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RESEARCH ARTICLE

Extractivism and the rights of nature:  
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epistemic pacts in Ecuador

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ABSTRACT

Ecuador’s recently adopted conflict resolution techniques have aggravated the always tense encounters between Amazonian indigenous communities, oil companies and the state. The state’s governmentality project portrays these socio-environmental conflicts as mere technical–managerial issues while societal coalitions re-politicize them through territorial defense struggles. The Cofán Dureno case highlights how the self-proclaimed ‘Citizen’s Revolution’ government seeks to redefine socio-natural relationships and territorial identities, devising ‘communities of convenience’. These correspond to the state’s own images, political structure and ideology, promoting ‘community participation’ to facilitate oil extraction. Ecuador’s constitutionally recognized Rights of Nature (paradoxically installed by the same government) are analyzed with a focus on their potential for resisting socio-environmental injustice. The internationally celebrated inclusion of these rights in the Constitution was advocated by nonindigenous intellectual activists but influenced and supported by the indigenous movement. Beyond legal implications, these rights might foster an epistemic pact between indigenous and nonindigenous society to defend territories from extractive industries.

KEYWORDS

Governmentality; cultural politics; epistemologies; Rights of Nature; extractivism;  
Ecuadorian Amazon region

Introduction

Since 2007, Ecuador has changed its territorial dispute mechanisms, deepening conflicts among indigenous communities, oil companies and the state. Since the early 1970s oil boom, the state has had its eyes on the Amazon region, pursuing colonization policies. Yet, since 2007, the government seeks not just to ‘open up’ the region but also actively attempts to organize and control these territories and their inhabitants. State megaprojects in Ecuador’s Amazon region show how the current modernization plan not only supports the actions
of global capitalist institutions – which the government claims to be regulating – but also subordinates local territories and people’s daily lives (Wilson et al. 2015, Lu et al. 2017). In this context, we examine the current conflict in northern Amazon communities over oil exploitation by extractive industries, which is now fanned by state intervention.

There is a paradox here in that the government pursuing these policies is the very government that enacted the new Constitution, widely considered to be one of the world’s most socio-environmentally progressive, which recognizes the legal Rights of Nature. This recognition appears to match the worldviews of the country’s indigenous population and underpins the idea of multiple natures. The oral history of the inhabitants of the Ecuadorian Amazon contains many stories that blend the social and natural worlds as a complex web of experiences and interrelationships. Modernist analysis would relegate these to the domains of magic, superstition or backwardness – but they are a key part of the Amazonian peoples’ ontologies, social interactions and cultural identities, in permanent exchange with the state and oil companies. These ontologies and identities are both cultural-historical and strategic-political (Barth 1969, Cohen 1974).

The Cofáns, recognized with the status of indigenous nationality within the Ecuadorian state, have participated in national and international actions protesting against the impacts of petroleum on their lives and culture to defend their territory. Over the years, the changing environmental and political scenarios have led them to reconstruct their strategies and identities. On their own territory, the Cofáns have peacefully prevented the drilling of several wells and project development by Texaco (in the 1970s and 1980s) and Petroecuador (in the 1990s). In 1998, they closed Dureno 1, the only well that has been drilled in their territory (Cepek 2012). However, rivers still carry spillage from the oil stations upstream from their territories. In recent years, Cofán communities have been pressured by government plans to expand petroleum operations in their territory. This has been supported by unprecedented physical and discursive interference by public institutions in their organizations, accompanied by ostentatious public works to gain access to their territory (Dávalos and Albuja 2014, Wilson et al. 2015).

We examine the implications of the epistemological and political encounters between, on the one hand, the government’s efforts at redefining the key constitutional guarantees (to match them with government’s extractivist aims) and, on the other, the endeavors of social movements to re-politicize the environmental debate (by underpinning the constitutionally recognized Rights of Nature as a tool for territorial defense). Thus, we show how the ‘Citizen’s Revolution’ government sets out to ‘governmentalize’ (Foucault 1991 [1978]) Cofán communities in order to facilitate oil extraction, whereas indigenous and ecologist movements creatively deploy cultural politics and innovative epistemic pacts to enhance their environmental justice struggles.
This research explores the Cofán socio-environmental problematic of oil extraction through a multi-method methodology. Data and field results are based on a first phase of reviewing archives, gray documentation and literature, and field research divided in two periods of time. The first took place during June–August 2007 as part of the larger research ‘Palabras de la Selva’ (Beristain et al. 2009), with focus groups, surveys among indigenous families affected by petroleum extraction, and visits to the Cofán nationality in Sucumbíos. The second period, in January–July 2015, consisted of field visits and 20 semi-structured and open-ended interviews in Cofán Dureno, in the province’s capital, Lago Agrio, and in Quito. Interviews were carried out with indigenous community members, a former representative of the national indigenous organization CONAIE, former community government leaders and teachers of one the schools affected by the new policies. In Lago Agrio city, interviews were conducted with the president of the Cofán Dureno community, the president of the Cofán national organization OINCE, the president of the Provincial Court of Justice, and the former communication minister of the government of the ‘Citizen’s Revolution’. In Quito, interviews focused on the points of view of national indigenous movement leaders, politicians, academicians and activists involved in the constitutional declaration of the Rights of Nature. Research data were triangulated and discussed among the Justicia Hídrica/Water Justice Alliance researchers (www.justiciahidrica.org). The names of Cofán nationality interviewees have been changed.

Our discussion is presented in four parts. The next section discusses theoretically the clash of rationalities, mindsets and identities between the national government and indigenous communities, each with different political strategies that are expressed within an asymmetrical power structure that favors the state, the producer of formal epistemology. Starting with the concept of governmentality, we analyze how the participation discourse deployed by the ‘Citizen’s Revolution’ makes government and society interrelate through strategies of normalization, control and cultural politics that permeate inhabitants’ daily lives. The “Citizen’s Revolution and extractivism: governmentalizing local coexistence by replicating national policy in miniature” section presents the case of the Dureno community, which faces the state’s interest in their underground petroleum reserves. We examine the creation of ‘communities of convenience’ (Boelens 2015a, 2015b), part of the government’s ‘governmentality’ strategies to repattern existing forms of community organization. Finally, “The Rights of Nature: ‘tolerable natures’ or epistemic coalitions for resistance?” section explores the Ecuadorian Constitution’s recognition of Nature’s Rights, fraught with implications for international policy. We examine the opportunities and limitations of these rights as tools for resistance. We conclude that, beyond legal affairs, these rights may evolve into an epistemic pact between indigenous and nonindigenous society groups as a way of defending territories and re-politicizing socio-environmental debates.
Governmentality through ‘convenient communities’ and epistemic struggles

Grassroots struggles and indigenous demands in Ecuador resulted in the 2008 Constitution’s inclusion of fundamental principles of pluri-nationality, sumak kawsay (good living), the Rights of Nature, and access to water as a human right. All raised political expectations. However, over time, hope has turned into frustration. The concerns of indigenous organizations remained on the sidelines of the national political arena and – worse still – the state began using the new constitutional guarantees to undermine existing indigenous rights. By subtly reformulating indigenous demands and language, the state aims to align these with governmental rationality – ‘governmentality’ or the drive to conduct people’s conduct (cf. Foucault 1991 [1978]).

This is part of the broader governmental ‘Citizen’s Revolution’ project, which includes far-reaching reforms to the legal–institutional framework, and the promise of building a new nation through the state’s central role in national development (Larrea 2009). Its ideology and political project actively contributes to suppress attention to local and indigenous rights by promoting a push for modernization and emphasizing an inclusive discourse while also strengthening disciplinary mechanisms (Radcliffe 2012; Hoogesteger et al. 2016).

Luis Macas, a national indigenous leader, refers to the struggles between Ecuadorian indigenous movements and the state as an ‘epistemic and political struggle’ (quoted in Escobar 2006 2010:5). From a political ecology standpoint, these clashes of knowledge bodies express political efforts to impose or resist dominant power plays that seek to appropriate nature, materially and culturally (Forsyth 2003, Leff 2012, Rodriguez de Francisco & Boelens 2015). In Ecuador’s Amazon region, where most megaprojects are being built (mining, petroleum and hydroelectricity), the government is striving to reinforce its presence through public institutions that interact with indigenous and grassroots organizations and with local governments. The government has discredited Amazonian leaders opposed to these megaprojects in their territories (AI 2012), as ‘nation-backwardizers’, making ‘poverty into folklore’ and ‘interfering with works that will bring their people a good life (sumak kawsay)’ (Correa 2015, 2016). Through ‘fictitious simplifications’ (Scott 1998:24, 347) about the regime’s role, the general benefits of state mega-interventions, discourses about the ‘imagined community’ (Anderson 1983) and discrediting any opposition, the governmentality project sets out to obliterate the inhabitants’ values, meanings, history and identity, for the sake of modernization.

These projects of ‘(re)constructing subjects’ (Foucault 1980) reveal how the regime is attempting to both intensify petroleum extraction in Amazonian territory and to get indigenous families to govern themselves as obedient citizens, aligned with and participating in the state’s overall thrust: a process of ‘governmentality through convenient communities’
(Boelens 2015b. Cf. Li 2011). Policies and discourses deploy subtle forms of inclusive power that push people toward normalization and self-correction: through invoking blame, morality, acquiescence and obedience to create a ‘disciplinary governmentality’ (which in political practice entwines with market-driven and state-coercive forms of power; see Foucault 2008).

The Ecuadorian indigenous movement presents its achievements and challenges by reaffirming its own, history and culturally rooted bodies of knowledge. It often includes nonhuman beings as part of social practices and discourses of political dispute. This ‘unscientific’ knowledge cannot be reduced to merely cultural beliefs since these cultural and epistemological tools mold and give substance to reality (see e.g. Escobar 2006, De la Cadena 2010). Positivistic science and politics view these qualities – as at best – ‘worth preserving, providing they do not ask for the right to define reality’ (De la Cadena 2010:346), implying a robustly defended and strict separation between nature and culture (Latour 1993).

Ecuador’s indigenous movement is by no means monolithic and dynamically affirms its identities and ethnicities through both its vernacular (rooted) worldviews and strategic interactions with globalization. As such their defense of identity and ethnic reality is not passive or based on primordial thinking, but shaped by subjective and objective connections with national and international society at large (see e.g. Roosens 1989, Baud et al. 1996; Eriksen 1996, Comaroff and Comaroff 1992). Ethnicity is both rooted in contextual culture and history and based on the formation of strategic cultural politics for territorial defense. As Nina Pacari, an indigenous movement referent and former minister and Constitutional Court judge, puts it, the struggle for a plurinational state comprises the claim for indigenous political and philosophical thought, where nature is intertwined with territorial and collective rights. Nature is political and is represented cultural-politically. Nature and society are coproduced as ‘socionature(s)’ (Swyngedouw 2011, Boelens 2014).

Recently, the constitutional recognition of the Rights of Nature – which has highlighted the dispute between state and peasant/indigenous movements’ thinking – addresses this knowledge battlefield and simultaneously reinforces the potential to link diverse (indigenous and nonindigenous) territorial struggles that are based on different notions of nature. Therefore, according to Pacari, the enactment of Rights of Nature is the representation of an epistemic pact, where nature is intertwined with territorial and collective rights. Nature is political and is represented cultural-politically. Nature and society are coproduced as ‘socionature(s)’ (Swyngedouw 2011, Boelens 2014).

Our approach to Nature’s Rights rests upon Pacari’s view of these rights, as an epistemic pact: the coalition of indigenous and nonindigenous notions of socio-natures in order to publicly contest the univocal definition of nature fixed by capitalist modernity. As we argue in “The Rights of Nature: ‘tolerable natures’ or epistemic coalitions for resistance?” section, this constitutional enactment
may represent new political possibilities, connecting also social and political struggles in the global North and South. First, however, we move to the Cofán case, exploring how hegemonic state-endorsed epistemology acts through subtle power strategies to depoliticize territorial defense.

**Citizen’s Revolution and extractivism: governmentalizing local coexistence by replicating national policy in miniature**

Traditionally, the Ecuadorian state had delegated its social policy in petroleum extraction areas to the petroleum companies. The agreements, compensations and complaints were handled directly between the petroleum companies and the affected communities. This was the common scenario back in 2007, during the fieldwork visits to Sucumbíos and Orellana, the petroleum producing provinces. In those visits, the Cofán narratives recalled how the arrival of the petroleum companies drastically and violently changed their territories, social organization and culture. Their accounts included stories of animism, where the shaman takes yahé (ayahuasca leaves) and turns into a jaguar to move around his vast territories, or communicated with animals to attract them to more accessible hunting grounds. Contact with oil killed the magical-religious and political authority of the shaman and finished off the local symbolic concept of the coancoan, which views petroleum as the Earth’s blood (interviews 2007; Valdivia 2007, Beristain et al. 2009). Such stories eloquently portray the Cofáns’ relationship with nonhuman beings. They also tell of the often unfathomable and intangible impacts of oil extraction.

Eight years later, in 2015, during a second period of visits to Cofán Dureno community, it was evident that the state-centered political project of the ‘Citizens’ Revolution’ had reconfigured Cofán nationality politics. The government, which came to power in 2007, started an unprecedented compensation program for those communities located in the areas impacted by petroleum extraction. This strongly contrasted with the earlier chronic state absence from the Amazon. The living conditions were similar to those in 2007 but the senses of identity and discourses regarding petroleum had changed. Exemplary is the story of a young Cofán who, in 2007, described how he dreamt of becoming the next shaman. He would follow the path of the shaman who died in events related with the arrival of petroleum industry. Now, he had turned into a leader negotiating over petroleum expansion. Clearly, the organization and horizon of the nationality’s common goals had changed.

‘We Cofáns had a single voice, because we were defending our territory, but it’s not the same now’ (interview April 2015). Pedro, the teacher who in the late 1990s participated in the peaceful closure of the only oil well drilled in their territory, attributes this turning point to ‘Citizen’s Revolution’ policies. This led to overwhelming state presence in Amazon organizations,
in the north and in the south, where vast ancestral territories are threatened by petroleum and large-scale mining activities. Part of this presence is channeled through the public enterprise Ecuador Estratégico, created in 2011 to ‘materialize the national government’s public policy for good living [“buen vivir”]’ in the areas of strategic projects [petroleum, mining, hydro-power] (Ecuador Estratégico 2011). The enterprise plans to construct 200 ‘Millennium Communities’ in the Amazon petroleum zones, as part of its social investment program for redistributing the revenues generated by these projects to the families living in the impacted areas.

These policies materialized in the Cofán Dureno community in 2014, with the construction of a ‘millennium community’ and the signing of an agreement between the Cofán community and the Petroamazonas State Enterprise to expand petroleum infrastructure. Both events have led to unprecedented uncertainty and division among the Cofán. First, because of the unknown effects of these projects on their identity, territory and organization; and second, because of the power that Petroamazonas and Ecuador Estratégico granted the Cofán community leaders who signed the agreements. According to Santiago, a young Cofán leader involved in the national indigenous organization, ‘we all know that the government’s policy is to get oil out of wherever. We, as the Cofán nationality and community, have always held to our decision of “no petroleum activity”. But now this has changed, because of leaders’ interests’ (interview April 2015).

Examining the government’s petroleum extraction and compensation policies as part of a broader governmentality project, next we analyze the millennium communities as both the material and immaterial construction of ‘communities of convenience’ (cf. Boelens 2015b). Then, we explore how disciplinary power penetrates communitarian politics that seek to sculpt these communities, and the implications of these strategies for the Cofán cultural politics.

**Petroleum and millennium communities**

In Cofán Dureno, the millennium community project builds 108 well-equipped homes for all the families in the community, a hyper-modern millennium school, water supply, sewerage and a port. The housing is for families from the five Cofán Dureno centers, whose local schools – traditionally important hubs for community life and cultural–political interaction – will be shut down. The inhabitants will almost certainly have to move to the millennium community at Dureno Central, to avoid traveling a long way on weekdays for their children to attend the school.

In Sucumbíos Province, there are already two such projects in Kichwa communities: Playas del Cuyabeno and Pañacocha. The inhabitants of these new housing projects say they miss their old homes and are bored because they have nothing to do (they are not allowed to cultivate crops or keep
animals) (El Universo 2014). Scott (1998) warned that such strictly functional institutions composed of abstract citizens and communities are ‘sensory deprivation chambers’, where monotony and the controlled environment end up becoming ‘stupifying, when local sources of economic, social and cultural self-expression’ are impoverished (1998:349). The millennium schools included in the new communities are presented as the country’s new model for public education: concentrating children from small, distant rural schools into large, ultra-modern infrastructure built in the nearest cities or in urbanized rural schools. Several indigenous leaders see this as racism, attempts to standardize education, at the expense of bilingual alternative community education (Viteri 2015).

The Millennium Communities embody both a material and immaterial production of ‘communities of convenience’. The territorial redesign and production of subjects exactly fit the government’s own definition of Good Living, which is conditional upon intensifying extractive activities (SENPLADES 2013). Foucauldian government-rationality acts through a subtle and hierarchical power seeking to inform dwellers’ identities and subjectivities. Young leader Santiago explains that indigenous organizations who oppose the government encounter many obstacles when organizing projects, even those not dependent on public funds. Cofán nationality representatives have to attend every public event organized by the government in the region, “to show support and that the Cofán nationality stands by the President of the Republic” (interview April 2015). Control over the Cofán nationality’s community radio station, state-assisted, is another issue, “(…) we have to broadcast all the information sent by the President of the Republic, and speak well about him as a nationality (…). We have to broadcast his Saturday talks, translated into our own language” (Ibid.). Radio broadcasting, in the Cofán language, penetrates deeply into the nation and is another way of standardizing ways of thinking, attitudes and identities. The licenses and frequencies for these stations, granted by an agency of the Ministry of Telecommunications, reinforce state control and self-censorship.

Millennium communities are artificially designed new constituencies, spatially organized according to the state’s rationality. In practice, these new socio-natural structures strip communities of self-representation and cohesion, molding ‘convenient communities’ on a blank canvas, which are easier to govern. Local communities learn to govern themselves in order to accomplish the government’s well-publicized Good Living standards. This public policy, with the so-called strategic sectors as its backbone, appeals to inclusion and plurality – as long as communities adhere to the technical design. The President emphasizes the advanced technology used in oil projects, stating that ‘the matter is technical and not political’ (Correa 2011). Petroleum-extractive interventions are presented as technicalities and experts’ sustainability discourses ultimately render territorial transformations apolitical (Li 2011, Swyngedouw 2011).
Oil spills continue and villages have no access to safe water. However, the leaders’ gratitude toward the government is remarkable because – as Juan, president of the Cofán nationality, states – ‘In 40 years of petroleum exploitation, the Cofán people have received only pollution and death (...) and now the government has the good will to invest in the Amazon region’. Asked whether he believes the pollution and death will continue, he replied: ‘Even more, but the Amazon region is already polluted’. The leader then tells us of his own personal tragedy: ‘My little daughter has a brain tumor and I think that comes from the petroleum pollution’ (interview March 2015). This attitude is common among many inhabitants of this Amazon petroleum region, who have faced such terrible conditions that they cannot imagine any other scenario.

The community President explains the agreement’s benefits: ‘Now we see that these (petroleum) resources provide employment. We always used to say “no” (to oil companies) because we had no idea what it was like to have a job, but now we say “yes”’. This interviewee described himself and the rest of his community as ‘unemployed’, which shows how even marginal employment with the oil enterprise is seen as a victory. This is a major change since not long ago Cofán identity and culture were constructed on relations and practices that were wholly independent of the national job market. Now, their new identity as employees, with their leaders engaging directly with public institutions, are identities that are assigned by the petroleum-interventionist state and market, dynamically embedded in the material-symbolic building of millennium communities as ‘communities of convenience’.

Negotiations between oil companies and the residents of extraction zones in the northern Amazon region date back almost half a century, leading these communities to see their collective territorial rights as constituted in interaction with the state and companies. However, past actions by the Cofán nationality were cohesive and not always economically motivated. As Pedro tells it: ‘In 1998, (...), we conducted an uprising, all together, to defend our territory and our water. At that time, we were not asking for money but to expand our territory’. To varying degrees, the government discourse preaching that petroleum extraction is a condition for overcoming poverty and recovering people’s dignity – as in millennium communities – has permeated many Cofán members’ modes of belonging, populating their expectations, attitudes, discourses and, in sum, their daily lives.

National policy on a community scale

In Dureno community, we can observe elements of national leadership practices and conflicts involving hydrocarbon extraction on a microscale. The government discourse of ‘Petroleum for Good Living’, that subordinates discussions about pollution, rights, transparency and community division to an
economic one, is also replicated in Cofán Dureno politics. In early 2015, President Correa stated: ‘I won’t give even 20 cents to provincial governments that oppose petroleum and mining extraction’ (Ecuador en Vivo 2015). Likewise, after the agreements with Petroamazonas, some Dureno community members feel that local leaders, who receive the enterprise payment and are responsible for distributing them, use money as a reward or punishment mechanism, rather than equitably dividing these funds among families. ‘Those who didn’t agree (to the petroleum project) had to wait till the end to get any funds’, explained Julián, a community leader (interview March 2015).

None of the Cofáns interviewed about the agreement’s implications knew for sure what the expansion of the petroleum platform meant, what they had authorized Petroamazonas to do in their territories, or for how long. The community president says that decisions are made by the community assembly, and that his role is primarily to bring in funds. He proudly declares that it is the first time the Cofán community has received so much money for compensation and indemnities.

The agreement to expand the petroleum platform, signed by the Cofán community with Petroamazonas, has generated both expectation and internal divisions. ‘Since this petroleum activity began, this is the most serious problem the community has experienced. Imagine! To hold a community assembly, we even had to bring the police to prevent clashes’, grieved Pedro (teacher, interview April 2015). The community president prefers not to talk about conflicts, calling them misunderstandings, a sample of what is happening nationwide: ‘This is identical to national politics: good things are being done, but people refuse to understand, they claim everything is going badly’ (Ernesto, President of Cofán Dureno, interview March 2015).

There are indeed many similarities between local and national leaders, their discourses, the way they lead their communities and refer to people who question their policies. Often profoundly rooted in modernist arguments of progress, local leader discourses are almost textually identical to those of public officials and President Correa. For example, Ernesto, Cofán Dureno president, echoes President Correa’s affirmations in several speeches: pollution is not caused mainly by petroleum or mining activities but by local human settlements. He also tries to identify himself as an ecologist who, unlike other ecologists, does have a development vision, and he accentuates man’s mission to subordinate nature (Correa 2011, 2015, 2016). The government’s version of the extractive policies is internalized by dint of repetition, social reinforcement and control, through permanent presence of the public institutions in the communities, and media broadcasts of the official speeches. It also privileges those who adhere to the governmental plans.

Cofán Dureno local politics reflects national disciplinary power, embodied in subjects’ convictions and actions. First, on both levels, leaders focus on the amount and size of projects implemented rather than on involvement of
stakeholders or financial transparency. In the Cofán community, the lack of discussion of the details and implications of agreements with Petroamazonas is offset by the compensation funds that families receive from the enterprise, while those who question these decisions are shut out of the dialogue. As one community member says: ‘(...) we had proposed an internal discussion first, to figure out what might happen in the future. However, this is hard to do, when the president has already persuaded them with money’ (Julián, Cofán community leader, interview March 2015). Second, the presence of funds makes it possible to pressure opponents and reward supporters, as is done nationwide with local governments that oppose or support extractivism. Third, the community’s concern about the details of agreements that the leaders of Dureno are negotiating with Petroamazonas is the equivalent of Ecuadorian society’s concern about the details of loans and trade agreements that Ecuador has signed with other countries, which have committed the country’s natural resources without revealing the details of agreements. Other similarities can be found in the administrative structures and ways of governing and remaining in power.

Whether exerting power more subtly in the northern Amazon, as the case here illustrates, or more explicitly and coercively in the southern Amazon, the normalization and resulting political division threatens regional and national indigenous organizations such as GONOAE and CONAIE. The government has adopted a policy of dealing directly with local indigenous communities rather than with organizations representing them, a form of ‘divide and rule’; several local organizations have become estranged from their regional organization. ‘The government manipulates our local organizations so they no longer participate with GONOAE’ (Santiago, Cofán leader, interview April 2015). Mónica Chuji, an Amazon indigenous politician, says that the national government, of which she briefly was Communication Minister, is ‘replacing organizations with other parallel bodies to lend them legitimacy for actions affecting communities’ (interview April 2015). National policies’ reflection in community politics shows how deeply official programs have penetrated community spaces.

In spite of the governmental disciplinary techniques and efforts, indigenous territorial defense persists. Conflicts between the state and the Cofán community in Dureno are a starting point for exploring the divergent meanings of nature underlying the thinking of the state/petroleum interests versus rural livelihoods and indigenous territorialities. Since 2008, this has flown in the face of the Ecuadorian Constitution’s recognition of nature as a rights-holder.

The Rights of Nature: ‘tolerable natures’ or epistemic coalitions for resistance?

The Rights of Nature is an unprecedented constitutional declaration that, regardless of the legal challenges it faces, has a transcendental potential in its own right. Although the indigenous movement is one of the sectors most
insistent on Nature’s Rights, it was not their proposal during the Ecuadorian constitutional debates. Nina Pacari explains that their decision to back the proposal was seen as an ‘epistemic pact’. Similarly, we explore these rights as an epistemic pact, meaning the outcome of intercultural interactions that open up new possibilities for politically discussion of a myriad of notions of natures, depicting other ways of seeing and living in the world. This epistemic pact among indigenous and nonindigenous sectors, in the public arena, can be a tool for re-politicizing the environmental debate by challenging the dominant mono-cultural, functionalist and extractivist notion of nature, defined by capitalism and science.

The initial skepticism of the indigenous leaders to the enactment of Nature’s Rights had two bases. First, nature in the indigenous world is not an entity or concept separated from their practices and social organization. Pacari explains that translating these dynamics into legal terms is a particular need for western law. It could be even contradictory for humans to give rights to nature ‘normally it is the other way round: In the indigenous world nature gives you rights and, if you don’t behave well, it punishes you’, remarks Esperanza Martínez, advisor to the 2008 Constitutional Assembly (interview April 2015). Second, the indigenous organizations realized that this enactment entailed risks. When these rights were first debated, some indigenous sectors expressed concern that setting norms for a domain that had previously been outside the legal world would grant the state another way of regulating and controlling communities’ most intimate spaces.

Nevertheless, the indigenous movement backed this new constitutional norm as an act of intercultural translation that would become a tool to expand territorial defense, jointly with other sectors of society. Hybrid figures become possible with nature as a rights-holer, manifesting that nature is not a fixed concept but may involve multiple socio-natural historical relationships. Indeed, such relationships challenge the universalistic pretensions of modern policies that view nature and society as separate (Latour 1993) and the practice of valuing natural resources solely in monetary or utilitarian terms (Sullivan 2009, Duarte-Abadía and Boelens 2016).

The Ecuadorian indigenous leaders interviewed shared the conviction that the defense of nature is implicit in their historical struggle, interconnecting nature, territory and genuine political participation (Valladares 2013). Indigenous movement leader Luis Macas argues that the Rights of Nature must remain in the Constitution and have transformative potential, ‘...at least it predisposes people to find out what is going on in the indigenous world, which is no mystery’ (interview March 2015). The different values and meanings assigned to nature relate to different life worlds (Leff 2012) and as such require communication across cultural boundaries.

Assigning different meanings to nature is not exclusively an indigenous issue but is present also among nonindigenous and urban societies in both
the global South and North. A growing number of movements across the
globe resist the reduction of territories or *commons* to natural resources. They
defend the right to live, challenge dualism opposing humans to
nature, and posit nonhumans as interlocutors rather than as passive
resources (Lohman 2012). The debate around Rights of Nature shares a
common ground with resistance movements worldwide, while also con-
necting to political currents that stress nonhuman agency and ‘the political
importance of indeterminacy’ (Ibid:2; see also Latour 1993, 2004, Morton
2007, De la Cadena 2010). The Ecuadorian Constitution is a symptom of
worldwide dwellers’, activists’ and scholars’ claims to ‘mobilize’ nature
(Swyngedouw 2011: 41).

As such, these rights have resulted from political–cultural hybridization. They
contain many elements of nonindigenous society’s perceptions of nature
(including many romanticized constructs). The Rights of Nature are an inter-
mediate language, translated from different scientific disciplines and cultural
ways of viewing nature (see also Prieto 2012). Constitutional Article No. 71,
which establishes the Rights of Nature, has multiple dimensions and compon-
ents originating from the worlds of law, culture and science, and stakeholders
with different cultural and political backgrounds (Martínez 2014). The actors
involved in including these rights in the Constitution were influenced by inter-
national environmental coalitions, but especially by the historical struggles of
indigenous and ecologist movements in the country (Esperanza Martínez, inter-
view April 2015). There are antecedents for this type of rights in some US laws
but it is not a coincidence that Ecuador is the world’s first country to enact
Nature’s Rights in its Constitution. As environmental justice scholar Carlos
Larrea affirms, it follows from the long-standing process of territorial defense
and syncretism with indigenous notions (interview April 2015).

To date, the declaration of Nature’s Rights has had more important effects
internationally than in Ecuador. The very fact that, for the first time, a state has
recognized these rights has generated an international discussion that repre-
sents an epistemological break in traditional legal doctrines. Larrea cites several
international lawsuits that have been influenced by Ecuador’s new law. These
include the lawsuit over the ‘Rights of the Sea’ under the principle of universal
jurisdiction, the proposal to define the crime of ‘ecocide’ in the Rome Statute,
the international Global Alliance of the Rights of Nature Platform which works
for universal recognition of these rights and the United Nations’ attention to
the issue. A process of intercultural inquiry would connect Global South and
North socio-environmental defense experiences and debunk the assumed
shared meanings about nature by capitalist modernity, opening new opportu-
nities for politico-environmental justice struggles (Lohman 2015).

The domestic effect of this legislation can be evaluated from various
angles: as a tool for legal defense, for political pressure and organization-
building, or for education and collective consciousness. First, regarding its
usefulness as a tool for legal defense, up to early 2017, no lawsuits over Nature’s Rights have been won by the communities affected in petroleum-producing provinces. Hardly any indigenous communities have brought lawsuits based on these rights. The first case that inaugurated constitutional jurisprudence was not related to government extractive policies. A number of other lawsuits were started by the main indigenous organizations of the country but were ruled out. For instance, one concerned the unconstitutionality of the Mining Law (2009), another regarding the unconstitutionality of the Mirador mining project in the Amazon (2013), or the lawsuit questioning oil extraction in Yasuní National Park (2014). All these lawsuits contradicted the government’s star projects and pillars of its developmental policies.

Perhaps the legal importance of the recognition of Nature’s Rights lies in the capacity to reformulate dominant relationships in formal law. In this regard, attorney Ramiro Ávila, scholar and activist, highlights the capacity of community experiences to generate jurisprudence as a source of societal law (interview April 2015). He mentions the Inter-American Human Rights Court’s Resolution in the case of Sarayaku versus Ecuador, which stated that the right to property entails recognizing that the community’s identity is linked to land. This argument is not found in existing formal sources of law but is in community statements. However, this legal recognition risks removing autonomous socio-legal systems, previously disregarded by the law, from their context and making them subject to the dominant legal/illegal dichotomies. Moreover, independent of any constitutional guarantee, the global market economic forces will continue ruling against nature as long as society–nature relationships are mediated by capital and technology (see Ávila 2010, Sánchez-Parga 2014). Social action around Nature’s Rights should not be confined to legal practices only but requires connection to other societal domains.

Second, Nature’s Rights as a tool for political pressure entails bringing into public debate the divergent epistemologies and contested meanings of nature to sustain territorial defense. In Ecuador, fundamentally, these rights legitimize the role of any defender of nature, even if they do not belong to the affected community, or when there are no human settlements in the affected zone. This is highly significant for petroleum, where lawsuits have been settled by indemnifying people for polluting their river by giving them a piped water supply, but leaving the river polluted because there were no downstream communities or they did not complain. This makes Nature’s Rights a two-edged tool for political pressure: it could promote recovery of territory in affected zones by legitimizing political actions of those directly affected or external stakeholders; it could also activate guarantees, such as the precautionary principle, in unaffected zones to prevent future pollution. Nature’s intrinsic rights can legitimately be defended, and impacts on
human communities are not the only reason to stop destructive activities. Third, the potential of Nature's Rights for political pressure lies in their role as an educational tool rooted in new narratives. Awakening human fascination in nature has ‘a liberating, and much more mobilizing potential than the traditional recourse of lodging a complaint’ (Martínez, interview April 2015). The challenge is to strengthen this tool and provide bottom-up feedback from inhabitants affected by territorial encroachment.

Rafael Correa’s government (which enacted the 2008 Constitution) is ambivalent about the Rights of Nature and shows contradictions between its environmental discourse and actual policy implementation. In 2009, it used Pachamama (Mother Earth) and the Rights of Nature to defend the law enabling large-scale mining – which supposedly brought in revenues needed for nature conservation (Correa 2009). It also announced extraction within the Yasuní National Park to be in the national interest declaring that ‘the greatest error is to subordinate Human Rights to these supposed Rights of Nature’ (Presidencia de la República 2013). However, 2 years later, in a speech welcoming the Pope, the President stressed that the Ecuadorian Constitution is the first in human history to enshrine Nature’s Rights. In day-to-day affairs, the government attempts to dilute these rights with policy content that matches governmental objectives, since these rights are viewed as a possible source of conflict. On the other hand, these rights are highlighted to the outside world to show environmental concern. Public institutions are determined to depoliticize the political contents of these rights. For example, the Ministry of Environment’s documents mention Nature’s Rights only occasionally in relation to the management of endangered species, but not in connection with strategic projects such as mining and petroleum expansion.

These rights run the risk of being assimilated and institutionalized as a legal figure conforming to state-centrist and/or neoliberal rules and forces. The latter proliferates territorial rights and nature’s intrinsic values and preaches plurality, as long as these conform to the dominant political-economic logic of capitalism. The political battlefield around Nature’s Rights, therefore, is not confined to extractivism-affected territories but involves ontological and epistemological struggles against the dangers of states, scientists and neoliberal experts establishing ‘tolerable natures’. The potential of the Rights of Nature rests on its political radicalism, on the capacity of deploying these rights as political interruptions that defy the depoliticized pillars of capitalist modernity and extractivism: the strict separation between nature and culture and the dominion of the former.

In sum, there are legal and political challenges to employing the concept of Nature’s Rights to address the real causes of environmental devastation. It envisions a rights perspective that embodies a plurality of meanings and perceptions of ‘natures’ from society as a whole, not just from indigenous communities, thereby expanding the spectrum of alliances, resistance and
possibilities for mutually understanding between different ways of being in the world. Rights of Nature is a first step to continue weaving strategies.

Conclusions

In Ecuador, during the decade 2007–2016, the government of the ‘Citizen’s Revolution’ has implanted a political project in the Amazon petroleum region to govern and get communities to self-govern according to the government’s strategic objectives, while facilitating the spread of petroleum extraction. Ecuador exhibits the contradictions of a government committed to extractive industries and one of the world’s most environmentally conscious Constitutions. The relationship between indigenous communities and the state evidences the latter’s attempt to reframe the meanings of key constitutional guarantees, such as ‘good living’, pluri-nationality and Rights of Nature, in traditional economic–materialistic terms. Indigenous communities and the social movements overall defend the political dimension of these guarantees, while government and market agents deploy technical and neoliberalism-flavored simplifications of the same rights.

The proliferation of millennium communities is a clear example of how this political project operates. In the northern Amazon region, these new communities and schools are being built in indigenous zones as compensation for the impact of expanding hydrocarbon projects. This model of semi-urban villages embodies the state-promoted discourses of ‘good living’ and nature, grounded in scientific-technical knowledge and political order. The government’s strategy and hope is that the redesign of Amazon inhabitants’ identities and territories will turn them into disciplined and controllable subjects, amenable to intervention and easy to administer. This governmental project, discursively driven by the desire to improve people’s living conditions, ends up justifying a combination of subtle disciplinary power, directed capitalism and – if necessary – the authoritarian, unrestricted use of violent state power.

Under this political project, the 2008 Constitution’s principles of supporting historical indigenous demands are being used to drive policies and laws that militate against genuine, effective participation by rural-indigenous people in the decisions that affect their territories and rights. Among these principles, the Rights of Nature emerged as a translation of different notions and meanings of nature, drawn from multiple worldviews and epistemic cultures that could be employed to defend territories. But in practice, the government has set out to obscure the diversity of perspectives toward territory, by neutralizing and depoliticizing inconvenient representations, and labeling several democratic, inter-cultural and environmental justice aspects as being examples of where the Constitution ‘went too far’ (Ospina-Peralta 2008). The government attempts to reduce the impacts of mega projects to technical issues, appealing to the discourse of sustainability and fight against poverty. It disregards that social–environmental conflicts are inherent to the capitalist economy, leans on supposedly universal
interests of citizenship and seeks to discipline deviant socio-natures by establishing ‘tolerable natures’ and state-endorsed legitimate identities.

Even so, the Rights of Nature offer a new dimension to the environmental issue. Their potential as a tool for resistance lies in their capacity to build an epistemic coalition and agreement between indigenous and nonindigenous society that can increase the possibilities of defending, and demanding the protection of, inhabited and uninhabited territories. They make it possible for indigenous and nonindigenous organizations to mobilize historically and culturally rooted vernacular and consciously designed political-strategic views of socio-natures. Framed in the contemporary social, economic and political situation, this constitutional recognition has the potential to reveal that the interaction with different ‘natures’ is not an exotic, indigenist construct but stems from human/nonhuman relations, in both the global South and the global North.

The case discussed here clearly contrasts different epistemological domains. One is the ‘govern-mental’ body of knowledge and truth, bent on transforming and controlling nature and people, and the other is the pact deployed by the popular, activist and indigenous movements resisting territorial claims defined by a universalizing rationality. The direction that these disputes and epistemic pacts will take will depend on the relationship of forces among the different actors and the strategies and alliances they build. Meanwhile, the high profile enshrinement of the Rights of Nature in the Ecuadorian Constitution opens the field for re-politicizing environmental debate, by exploring the plurality of political practices connected with territorial defense actions, and thus has a relevance that extends beyond Latin America.

Notes

2. Indigenous Cofán Organization Ecuador.
3. Dureno Central, Uperito, Bavoroé, Pisurié Canque and Totoa Nainqui.
4. Government of the Native Nations of the Ecuadorian Amazon Region.
5. Article 71 – Nature or Pacha Mama, where life is reproduced and realized, is entitled to respect for its existence, and for the maintenance and regeneration of its life cycles, structure, functions and evolutionary processes. Any person, community, people or nationality may demand that the public authorities enforce and respect the Rights of Nature. The application and interpretation of these rights will observe the principles established in the Constitution. The state will encourage individuals and corporate bodies and collectives to protect nature, and will promote respect for all elements comprising an ecosystem.
Disclosure statement

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