

A new law of nature

Ecuador next week votes on giving legal rights to rivers, forests and air. Is this the end of damaging development? The world is watching

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The South American republic of Ecuador will next week consider what many countries in the world would say is unthinkable. People will be asked to vote on Sunday on a new constitution that would give Ecuador's tropical forests, islands, rivers and air similar legal rights to those normally granted to humans. If they vote yes - and polls show that 56% are for and only 23% are against - then an already approved bill of rights for nature will be introduced, and new laws will change the legal status of nature from being simply property to being a right-bearing entity.

The proposed bill states: "Natural communities and ecosystems possess the unalienable right to exist, flourish and evolve within Ecuador. Those rights shall be self-executing, and it shall be the duty and right of all Ecuadorian governments, communities, and individuals to enforce those rights."

Thomas Linzey, a US lawyer who has helped to develop the new legal framework for nature, says: "The dominant form of environmental protection in industrialised countries is based on the regulatory system. Governments permit and legalise the discharge of certain amounts of toxics into the environment. As a form of environmental protection, it's not working.

"In the same way, compensation is measured in terms of that injury to a person or people. Under the new system, it will be measured according to damage to the ecosystem. The new system is, in essence, an attempt to codify sustainable development. The new laws would grant people the right to sue on behalf of an ecosystem, even if not actually injured themselves."

Until now, all legal frameworks have been anthropocentric, or people-based. To file an environmental lawsuit requires a person to provide evidence of personal injury. This can be extremely difficult. To provide a conclusive link, say, between a cancer and polluted drinking water is, legally speaking, virtually impossible.

The origins of this apparent legal tidal shift lie in Ecuador's growing disillusionment with foreign multinationals. The country, which contains every South American ecosystem within its borders, which include the Galapagos Islands, has had disastrous collisions with multi-national

companies. Many, from banana companies to natural gas extractors, have exploited its natural resources and left little but pollution and poverty in their wake.

Now it is in the grip of a bitter lawsuit against US oil giant Chevron, formerly Texaco, over its alleged dumping of billions of gallons of crude oil and toxic waste waters into the Amazonian jungle over two decades.

It is described as the Amazonian Chernobyl, and 30,000 local people claim that up to 18m tonnes of oil was dumped into unlined pits over two decades, in defiance of international guidelines, and contaminating groundwater over an area of some 1,700 hectares (4,200 acres) and leading to a plethora of serious health problems for anyone living in the area. Chevron has denied the allegations. In April, a court-appointed expert announced in a report that, should Chevron lose, it would have to pay up to \$16bn (£8.9bn) in damages.

Chevron, which claims its responsibilities were absolved in 1992 when it handed over its operations in Ecuador to the state-owned extraction company, Petroecuador, immediately set about discrediting the report. A verdict on the case is still thought to be a long way off, and Ecuador 's government could face US trade sanctions for its refusal to "kill" the case.

Environmental campaigner Zoe Tryon, of the Pachamama Alliance, which has worked closely with Ecuador 's assembly, claims that the proposed new laws will make Ecuador 's constitution "the most progressive in the world", and argues that such laws will prevent this situation from arising again. "It's too late for the Chevron case, but it will be an effective deterrent for similar operations," she says.

The laws would have particular relevance in the Yasuni national park, one of the world's most biodiverse areas and home to at least two "uncontacted" Amazonian tribes. It is also "home" to a possible 1.2bn barrels of untapped crude oil, which companies want to extract.

"The hope is that the new laws will give us unprecedented legal muscle to protect areas like this where there are competing interests," says Linda Siegele, a lawyer for the UK-based Foundation for International Environmental Law and Development.

Linzey admits that Ecuador may be taking a step into the legal unknown. "No one knows what will happen [if the referendum goes in favour of new rights for nature] because there are no examples of how this works in the real world," he says. "A lot of people will be watching what happens."