

[Ecuador's Constitution Gives Rights to Nature](#)

by [Cyril Mychalejko](#)

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Jaguars, spectacled bears, brown-headed spider monkeys, and plate-billed mountain toucans may all just breathe a little easier next week if Ecuadorians approve a new constitution in a referendum on Sunday that would grant these threatened animals' habitats with inalienable rights.

The new constitution gives nature the "right to exist, persist, maintain and regenerate its vital cycles, structure, functions and its processes in evolution" and mandates that the government take "precaution and restriction measures in all the activities that can lead to the extinction of species, the destruction of the ecosystems or the permanent alteration of the natural cycles."

"I think a lot of eyes will be on Ecuador this weekend" said Mari Margil, Associate Director of the [Community Environmental Legal Defense Fund](#).

Margil and other members of the Defense Fund were invited as a result of their environmental litigation and legislative work with municipalities in the United States. They made several trips to Montecristi over the last year where they worked with members of Ecuador's constitutional assembly on drafting legally enforceable [Rights of Nature](#), which Margil believes marks a watershed in the trajectory of environmental law.

Dr. Mario Melo, a lawyer specializing in Environmental Law and Human Rights and an advisor to [Fundación Pachamama-Ecuador](#), said that the new constitution redefines people's relationship with nature by asserting that nature is not just an object to be appropriated and exploited by people, but is rather a rights-bearing entity that should be treated with parity under the law.

"In this sense, the new constitution reflects the traditions of indigenous peoples living in Ecuador, who see nature as a mother and call her by a proper name, Pachamama," said Melo.

Challenging Corporate Power

Ecuador's leadership on this issue just may have a global domino effect as the Defense Fund is now fielding calls from other countries such as Nepal, which is currently writing its first constitution. This could begin to make neoliberal development models obsolete and have a tremendous impact on multinational corporations, especially those in the extractive industries, from entering new markets and conducting "business as usual".

"I expect them to fight it," said the Defense Fund's Margil. "Their bread and butter is being able to treat countries and ecosystems like cheap hotels. Multinational corporations are dependent on ravaging the planet in order to increase their bottom line."

The class-action lawsuit in Ecuador against **Chevron** is a testament to Margil's forecast. Tens of thousands of Ecuadorians accuse the California-based company of dumping millions of gallons of **toxic waste into the Amazon** (when it was formerly Texaco), and as a result causing massive **environmental destruction** and **widespread health problems**. Chevron, which could be forced to pay as much as **\$16 billion** \$16 billion, refuses to take responsibility and calls the action a "shakedown".

"The ultimate issue here is Ecuador has mistreated a U.S. company," a Chevron lobbyist who asked not to be identified told **Newsweek** in July. "We can't let little countries screw around with big companies like this-companies that have made big investments around the world."

Chevron is lobbying Congress to squeeze Ecuador on the issue by threatening to withhold the renewal of the Andean Trade Preference Act. Chevron took similar measures in 2006 by lobbying for the exclusion of Ecuador from Andean Free Trade Agreement negotiations as retribution for the lawsuit--something Democratic Presidential nominee Senator Barack Obama (D-Ill) and Senator Patrick Leahy (D-VT) **criticized** at the time in a **letter** to then U.S. Trade Representative Rob Portman.

Jorge Daniel Taillant, President of the Center for Human Rights and Environment (in Argentina), recently **wrote** that, "The crude reality of the Chevron lobbyist comment, brings home what few politicians or oil industry representatives want to admit, that our societies have been unsuccessful in properly balancing our need for oil and containing the negative impacts that this industry has on our natural and social environment."

It is this lack of success, as vindicated by the symptoms of global warming, and which are becoming all too apparent, that for Margil emphasize the urgent need to try something different, like what's being proposed in Ecuador. But even this might not be far enough.

Populist Greenwashing?

For all of the hope and tangible progress the Rights of Nature articles in Ecuador's proposed constitution represent, there are shortcomings and contradictions with the laws and the political reality on the ground.

Carlos Zorrilla, executive director of **Defensa y Conservación Ecológica de Intag**, who has been a tireless defender of Pachamama against **transnational mining companies** such as Canada's **Ascendant Copper** (which recently changed its name to Copper Mesa Mining Corp.), takes a more skeptical approach to the proposed laws.

"It sounds great," said Zorrilla, "but in practice governments like [President] Correa's will argue that funding his political project, which will bring 'well being and relieve poverty', overrules the rights of nature because the best technology will be used and mining and other extractive industries will be, of course, sustainable."

The articles place the responsibility of carrying out these laws largely to the government, though it does give citizens and communities legal recourse if its determined that the government is failing in its responsibilities.

"It comes down to the government doing what is the will of the people," said an optimistic Margil.

But Zorrilla, along with many other critics **from social movements**, point to Correa's refusal to include in the constitution a clause mandating free, prior and informed consent by communities for any development project that would of affect their local ecosystems, as well as the Correa Administration's **embrace** of an extractive economic model of development, although one with greater State control.

"They aren't issues you can reconcile," said environmental lawyer Melo. "On various occasions, President Correa has stated his will to amplify border-region projects for the extraction of natural resources, especially petroleum and metals, and this can only be done in Ecuador at the cost of natural resources important for their biodiversity, since they are the source of rivers and the homes of local communities. The Constitution Project, on the contrary, promotes a development model oriented towards 'good living' ('buen vivir'), which means living in harmony with nature and strengthening environmental rights for this end. This contradiction, between Correa's statements and 'buen vivir', will probably provoke an **intensification** of socio-environmental **conflicts** in the coming years."

Despite any shortcomings, the eyes of the world should stay on Ecuador beyond this weekend's vote when the constitution will most likely pass. If **history** is any indicator, Ecuadorians will **fight** for the Rights of Nature, with or without President Correa.

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