures rather than substantive legal protections (Constitutional Court of Ecuador 2015, Narváez and Escudero 2021).

In August 2023, Ecuadorians took part in a historic referendum where a majority voted to stop oil drilling in Block 43 of Yasuní National Park—a region celebrated for its extraordinary biodiversity and as home to uncontacted indigenous tribes like the Tagaeri and Taromenane. The global community welcomed this vote as a major milestone for environmental preservation and indigenous rights. However, by August 2024, enforcing the referendum result has proven difficult. Despite the public's clear decision, oil operations in the area continue. The government's failure to act has drawn strong backlash from environmental organizations, indigenous communities, and human rights defenders, who argue that delaying the decision undermines both indigenous and environmental rights, and erodes trust in democratic institutions. The Constitutional Court had given a one-year deadline for stopping extraction and dismantling infrastructure, yet government reports suggest a full exit from Block 43 may take up to five years due to logistical and financial challenges. Officials argue that an abrupt halt could harm the national economy, as oil from Yasuní contributes significantly to state revenue. President Daniel Noboa has expressed the need to delay withdrawal so the country can maintain funding for public security and anti-crime efforts. Environmental and indigenous advocates, however, view this stance as a breach of democratic and environmental obligations. They insist that the referendum results must be respected and that long-term ecological sustainability should outweigh short-term economic concerns. The Yasuní case reveals a deeper struggle in Ecuador between

development goals and environmental stewardship. Although the country's constitution recognizes nature as a rights-holder and Ecuador has committed to ecological sustainability, in practice, economic pressure often takes precedence. The delay in stopping oil extraction in Yasuní underscores the broader difficulties nations face when transitioning away from fossil fuel dependency (Gabay 2024).

In a similar issue, in June 2024, widespread protests were held by indigenous organizations and environmental groups against the state-owned oil company PetroEcuador. The protests stemmed from the company's failure to comply with a 2021 court ruling that mandated the cessation of gas flaring in residential areas by March 2023. Gas flaring, the process of burning off excess natural gas during oil production due to insufficient infrastructure for capturing and utilizing the gas, is widely practiced in Ecuador. This practice has serious environmental impacts, contributing to greenhouse gas emissions and endangering the health of local communities. Protesters accused PetroEcuador of relocating gas to larger sites for flaring instead of fully ceasing the practice. Despite official reports indicating the closure of some flares, environmental activists argue that many of these flares, particularly in the provinces of Orellana and Sucumbíos, remain active. Energy Minister Roberto Luque acknowledged that the process of dismantling each flare could take between 12 to 36 months. This lengthy timeline has been met with opposition from local communities, who are demanding immediate action to mitigate environmental and health risks. The continued flaring despite court rulings highlights systemic challenges in Ecuador's regulatory and enforcement structures. This raises questions about the effectiveness of environmental governance and the influence of the oil industry in the country's political and economic spheres. The health consequences for communities living near flaring sites are profound, with reports of respiratory issues, skin diseases, and other ailments linked to long-term exposure to pollutants. This situation has sparked civil movements, hunger strikes, and a growing push for environmental justice (Rosa Luxemburg Stiftung 2023, Reuters 2024).

Both the Yasuní referendum and the protests against Petro Ecuador reflect the complex dynamics in Ecuador's efforts toward sustainable development. These issues highlight the tension between short-term economic imperatives and long-term environmental and health considerations. The government's response to these challenges will play a decisive role in shaping Ecuador's environmental policies and its commitment to democratic principles.

Ultimately, Ecuador stands at a critical juncture and must strike a balance between respecting democratic decisions that favor environmental protection and indigenous rights, and its economic dependence on resource extraction. The continued oil extraction in Yasuní National Park, despite the clear outcome of the referendum, and the ongoing flaring by Petro Ecuador in defiance of court rulings, are examples of the inherent complexities of this issue. Addressing these challenges requires strengthening regulatory frameworks, improving execution mechanisms, and a genuine commitment to sustainable development that aligns with the will of the people and the rights of nature as enshrined in Ecuador's constitution.

5.2. Solutions

The urgent need to protect the Amazon rainforest and support the rights of its indigenous communities requires a multidimensional approach that encompasses legal, environmental, and socio-political aspects. First and foremost, the Amazon's critical role in regulating global climate patterns and preserving biodiversity necessitates a reconsideration of how its importance is reflected within national and international legal frameworks. While the significance of the Amazon is highlighted in agreements like the Paris Climate Accord, these frameworks must be transformed into stronger and more actionable mechanisms that address the unique challenges of this complex ecosystem. One of the most important legal advancements in this regard could be the adoption of an international treaty that grants the Amazon legal personhood, similar to the principles outlined in Ecuador's 2008 constitution. Granting legal personhood to the Amazon would enable direct legal defense of the region and provide local communities and environmental organizations with the ability to advocate for its protection in cases of deforestation and illegal resource extraction. The study by Nowak *et al.* (2024) suggests that legal personhood could provide a framework for the protection of the Amazon by recognizing it as an entity with rights, which could help prevent its exploitation and destruction. This approach aligns with Indigenous narratives that emphasize the interconnection between humans and nature, supporting the protection of the Amazon as a living entity with intrinsic value. Based on the analyses presented in this article, Ecuador has significant potential to be one of the first countries to take steps in this direction.

At the national level, particularly in Amazonian countries like Brazil, Ecuador, and Peru, governments must more effectively institutionalize the protection of indigenous lands and territories. While indigenous land rights are protected under international law, they are often subject to exploitation, particularly by multinational companies and industrial agriculture (Valenta 2003, Sawyer and Gomez 2014, Villén-Pérez *et al.* 2020, Quijano Vallejos *et al.* 2020). One key strategy is to expedite the process of demarcating indigenous territories, ensuring that these communities not only maintain control over their lands but that these areas are legally protected from developmental projects. In this regard, the implementation of the principles of "Free, Prior, and Informed Consent" (FPIC), as outlined in international treaties such as ILO Convention No. 169 and the UN Declaration on the Rights of Indigenous Peoples, should be enforced as a legal obligation (Ward 2011, Barelli 2012, Tomlinson 2019, Papillon *et al.* 2020).

The Ecuadorian experience shows that domestic recognition of nature's rights, no matter how advanced, remains vulnerable to national interests and unstable political will. For example, oil extraction in Yasuní National Park continued despite a popular referendum to stop it, demonstrating that constitutional recognition alone doesn't ensure environmental justice under economic or political pressure. An international treaty could elevate the Amazon's legal status beyond any single nation's control, protecting it from domestic rollback and aligning with global climate goals. Ecuadorian courts have inconsistently applied nature's rights, often prioritizing property and economic interests over ecological protection, as seen in the Marmza shrimp farming case. The current framework lacks clear restoration criteria, enforcement mechanisms, and precise definitions of "nature," making it susceptible to weakening. A binding international

treaty could establish standardized, scientific criteria for ecological protection and restoration, create a supranational enforcement body to ensure accountability, and reduce reliance on national institutions that may tolerate environmental harm. Such a treaty would also better incorporate Indigenous knowledge and ensure Indigenous peoples have meaningful roles as co-governors and custodians, addressing the shortcomings in Ecuador's system where Indigenous participation is often ignored or limited. In conclusion, an international treaty recognizing the Amazon as a legal person would fix many institutional and conceptual weaknesses seen in Ecuador's domestic model. It would provide consistent legal interpretation, empower Indigenous voices, protect the environment from national economic fluctuations, and mobilize global support. While Ecuador's constitutional approach is inspiring, its practical limitations show the need for a transnational legal framework to secure the Amazon's long-term survival.

Strengthening environmental institutions and the effective implementation of environmental laws is crucial. This requires investment in capacity-building for environmental agencies, enhancing monitoring systems such as satellites, and reinforcing the judiciary to address environmental violations more swiftly. Establishing specialized environmental courts could facilitate the legal process for combating deforestation and other ecologically destructive activities. These measures would help ensure that environmental protection is prioritized and that legal actions against violations are timely and efficient, providing a robust framework for sustainable development. In addition to legal reforms, revising economic incentives and financial mechanisms to prioritize forest protection is essential. Governments should redirect subsidies currently allocated to industries such as livestock farming and soybean cultivation towards more sustainable land-use practices, such as sustainable forestry, ecotourism, and the cultivation of non-destructive crops. This shift would not only promote environmental sustainability but also encourage economic activities that are in harmony with the protection of ecosystems and the rights of indigenous communities. For example, nature-based solutions in Indigenous regions, such as payments for environmental services, have been shown to provide incentives for ecosystem protection while simultaneously supporting local livelihoods (Acevedo-Ortiz 2024). Furthermore, community-based conservation models demonstrate that integrating local priorities into land management can enhance biodiversity conservation and socioeconomic development. These models typically redirect labor and capital from ecosystem-degrading activities toward sustainable practices, benefiting both the environment and local communities (Pacheco *et al.* 2012).

Supporting indigenous conservation efforts is also crucial. Initiatives like the "Living Forest" model of the Sápara tribe in Ecuador have demonstrated that natural resource management by indigenous communities can be effective in reducing deforestation (Tapia *et al.* 2023). Governments and international organizations must recognize and support the traditional knowledge and conservation initiatives of these communities, providing them with the necessary resources and platforms to continue their vital work in protecting ecosystems. This approach not only safeguards the environment but also empowers indigenous communities, allowing them to maintain their cultural heritage and land stewardship practices (Walter and Hamilton 2014, Buschman and Sudlovenick 2022).

In conclusion, the protection of the Amazon and the promotion of indigenous rights require a comprehensive approach that combines legal reforms, economic incentives, improved governance, and support for indigenous conservation efforts. These initiatives must align with sustainable development models and respect for indigenous knowledge to ensure a sustainable future for this vital ecosystem. Protecting the Amazon is not only a regional issue but a global responsibility that calls for bold and transformative action.

6. Conclusion

The Amazon rainforest stands as a crucial pillar for global climate stability, yet it faces escalating threats from deforestation, resource extraction, and climate change. Ecuador's pioneering constitutional recognition of the Rights of Nature offers an innovative legal framework aimed at safeguarding this vital ecosystem. By granting nature intrinsic rights to exist, regenerate, and flourish, Ecuador has aligned environmental protection with Indigenous stewardship, acknowledging the critical role these communities play in preserving biodiversity. However, economic pressures and ineffective enforcement continue to challenge the practical implementation of these rights. The Amazon's rapid deforestation—leading to carbon emissions and disrupting hydrological cycles—exacerbates the global climate crisis, threatening food security and biodiversity. Indigenous initiatives like "Kawsak Sacha" highlight alternative conservation models rooted in respect for ecosystems, demonstrating the value of traditional knowledge in combating deforestation. Despite international financial support and legal advancements, systemic challenges persist, underscoring the need for stronger legal mechanisms, enhanced Indigenous participation, and a redefinition of economic growth that prioritizes ecological sustainability. Ecuador's experience illustrates the complex intersection of environmental law, Indigenous rights, and economic development, offering valuable insights for global conservation efforts. Ultimately, protecting the Amazon requires a collaborative, multidimensional approach that bridges legal innovation, Indigenous leadership, and international cooperation to secure the long-term health of the planet.

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