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Social Movements and Framing Decisions: Ecuador's Campaign for the Rights of Nature

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Social Movements and Framing Decisions: Ecuador's Campaign for the Rights of Nature

María Fernanda Enríquez Szentkirályi, PhD

University of Connecticut, 2014

This study investigates why and how social movements frame their campaigns in the ways they do. It explores Ecuador's environmental movement, which framed its campaign in terms of the rights of nature. This framing decision is intriguing considering the ideological divisions within the movement, the absence of debate over the plausibility of the frame, and the multiple understandings of the meaning and implications of the rights of nature frame. Surprisingly the framing decision proposed by intellectuals within the movement was endorsed by participants without much clash and disputes.

Challenging current explanations of how framing decisions are made, this study complicates the conventional claim that "alignment" (of ideas and interests) between the authors of a frame and movement participants is a necessary condition for any framing decision. The concept of "alignment" is problematic because it assumes that social movement participants understand a frame as proposed by the intellectuals who author the frame, when in reality the possible meanings, intentions, and implications of a frame are commonly interpreted differently by diverse audiences. Additionally, social movements are often fractured, with different groups having different motivations and, thus, promoting their own specific interests, which makes it unlikely that all factions within a movement align with a frame as articulated by intellectuals.

Contrary to what negotiation scholars have propounded, this study also finds that clashes and disputes are not always inherent to the process of frame decision-making. As the Ecuadorian case bears out, there is an alternative explanation for how framing decisions are made, which I term “agreement without alignment.” Given the various actors involved, their unique motivations and interests, and invariable differences in the understanding of a frame, I argue that groups within a social movement need only agree or tacitly agree with a framing option when (a) the frame does not contradict their interests, (b) the groups are constrained by a common identity, and (c) the political opportunity is volatile. I differentiate between agreement and *tacit* agreement because sometimes movement participants may disagree with the frame but yet they do not attempt to block it, implying that they are tacitly or passively agreeing with the frame.

Social Movements and Framing Decisions: Ecuador's Campaign for the Rights of Nature

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M.A., University of Connecticut, 2006

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Doctor of Philosophy Dissertation

Social Movements and Framing Decisions: Ecuador's Campaign for the Rights of Nature

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Table of Contents

Chapter 1: Social Movements and Framing Decisions

Chapter 2: The Argument

Chapter 3: What do Rights of Nature Mean? Discourses Employed in the Frame Construction

Chapter 4: Heterogeneity of the Ecuadorian Environmental Movement

Chapter 5: Constructing and Endorsing the Rights-of-nature frame

Chapter 6: After the Constitutional Reform

Chapter 7: Conclusions

Chapter 1

Social Movements and Framing Decisions

Political Process scholars argue that social movements develop and mobilize sustained collective action when the political opportunity for social change is ripe, when the organizational and financial means are available, and also when movements frame the issues and their objectives in such a way as to motivate widespread support and participation (McAdam, McCarthy, and Zald 1996; Tarrow 1998; Tilly and Tarrow 2007). This dissertation focuses on the framing aspect of Political Process Theory, and investigates why and how social movements frame their campaigns in the ways they do, a question that social movement scholars acknowledge has received little attention despite the sophistication achieved in the framing literature (Polleta and Kai Ho 2006, 188).

To begin to answer this question, I employ the case study of Ecuador's unique environmental movement, which recently succeeded in its effort to compel the state to implement more stringent environmental standards and, thus, helped to make Ecuador the first country in the world to constitutionally recognize the rights of nature, and our correlative obligation to protect the natural world for its own sake. There is evidence that during the late 1980s and 1990s, Ecuadorian intellectuals concerned with environmental issues started to develop ideas about granting rights to nature. Yet, only in late 2007 did intellectuals within the Ecuadorian environmental movement launch a campaign championing for the rights of nature. Motivated by various eco-centric approaches of environmental ethics and law, indigenous philosophies that advocate for a harmonious relationship with nature, and symbolic cases of grassroots efforts of local communities to resist the extraction of natural resources from their

lands, this campaign for the rights of nature was developed in the midst of a particular political climate and also in response to a strategic political opportunity.

A Constituent Assembly had been convened in Ecuador in late 2007 to draft a new constitution. Environmental movement intellectuals sought to garner the support of movement participants and indigenous peoples, and lobby delegates at the Assembly to add rights-of-nature language to the Constitution. They were successful in their efforts. The rights-of-nature discourse became pervasive within the environmental movement. Moreover, indigenous peoples supported the frame, and constitution-makers approved the inclusion of the rights-of-nature language in the 2008 Constitution. One of the most relevant articles reads:

Nature, or Pacha Mama¹, where life is reproduced and occurs, has the right to integral respect for its existence and for the maintenance and regeneration of its life cycles, structure, functions, and evolutionary processes.

All persons, communities, peoples and nations can call upon public authorities to enforce the rights of nature. To enforce and interpret these rights, the principles set forth in the Constitution shall be observed, as appropriate

Constitución Ecuador 2008, Article 71 (Translation Georgetown University)

The decision of the Ecuadorian environmental movement is perplexing, as no other environmental movement in the world has embarked on a campaign that takes seriously the rights of nature. These rights not only challenge the conventional, human-centered approach to environmental legislation, but also contest the conventional capitalist model of economic development, which presumes the exploitation of natural resources.² Yet, it is even more intriguing that participants within Ecuador's fragmented social movement were able to agree on

¹ "Pacha Mama" is a Kichwa word (dialect of an important group of indigenous peoples in Ecuador), which means "nature."

² The deep-ecology movement, it may be noted, whose ideological or normative commitments are similar to those of the rights-of-nature frame, has largely been dismissed in developed countries as untenable because it, too, contests human-centered environmental legislation and conventional principles of economic development.

the rights-of-nature frame and to obtain the support of indigenous peoples and Constitution-makers. I devote the fourth chapter of this dissertation to explaining the historical development of the Ecuadorian environmental movement, but for now suffice it to say that one of the most important sources of division within the movement is its environmental political ideology.

Some movement participants are *ecologists*, and for them the causes of the devastation of nature lie in the contemporary capitalist socio-economic order. It, therefore, needs to be restructured to guarantee the sustained health of natural ecosystems (Martínez-Alier 2002, 1-15; Varea et al 1997). Ecologists are not a homogeneous group, however, as there are groups of affluent and poor ecologists. The affluent and intellectual ecologists are more prone to defend post-material values, such as the rights of nature. Groups of poor ecologists, by contrast, view the conservation of nature as an issue of human survival. They have a practical and material interest in the health of ecosystems. Yet their main concern is not the rights of other species but environmental justice for human beings (Martínez-Alier 2002, 11). In addition to this division, another current within the movement is *environmentalism*. Environmentalists believe that sustainable development guarantees an equitable use of natural resources for current and future generations. In contrast to ecologists, environmentalists do not challenge contemporary socio-economic principles. Instead, they believe in market mechanisms (such as financial incentives for industries to reduce emissions, waste generation, and so forth) as effective ways to protect nature. Therefore, it is perplexing how environmentalists and ecologists within the movement, who subscribe to different environmental political ideologies, agreed to the rights-of-nature frame.

A further puzzle of this study is that intellectuals within the environmental movement employed different discourses in the construction of the frame: an economic discourse that

emphasizes the incompatibility of the rights-of-nature frame with the conventional neoliberal model of economic development, and more broadly with capitalism; an ethical discourse that argues for the appropriateness of granting rights and the category of a subject to the natural world; and a legal discourse that underlines the incongruence of current environmental laws with the rights-of-nature frame. Consequently, environmental movement participants had different readings of the rights-of-nature frame and of what it could accomplish. Further, the frame construction and the endorsement of this language were swift. It occurred in the midst of the Constitutional reform period, which did not afford time for lengthy debates about the meanings and implications of granting rights to nature.

Specifically, then, this dissertation seeks to determine why movement intellectuals decided to frame their demands in terms of the rights of nature and why participants agreed on the rights-of-nature frame, despite the ideological differences within the movement, and despite the fact that there was neither a single understanding nor extensive debate about the meanings and implications of that frame. More precisely, then, this dissertation explores the discrete decision-making processes that led to, and the underlying rationale for supporting, the adoption of the rights-of-nature frame among two different groups within the environmental movement: intellectual leaders and general participants. Understanding the motivations of both groups is important because during the construction stage movement intellectuals developed specific language that later had to be adopted (or rejected) by movement participants. Thus, both are equally important actors in framing analysis. Intellectuals have the skills and education to articulate a frame, but the participants or activists are the ones that, ultimately, endorse or reject a frame.

As will be developed in this chapter, current models within social movement literature (related to both the framing and the negotiation approaches) do not explain the framing decision of the Ecuadorian environmental movement. The framing model of decision-making assumes “alignment” (of ideas and interests) between the authors of a frame and movement participants as a necessary condition to mobilize participation. The concept of “alignment” is problematic because it assumes that social movement participants understand a frame as proposed by the intellectuals who author the frame, when in reality the possible meanings, intentions, and implications of a frame are commonly interpreted differently by diverse audiences. Additionally, social movements are often fractured, with different groups having different motivations and, thus, promoting their own specific interests, which makes it unlikely that all factions within a movement align with a frame as articulated by intellectuals. Contrary to what negotiation scholars have propounded, this study also finds that clashes and disputes are not always inherent to the process of frame decision-making. As the Ecuadorian case bears out, there is an alternative explanation for how framing decisions are made, which I term “agreement without alignment.” Given the various actors involved, their unique motivations and interests, and invariable differences in the understanding of a frame, I argue that groups within a social movement need only agree or tacitly agree with a framing option when (a) the political opportunity is volatile, (b) the frame does not contradict their interests, and (c) the groups are constrained by a common identity.

This is true for the Ecuadorian environmental movement. The unique and volatile nature of the political opportunity helps to explain the decision of environmental intellectuals to frame the campaign in terms of the rights of nature. When the political opportunity is unique and volatile, social movement intellectuals are more prone to take the risk of constructing radical

frames, such as is the case with the rights of nature. The political opportunity, however, only explains the favorable political context, which allowed intellectuals to push for substantive environmental reform. Why, then, did those intellectuals champion the rights of nature over alternative types of environmental frames? I contend that environmental movement intellectuals instrumentally used the rights-of-nature frame to contest something bigger: capitalism and the prevalent anthropocentric environmental law framework. Their ideas were (and still are) radical, and they needed the right political context to propose this frame. Under a different political context, the rights-of-nature frame never would have passed and intellectuals would not have proposed it either. I argue that the political opportunity was also a determinant factor influencing the decision of general participants within the Ecuadorian environmental movement to endorse the rights-of-nature frame. However, while necessary, the political opportunity is not a sufficient condition.

To explain why general activists within the environmental movement endorsed the rights-of-nature frame, I disaggregate the behavior of movement participants because I claim that people acted for different reasons. A first group of participants within the movement found out that the frame did not overtly contradict their diverse interests and particular aims. Believing that the frame did not contradict their interests, this group of participants accepted the frame. But there was no alignment with the bio-centric value that movement intellectuals proposed. Intellectuals argued that nature is intrinsically important, independently of the benefits that it provides to human beings. This first group of movement participants might have agreed that nature has intrinsic importance, but they were more concerned with the rights of human beings who were harmed when ecosystems deteriorate. Then, this first group wanted to protect nature for instrumental reasons related to their own well-being. This is an anthropocentric position that

differs with the bio-centric position of movement intellectuals. A second and small group of activists disagreed with the rights-of-nature frame. Despite disagreement this group remained silent and did not try to block the frame. Ways of blocking the frame, for example, would have been the launching of a counter-campaign or using the press to promote their disagreement (Hertel 2006, 7). Their silence can be considered a way of tacitly agreeing with the frame. I contend that although they disagreed, this second group did not try to block the frame because they were constrained by their environmental identity. And, indeed, regardless of their ideological differences, movement participants share a common and salient identity as environmental advocates, such that to reject the rights-of-nature frame would have constituted a flagrant betrayal of the environmental community's effort to champion substantive environmental reform.

In sum, both groups – environmental movement intellectuals and movement participants – are simultaneously rational and ideological actors. These are not mutually exclusive categories; human beings can still make decisions based on thorough calculations of costs and benefits. At the same time they can make ideological decisions because they believe that is the right thing to do. In the Ecuadorian case study, movement intellectuals made the rational decision to propose a radical frame, such as the rights of nature, given that the political opportunity was unique and volatile. And as I explain above, movement intellectuals opted for the rights-of-nature frame because they are instrumentally using this frame to challenge something bigger: capitalism and the current environmental law framework. But intellectuals also believe that nature should have rights because of its intrinsic importance, which is an ideological position. Likewise, movement participants endorse the frame because it does not contradict their interests, which is a rational calculated decision. They are less ideological than movement intellectuals in the sense that they

might believe that nature has intrinsic importance. However, their main concern is to protect nature because they need natural resources for their own survival. Additionally, movement participants did not reject the frame because they are constrained by their environmental identity, which is also rational. They do not want to take the risk of being blamed as traitors by the environmental community.

With this understanding of the general trajectory of this project, the following section clarifies some key concepts pertaining to social movement frames and the framing process, which guide this study. The second section reviews current scholarly debates about the framing decision-making process and explains how the argument of this study departs from and contributes to those explanations. Lastly, the fourth section explains the methodology, and I conclude with an overview of the coming chapters.

I. Key Concepts: Frames and Framing

In the 1960s and 1970s, the grievance approach to the study of social movements was challenged by American scholars who argued that grievances produced by structural changes, cannot explain alone the rise of social movements. The availability of opportunities and resources – material and organizational – were more important (Zirakzadeh 2008, 528). While this approach, known as Resource Mobilization Theory, was becoming dominant in the United States, critics appeared during the 1980s. In Europe, new social movement scholars considered social movements' rise in industrialized countries as a response to new grievances (such as environmental deterioration, political refugees, political prisoners, and so forth) (Klandermans and Tarrow 1988, 4-7). In Latin America and Europe, as a reaction to the exclusion of culture in Resource Mobilization accounts, scholars began to propose a collective identity theory (Stocker

1995, 111). According to this approach, movement participants mobilize because of the need for recognition of their identities and lifestyles, not necessarily because they are seeking material resources or political recognition (Polleta and Jasper 2001, 286). Other group of scholars, finally, charged that the Resource Mobilization Theory did not consider social psychological processes and that “how people interpreted their grievances was critical to whether they participated [in a social movement or not]” (Polleta and Kai Ho 2006, 188).

Scholars interested in those social psychological processes, such as Snow and his colleagues, introduced the concept of frames and framing in 1986. They borrowed the term “frame” from the work of the sociologist Erving Goffman, for whom frames were “schemata of interpretation” that help people to define social reality (Lemert and Branaman 1997, 155-157). Frames are not the same as the individual “schemata of interpretation” studied by Goffman because frames are debated and negotiated among movement participants. As is observed by Snow and Benford, “[a frame’s] essence resides in social interaction” (2005, 207). And this interactive, or deliberative, process of conceptualizing and constructing the meaning of the frame is known as “framing” (Benford and Snow 2000, 614).

There is not a single definition of the concept of frame in the literature. For some scholars frames constitute the rhetoric, discourse, or the “content of messages” that social movements develop to convey their demands and achieve their goals (Busby 2010, 50, 64). For others, frames are beliefs. The frame communicates the ideology of movement participants, and reveals the meanings that participants give to the particular problem that motivates them to mobilize. For Benford and Snow (2000, 614), for example, frames are “action-oriented sets of beliefs and meanings that inspire and legitimate the activities and campaigns of a social movement organization.” This study combines both definitions. Frames are discourses that interact with

ideology (Westby 2002). Polleta and Kai Ho (2006, 191-192), however, remind us that discourses “have a greater diversity of idea elements, more conflict, and more inconsistencies than frames” while frames are “a delimited ideational package.” Additionally, ideologies are understood as “complex systems of beliefs” meaning that they are more encompassing, while a frame derives from those ideologies.³

The interpretive function of frames (recall that activists interpret their grievances to construct a frame) is not at odds with an instrumental function, for example, when activists employ frames to gain the support of constituents and public authorities or to contest challengers (Polleta and Kai Ho 2006, 190). Additionally, framing is a strategic decision of social movement leaders, because frames not only inspire and mobilize participants. They also constrain and guide movement’s employment of strategies (Capek 2003; Gamson 1992a). For example, movements that promote a non-violent master frame cannot employ violent strategies in pursuing their goals (Polleta and Kai Ho 2006, 190). Further, the way issues are framed can determine the success of a social movement’s campaign (Busby 2010). In fact, a frame that is able to resonate among the target constituency is likely to achieve the desired goals of the social movement, which can range from big policy changes to small issue-specific objectives. Movements, certainly, can simultaneously employ more than one frame. Chong (2010), for instance, notes that poverty issues have been framed in terms of charity, national security, religious obligation, basic needs,

³ The connection between frames and ideology is ambiguous in the framing literature and, further, is an unfinished debate. Some scholars criticized the use of frames as synonymous of ideology. Oliver and Johnston (2005, 186), for example argue that frames and ideologies are not the same thing for “framing points to process and ideology points to context” (193) and “there are ideational processes that are obscured when authors try to make the concept of frame do the work of ideology.” Others, such as Westby (2002) conceptualize framing as strategic discourse intertwined with ideology. Yet, because Westby observes that the connection between frames (as discourse) and ideology have not been well theorized, he proposes six possible types of interaction: when a discourse derives from ideology, when a discourse is suppressed by ideology, when a discourse is remote from ideology, when there is a fusion of ideology and discourse in action, when the discourse goes beyond ideological limits. Each form, Westby argues, has influence in the fate of a movement.

and human rights. Those discourses are not incompatible. However, each one entails specific strategies to achieve its proposed outcome, which differ between alternative frames (23-24).

II. Current Debates: Framing in the Social Movement literature

Payerhin and Zirakzadeh (2006) have identified two models of the framing process: frame analysis and the negotiation approach. They contrast the underlying assumptions of the two approaches. For frame analysts, when movement intellectuals or leaders construct frames that align with the values and beliefs of social movement participants, the latter group will effectively mobilize and redress a particular situation that troubles them. In contrast, for scholars in the negotiation approach, alignment is unlikely because disagreement and contestation prevails between movement leaders and participants, and among movement participants.

II.1. Frame Analysis

Frame analysts argue that movement leaders or entrepreneurs (as Political Process scholars refer to them) construct frames through discourse – various oral and written communications among social movement members with regard to the movement's goals. Two interrelated mechanisms shape the construction of the frame that a social movement ultimately adopts: frame articulation and frame amplification. The former mechanism involves the construction of a frame by building on the past events and experiences that social movement participants have endured (Snow and Byrd 2010, 329). The latter mechanism involves the identification of some events or experiences as more important than others. Then a frame is constructed that emphasizes those particular events or experiences for social movement participants (Benford and Snow 2000, 623).

During the initial phase of frame construction, movement leaders identify a particular social or policy problem, propose a solution, and try to motivate action: tasks that Zald nicely summarizes as “naming wrongs and claiming rights” (1996, 262). To resonate among the target audiences – such as allies, opponents, the media, or policy-makers – a collective action frame must satisfy the aforementioned core tasks, which are known as diagnosis, prognosis, and motivation (Snow and Benford 1988, Benford and Snow 2000). The first task, diagnostic framing, entails identifying a social or policy problem and attributing causality or blame to some agent or institution (Snow and Benford 1988, 200). Once the problem has been diagnosed, prognostic framing refers to proposals for solving the problem, which delineates specific strategies and policy goals. Lastly, motivational framing entails adoption of an appropriate vocabulary that not only lucidly conveys the movement’s objective(s), but also agitates and inspires the participants to engage in collective action (Snow and Benford 1988, 202).

In the next phase of frame construction, movement leaders communicate the frame to the movement participants, who might disagree with the frame entirely or with certain aspects of it. Disputes over the frame between leaders and grassroots activists arise because of disagreements about the diagnosis of the problem and about the solution proposed by movement leaders to alleviate it. Movement opponents, the media, or policy-makers may challenge the frame as well because they disagree with the diagnosis of the problem and the proposed solution of the movement (Benford and Snow 2000, 625-626).

The central problem when contestation occurs is that the frame does not resonate with the target audience, which impedes the ability of proponents of the frame to mobilize participation. In theory, for a frame to resonate successfully, it needs to be compatible with the values and beliefs of the participants. There must be consistency between what the frame promotes and the

tactics to implement it. In addition, the frame must offer relevant solutions to everyday problems of the participants (Noakes and Johnston 2005, 15).

If a frame fails to resonate among a group, it can be the case that the frame was not constructed with that group in mind (Evans 1997). Certainly, movement leaders might have different audiences in mind when they construct a frame. The main target of a frame is not always the movement participants. The frame also be directed toward movement opponents or to policy decision-makers.

The last and most important step in the framing process is the reaching of consensus on the selected frame. Stated differently, there must be an alignment of support among all relevant parties of the movement. According to framing scholars, consensus or alignment is imperative to mobilize participation (Snow et al. 1986, Klandermans 1988). Snow and colleagues (1986, 464) define frame alignment as the “linkage of individual and SMO⁴ interpretive orientations, such that some set of individual interests, values and beliefs and SMO activities, goals, and ideology are congruent and complementary.” Absent “alignment,” which more simply is the congruence between the ideologies of movement leaders and of movement participants, movement leaders would not be able to inspire and motivate their constituency to redress a troubling situation. To reach consensus or alignment, movement leaders can amplify, extend, bridge, or transform the frame, which in the social movement literature, are known as alignment processes.

Frame amplification refers to the “idealization, embellishment, clarification, or invigoration of existing values or beliefs.” This is done so that the frame resonates with its target public (Benford and Snow 2000, 624). Frame extension entails “extending [the frame] beyond its primary interests to include issues and concerns that are presumed to be of importance to

⁴ Social Movement Organization

potential adherents” (625). Frame transformation involves “changing old understandings and meanings and/or generating new ones” so as to mobilize audiences more efficiently (625). Finally, frame bridging entails “the linking of two or more ideologically congruent but structurally unconnected frames regarding a particular issue or problem.” This alignment process occurs either between movement organizations and individuals, or across social movements (624).

Once alignment is achieved, the frame might be copied by other groups in other social movements and become a “master frame” (Snow and Benford 1992; Snow and Benford 1988). The difference between the collective action frame and the master frame is that the former communicates the campaign’s message of a single movement, whereas the master frame performs the same task for multiple movements (Snow and Benford 1992, 138). Snow and colleagues (1986, 477) link the rise of master frames with the cycle of protest of a movement. In the initial stages of the cycle, movement participants can try to create a master frame that will later influence subsequent movements. “The cycle of protest,” a phrase coined by Tarrow (1998) in *Power in Movement*, refers to a “phase of heightened conflict across the social system: with a rapid diffusion of collective action from more mobilized or less mobilized sectors; a rapid pace of innovation in the forms of contentions; the creation of new or transformed collective action frames; a combination of organized and unorganized participation; and sequences of intensified information flow and interaction between challengers and authorities...” (142).

II.2. Negotiation Approach

Scholars in the negotiation approach, in contrast to frame analysts, emphasize the heterogeneous nature of social movements and the complexities of frame creation.⁵ They understand social movements as coalitions of individuals and groups with different values, beliefs, and understandings of social problems (Melucci 1996, 13). Banaszak (1996, 12), for instance, describes the Swiss Woman Suffrage Movement as a “collection of small local bands with weak national ties whose activities differed greatly from canton to canton.” She maintains that this heterogeneity is characteristic of all movements. Therefore, when a movement has leaders (as some movements lack formal organization and leadership),⁶ and when they discuss problems, solutions, and goals of the campaign, they invariably disagree, and often debate extensively. Moreover, even if movement leaders craft a plan of action and present it to movement members, often the participants will question the plan, its strategies and objectives. The result is an ongoing clash among groups within a movement. As such, the negotiation approach contends that social movements’ plans of action are messy compromises, and not the shared or common vision that framing scholars propound. This insight is illustrated in Harvey’s (1998) study of indigenous peasant movements in Chiapas. Harvey reveals and emphasizes the contradictions and ambiguities that arise in the relationship between leaders and base, given traditional Mexican practices of *caudillismo*,⁷ and how such contradictions influence decisions (68).

Certainly, framing scholars do not disregard intra-movement contestation regarding a frame. They acknowledge ideological divisions within social movements. However, as put by

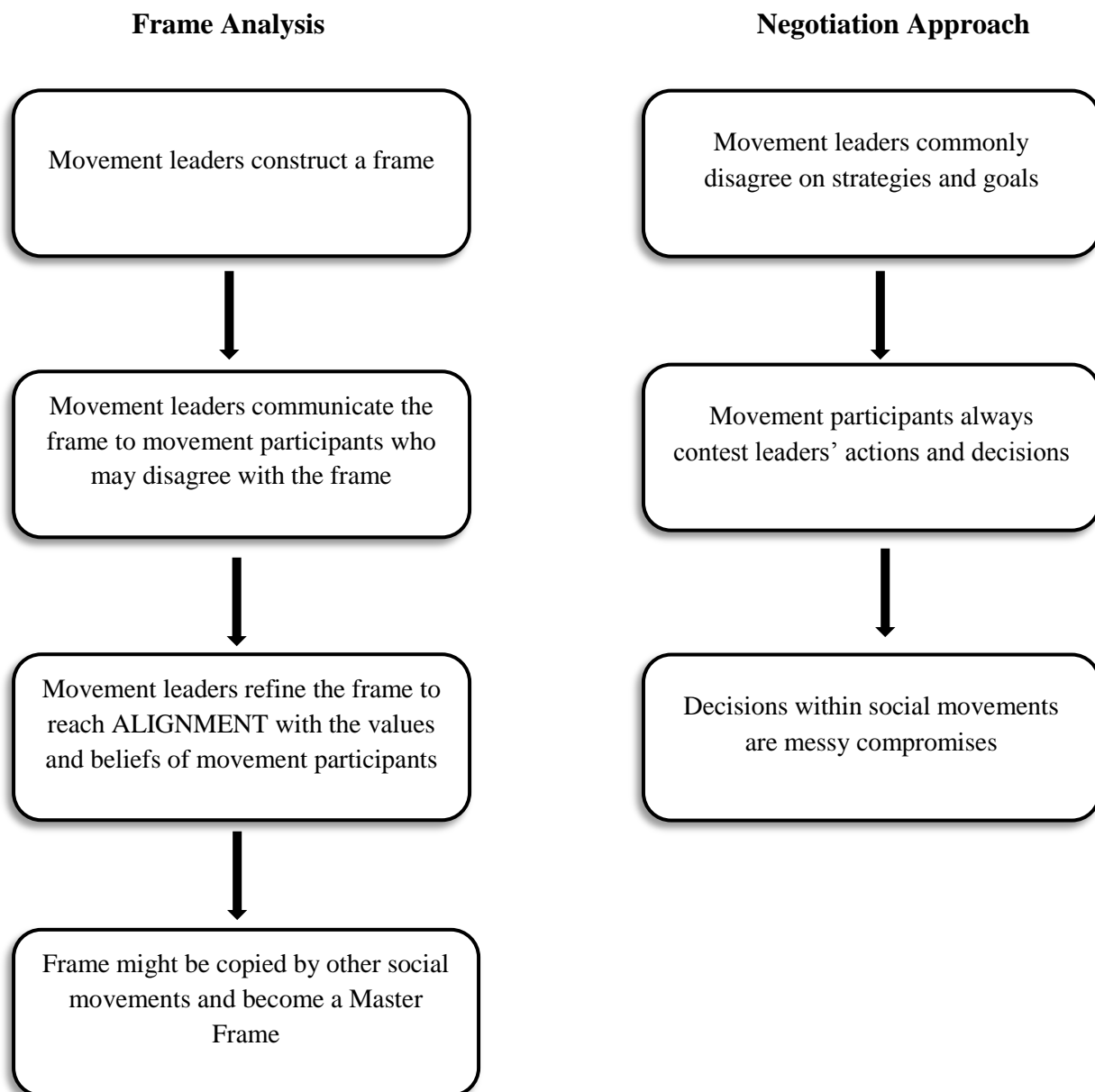
⁵ Contributors to this genre include, among others, Kelley (1994), Brinkley (1983), Banaszak (1996), Harvey (1998), Gitlin (1980), and Melucci (1996).

⁶ As portrayed in Kelley’s (1996) narrative of black workers in the U.S., whose story has been untold because they lacked formal organization.

⁷ *Caudillismo* is a historical phenomenon where a leader or *caudillo* exerts domination in a given territory. The problem with *caudillismo* is the erosion of rules and procedures and destabilization of the political system given that individual interests of the leader prevail and not the well-being of the collectivity.

Payerhin and Zirakzadeh (2006, 95), “the difference between framing theorists and negotiation theorists is one of degree and emphasis.” Eventually, most framing theorists assume that alignment is feasible: that within ideologically-divided social movements, one faction will become dominant and that social movements mobilize after alignment over a frame has been achieved. Figure 1 below compares the decision-making models of both frame analysis and the negotiation approach.

Figure 1: Comparison of the two models of frame decision-making



II.3. Addressing the Strengths and Limitations of Current Debates

Framing analysis and the negotiation approach partially capture the decision-making process followed by the Ecuadorian environmental movement during the construction stage of the rights-of-nature frame. Framing analysis provides insights as to *how* frames, including the rights-of-nature frame, are constructed in their initial phase. The literature reports that movement leaders employ written and oral discourses. In the Ecuadorian case, the “rights-of-nature frame” was constructed by movement intellectuals who drew on diverse discourses about ethics, the economy, and the law. Movement intellectuals emphasized past events, such as environmental disasters left by extractive companies that grassroots communities suffered in order to provide content to the frame. Chapter 3 will develop in detail the different discourses that have contributed to the construction of the frame.

The applicability of both approaches, however, is limited. Neither alignment nor disagreement and contestation correspond with the empirical realities of Ecuador’s environmental movement and with the construction of its novel frame. Furthermore, framing analysis’ fundamental assumption that alignment is imperative to mobilize participation (Snow et al 1986, 464; Klandermans 1988, 180) is problematic for an ideologically-divided movement like Ecuador’s and other social movements. Given the sharp divisions within this movement, it is difficult to believe that movement participants agreed on the diagnosis of the problems and the proposed solutions, and that the proposed frame aligned with the values and beliefs of all actors within the movement. However, the framing process of Ecuador’s environmental movement was not marked by dispute and clashes either. The frame constructed by movement intellectuals, movement participants accepted. Moreover, there is no evidence that movement intellectuals had to amplify, extend, or transform the rights-of-nature frame to reach the agreement of

environmental organizations. While the rights-of-nature frame may not have achieved the *alignment* of values and beliefs of all movement actors, there was still widespread *agreement* over the frame, which is intriguing considering the divisions within the movement and the multiple discourses used in the construction of the frame.

This dissertation, in sum, problematizes the concept of alignment, a central tenet of framing analysis, and suggests that frame analysts assume too quickly identical behavior of the diverse factions within a social movement. Because within ideologically-divided social movements, participants behave in diverse ways according to their different underlying motivations, a “one size fits all model of human behavior is unsatisfactory.”⁸ Some participants, in fact, might *align* with a frame because of coherence with the values and beliefs promoted by movement intellectuals or leaders. Yet, this behavior cannot be generalized to all participants, not at least in the Ecuadorian case study. This study reveals that movement participants can *agree* with a frame when it does not contradict their interests or when the group is constrained by a common identity.

This dissertation also asserts that the assumption of *alignment* is, furthermore, problematic because movement leaders employ several discourses to construct a frame. As framing analysts themselves propose, frames are constructed through the articulation of oral and written discourses. Even if one assumes that the discourses employed in the construction of a frame are complementary and not contradictory, it is clear that social movement participants, ultimately, have multiple understandings of the meanings and implications of a frame. This makes difficult to believe that they align with it.

⁸ I borrow this phrase from my advisor, Peter Kingstone, who accurately made this observation.

Even if frame alignment is not viable in social movements, this study evidences that movement participants can *agree* or *tacitly agree*⁹ with a specific frame created by movement leaders without the clashes, disputes, and cooptation alluded by scholars of the negotiation genre. Agreement and tacit agreement differ from alignment for these alternative explanations do not assume congruence between the values and beliefs of movement leaders and movement participants. *Agreement without alignment* is an alternative explanation that this dissertation reveals and that, in fact, has not yet been emphasized by social movement scholars.

Other scholars have similarly criticized frame analysis. Steinberg (2002), for example, argues that “framing analyses have unduly narrowed our understanding of social movement culture” (208) by “[depicting] framing as a market activity in which frames are pitched to potential adherents or sympathizers through ‘alignment’ processes, demonstrating how a movement frame fits with other discrete ideas target audiences believe” (210). Steinberg (1998, 2002) suggests that framing analysis should completely be “supplanted” by a model based in dialogism and sociocultural psychology. This study departs from those suggestions. It, contrary, builds on concepts from framing analysis and the negotiation approach. Yet, in contrast to framing analysts, it works under the assumption that *agreement without alignment* is possible under particular circumstances: when movement leaders and participants face a volatile and unique political opportunity that compels them to make swift decisions, when a common identity constraints the behavior of participants, and when the frame does not clash with the interests of movement participants.

⁹ When movement participants do not try to interfere with a frame they are tacitly agreeing with it.

III. Methodology

This project draws extensively on primary source interviews. During August and September 2010,¹⁰ and during June and July 2011,¹¹ I conducted 70 semi-structured interviews with open-ended questions, in Ecuador. The interviewees were constitution-makers, public officials, indigenous leaders, members of environmental groups, and academics. The purpose of the interviews was to clarify the rationale behind and decision-making process concerning the rights-of-nature frame. I selected interviewees who played a pivotal role in the decision-making process. In some instances I selected interviewees according to referrals by other people and used the snowball technique (Tansey 2007). The number of interviews and the background of the interviewees are shown in Table 1 below:

Table 1: Number of Interviews Collected Per Group

National Environmental Assembly (ANA)		Other Interviews	
Coordinating Committee for the Defense of the Mangrove Ecosystem (C-CONDEM)	2	Academics (with knowledge of environmental politics).	4
Ecuadorian Coordinating Committee for the Defense of Nature and the Environment (CEDENMA)	22	Bureaucrats	7
Intag Coordinating Committee	3	Constitution-makers or advisors	11
Ecuadorian Agroecology Coordinating Committee (CEA)	4	Leaders of the Indigenous Movement	9
Plurinational Federation of Ecuadorian Communitarian Tourism (FEPTCE)	2	Other (UN Officer and environmentalist)	1
Water Forum	3		
Amazonia Defense Front (FDA)	2		
TOTAL	38	TOTAL	32

¹⁰ IRB Protocol #H10-157

¹¹ IRB Protocol #H11-104

To capture the variation within the movement, I balanced the interviews between organizations that subscribe to ecologism and those that subscribe to environmentalism. *Ecologists* hold a specific anti-establishment ideology, whereas *environmentalists* do not contest the conventional socio-economic order.

All the interviews within the National Environmental Assembly (ANA)¹² were conducted with network representatives. In addition to interviewing network representatives, I interviewed delegates to the Constituent Assembly or their advisors. This helped me understand the political process that led to the inclusion of the rights-of- nature language in the 2008 Constitution. Interviews with bureaucrats helped me understand whether the frame has any impact on environmental conservation in Ecuador. Additionally, I interviewed various academics who also provided information about the history of the Ecuadorian environmental movement and the process of construction and implementation of the rights-of-nature frame; and a UN Officer experienced with Ecuador's environmental movement. Lastly, I interviewed indigenous leaders. I did so for two reasons: First, it is difficult to differentiate between the environmental and indigenous movements at the grassroots level because the participants in the indigenous movement also belong to environmental networks. Thus, it can be tricky to try to establish boundaries at the grassroots level between the indigenous and environmental movements. Second, initial evidence suggested that indigenous people brought the proposals for granting rights to nature to the Constituent Assembly. This proved not to be the case. The frame relies heavily on indigenous philosophies, and indigenous movement representatives supported the frame largely because indigenous peoples and environmental movement intellectuals have a

¹² The National Environmental Assembly (ANA) is an umbrella network that represents various network organizations of the Ecuadorian environmental movement.

history of friendship and collaboration. However, the idea of granting rights to nature was not originally promoted by indigenous peoples.

All my interviewees can be considered elites because they are experts in their respective fields. For that reason I deem it more appropriate to take advantage of their insights through semi-structured interviews, which resemble an in-depth conversation where interviewees have greater opportunity to expand on their ideas, than with closed-ended questions (Aberbach and Rockman 2002, 674; Leech 2002, 663). I covered the following broad themes during the interviews:

- How the idea of the rights of nature arose;
- Why organizations supported or rejected the rights-of-nature frame;
- How the rights-of-nature frame has influenced, if at all, environmental conservation in Ecuador.

To augment these interviews, I conducted archival research and examined the minutes of the National Environmental Assembly, the minutes of the Constituent Assembly, the websites of various pertinent environmental organizations, the website of the Constituent Assembly, diverse media outlets, and the pamphlets published by the movement. I also conducted research at the libraries of *Facultad Latinoamericana de Ciencias Sociales* (FLACSO), and *Universidad Andina* (two regional universities with branches in Quito, Ecuador). They provided access to secondary sources not always available at libraries in the United States. Lastly, during the field research I attended three workshops related to the rights of nature, where I was able to contact people for interviews and simply to observe. The first workshop was held on 6 September 2010 at FLACSO in Quito. The second workshop, titled “*Encuentro Continental de los Pueblos del Abya Yala por el Agua y la Pachamama*,” was held from 21-23 June 2011 in Cuenca. Lastly, the

workshop, titled “Strengthening the Rights of Nature in Ecuador,” was held at Pachamama Foundation from 21-22 July 2011 in Quito.

Through the data collected during the field research, I was able to conduct process-tracing, which is my main methodology. As observed by Tansey (2007), process-tracing methodology relies not only on archival documents and secondary sources, but on data collected through interviews. Process-tracing is the appropriate methodology to disentangle the causal mechanisms within complex social phenomena (George and Bennett 2005, 206-207). It allowed me to trace chronologically how independent variables concatenated and ended up in the construction of the rights-of- nature frame and the subsequent evolution of the frame.

IV. Chapter Overview

Chapter 2 situates the argument of the dissertation within the social movement literature. I present in detail the theoretical bases of each condition that explains the question of the study: political opportunity, identity, and the lack of contradiction between an ambiguous frame and the interests of movement participants. I acknowledge in the last section of Chapter 2, the alternative explanations that could account for the rights-of-nature campaign.

Chapter 3 analyses the meanings of the rights-of-nature frame. The chapter focuses on the discourses that movement intellectuals employed to construct the frame. Movement intellectuals instrumentally employed the frame criticize capitalism and the anthropocentric environmental law framework. Accordingly, they emphasized the historical dependence of the country’s economy on the export of raw materials and how economic growth generated by exports both degraded nature and failed to satisfy the needs for the population in an equitable way. Movement intellectuals believed that advocacy for the rights of nature provided a starting

point for the promotion of a new model of post- development that respects nature. The legal discourse underlined the need to enact an ecological legal framework for the conventional environmental legal framework, in the view of intellectuals, is not enough to protect nature. Finally, the ethical discourse emphasized the argument that favoured the consideration of nature as a subject that deserves rights. The goal of the chapter is to reveal that there was not a single understanding of the meanings and implications of the frame. The chapter also reinforces the puzzle of this study by demonstrating that movement participants agreed with a frame that was understood in different ways, which demonstrates that alignment regarding the rights of nature was highly unlikely among diverse groups within the movement.

Chapter 4 focuses on the actors. Building on concepts from social movement literature, this chapter argues that, in fact, there is an extremely heterogeneous environmental movement in Ecuador. The movement is divided along several lines including political ideology (ecologism and environmentalism), type of sector (environmental non-governmental organizations, social non-governmental organizations, and local grassroots organizations), the constituency of each sector (educated professionals from urban origins, technical staff from urban and rural origins, indigenous peoples and peasants), and the strategies employed (conventional versus unconventional). Note that at the grassroots level, it becomes difficult to establish boundaries between the environmental and indigenous movements. In the chapter, I present a historical narrative of the rising of the Ecuadorian environmental movement in two waves. The first wave began in the late 1970s and continued until 2005. It was characterized by the predominance of urban non-governmental organizations. The second wave started in 2005 with the formation of the National Environmental Assembly (ANA). Rural sectors were incorporated, which has ameliorated issues of representation within the movement but has also accentuated the divisions

within it. This chapter reinforces the puzzle of the dissertation by providing evidence of the heterogeneity of the Ecuadorian environmental movement and the difficulties of alignment regarding the rights-of-nature frame given those divisions.

Chapter 5 develops the argument. It details how the electoral campaign and ascendance to power of the Alianza País political movement in early 2007 represented a unique but short-lived political opportunity for the environmental movement to champion reform – a political opportunity that was over after 2008. This chapter also presents the arguments about identity and ambiguity of a frame that did not stand in contradiction with movement participants' interests as reasons to justify the endorsement of the rights- of-nature frame.

Beyond articulating how and why the rights of nature became the aim of Ecuador's environmental movement, *Chapter 6*, addresses the implementation of the frame after the ratification of Ecuador's new Constitution. This chapter seeks to explain what progress in environmental conservation has been made. The chapter reveals that the process of frame implementation at the domestic level has been slow. However, there have been some notable gains. A judge in the south province of Loja in Ecuador ruled in favour of the rights of the *Vilcabamba* River, and against the local government for contamination of the river. In addition, the rights-of-nature frame has had some international ramifications. At the international level, the efforts of the Ecuadorian environmental movement of constructing and seeking the implementation of the rights of nature have inserted within a broader and emergent global movement for the rights of nature.

Chapter 7 summarizes the empirical findings and the theoretical contributions of the study for social movement literature.

Chapter 2

The Argument

South African environmental lawyer, Cormac Cullinan reminds us that our legal, political, and economic systems are points of reference. “They are like a painting hanging on a wall,” he observes. “Usually we do not see the frame or the wall on which it hangs. Yet they are vital. The frame marks the boundary of our visions and understandings of society.... The limits of our visions and the questions that we consider are defined by the frame that is already there” (Cullinan 2003, 61). Therefore, according to Cullinan, if the idea of granting rights to animals, for example, has been poorly received in the courts around the world, is not necessarily because people are insensitive toward animals, but rather because the legal framework has never incorporated the notion of the rights of animals. What exists outside our conventional legal, political, and economic frameworks is generally quite difficult for us to comprehend because the lenses through which we see the world make us apprehensive about ideas that challenge what we accept as true (Cullinan 2003, 61). Environmental movement intellectuals in Ecuador, thus, proposed to “look outside of the box,”¹³ and to “reframe” the legal approaches to environmental conservation in order to incorporate the rights of nature in the environmental governance system. Additionally, those intellectuals advocated for the replacement of the traditional regime of development, based on extraction of natural resources, with a more sustainable alternative which respects the rights of nature. How did movement intellectuals frame their demands in terms of the rights of nature? And why did movement participants agree with the rights-of-nature frame despite the ideological diversity within the broader environmental movement, and the varied understanding of the frame’s meaning? These are the principal questions that this chapter

¹³ This analogy was used by Cormac Cullinan in a workshop about the rights of nature held on 6 September 2010 at *Facultad Latinoamericana de Ciencias Sociales* (FLACSO) in Quito, Ecuador.

addresses. In its last section this chapter addresses alternative explanations that could account for the emergence of the rights-of- nature campaign.

What is argued below is that environmental movement intellectuals would not have decided to frame their demands in terms of the rights nature in the first place if not for the unique and volatile nature of the political opportunity. Yet, the political opportunity, while a central condition, does not explain why movement intellectuals chose the rights-of-nature frame over other possible environmental frames. I contend that environmental movement intellectuals instrumentally used the rights-of-nature frame to contest neoliberalism and, more broadly, the excessive economic dependence on resource extraction inherent in capitalism (a criticism that has been latent for decades). They also used the frame to advocate for the enactment of an ecological environmental law framework. They grounded their critique of capitalism in evidence of extensive devastation of Ecuador's ecosystems due to the country's economic dependence on export of raw materials: cocoa, banana, and oil (among many others). Intellectuals claimed that income generated by resource extraction has not improved the living conditions of impoverished populations, who inhabit lands rich in biodiversity and who are the ones that face the burden of the extractive activities, for inequalities are prevalent. Intellectuals, therefore, proposed a new model of post-development where *buen vivir* (well-being) is the final goal, and not economic growth. The rights-of-nature frame also gave intellectuals the opportunity to challenge orthodox environmental laws that, according to them, only protect human beings from degradation of the air, water, and soil, which can negatively affect their lives. Yet, environmental laws do not protect nature from harmful human activities for nature's own sake. Laws, so far, take care of nature, within protected areas and ecological reserves, but protection is only limited to those areas. Thus, intellectuals proposed to enact ecological laws that protect nature alongside

environmental laws that protect the environment of human beings. I fully expand on the ideas of Ecuadorian environmental movement intellectuals in Chapter 3.

I claim that the political opportunity influenced as well the decision of participants within the Ecuadorian environmental movement to endorse the rights-of-nature frame. However, while necessary, the political opportunity was not a sufficient condition. Participants acted for diverse reasons: (i) some movement participants worried that the deterioration of natural ecosystems would hurt the rights of human beings. Thus, they sought to protect nature for instrumental reasons for their survival is at stake. Their anthropocentric belief did not align with the beliefs of intellectuals that nature has intrinsic value independently of the benefits that it provides to human beings. Yet, they did not think that the rights-of-nature frame contradicted their interests and, therefore, they agreed with it. (ii) A small group within the movement disagreed with the frame. However, they remained silent and did not openly challenge the frame. This group could have rejected or tried to block the passage of the frame by launching a counter-campaign, for example, but they did not. I argue that this second group was constrained by its environmental identity, and to reject the rights-of-nature frame would have been considered a shame and a political mistake in the community of environmentalists.

I now will situate the three main empirical findings about political opportunity, lack of contradiction with participants' interests, and identity within the existing literature.

I. Political Opportunity

Social movement participants interact with authorities and activists of counter-movements, and do so within a certain political context. Political opportunity refers to a macro level dimension of the political context (Rucht 1996, 190). The bigger the opening of the

political space the better the chances that social movement participants will engage in sustained collective action because they are facing fewer constraints (Gamson and Meyer 1996, 277). Much research has documented both the connection between political opportunity and sustained collective action by social movement actors (Goodwin 2012)¹⁴, as well as the influence of political opportunity on framing efforts. Apparently, an opening in the political system is a precondition for an effective frame. At the same time, framing efforts can open the political context (Polleta and Kai Ho 2006, 198).¹⁵

Social movement scholars, such as Gamson and Meyer (1996, 277-281) recommend differentiating dimensions of political opportunity: They argue that some elements of political opportunity can be stable over time while others can be volatile. For example, party systems can remain stable over time despite shifts in political alliances or elite alignments. Some cultural aspects, such as belief systems can be more stable than media frames or public discourses (281).

Additionally, the political opportunity can be big and unique, or it can be a small “policy window” opportunity (Kingdon 1984). For instance, an exceptional, unique opportunity for movement participants occurs when their allies assume positions of decision-making within the government institutions. This allows the movement participants to have wide access to those who control the political agenda. When the opportunity is smaller, the focus is on specific issues.

¹⁴ To understand if political opportunity matters, Goodwin (2012) analyzed fifty studies within the social movement literature. He found out that political opportunity helps to explain the emergence of social movements, revolutions, and other forms of contention (281), but is not always a necessary condition (284).

¹⁵ To mention a few examples, the work of Diani (1996) reveals how different configurations of political opportunity led to certain types of frames in Italy: a realignment frame, an inclusion frame, a revitalization frame, and an anti-system frame. In a similar vein, Marullo and colleagues (1996) argue that the changes in political opportunity after the Cold War influenced the peace movement’s change from nuclear-weapons- freeze frames to frames about global interdependence and multilateralism. Framing has also been studied as a variable that influences the opening or closing of political opportunities. For instance, the Nazi Party employed a political discourse in the late 1920s that made efficient use of the political opportunity. The political opportunity eventually led to the party’s rise to power (Anheir et al 1998).

Building on Gamson and Meyer (1996), I argue that there can be unexpected consequences when the political opportunity is unique and volatile. Under those circumstances, movement intellectuals may risk constructing more radical frames. Social movement participants, in turn, may feel the pressure to agree with frames whose meanings and implications have not been properly debated (for the volatile nature of the political opportunity does not afford the time for effective debate and deliberation without forfeiting the opportunity), or frames that do not necessarily align with the values and beliefs of all organizations within a movement - as was the case with the Ecuadorian environmental movement. Accordingly, while this study adopts the previously argued and widely known concept of political opportunity (Tilly and Tarrow 2007, 93), it uniquely emphasizes certain characteristics of political opportunity (the uniqueness and volatility) that scholars have commonly overlooked. Following Gamson and Meyer (1996), I stress that to understand the influence of political opportunity, it is necessary to grasp how the uniqueness and the volatility of the political opportunity can influence the construction and endorsement of a given frame.

Although scholars may disagree about what constitutes a political opportunity, and some scholars go so far to suggest the abandonment of the term (Amenta and Halfmann 2012, 239), I contend that political opportunity has explanatory power, though, as has been noted in my study, alone, it is not sufficient to explain human behaviour. One common criticism of political opportunity is that scholars use it inconsistently.¹⁶ To put some order into the literature, McAdam (1996, 24) enumerated dimensions of political opportunity that are used in the work of several scholars.¹⁷ The dimensions include (1) changes in the state and its institutions that may open

¹⁶ Other criticisms include that political opportunity cannot be verified because it is a post-hoc explanation and that it denies human agency (Jasper 2012, 8).

¹⁷ Authors understand political opportunity in diverse ways. Tarrow (1998), for instance, proposes both a set of changing dimensions of opportunity, such as increasing access, shifting alignments, divided elites, influential allies

opportunities for mobilization; (2) the presence or absence of elite allies; (3) fragmentation among elites; (4) the state's use of repression; and (5) the influence of international actors (McAdam 1996, 27). In this study of Ecuador's environmental movement, political opportunity denotes changes in the state and its institutions and the availability of elite allies. By changes in state and its institutions, I mean the reconfiguration of power within Ecuador's political system in 2006, which alienated traditional political elites and which allowed the ascendance to power of *Alianza País*, a political movement whose founders have had a relationship of work or friendship with social movement members, the environmental movement among others.

In addition to the changes in the state's institutions, the environmental movement had also allies within the political elite (specifically, from 2006 to 2008). Further, social networks and personal contacts (such as family, friends, and colleagues) facilitated access to those elite allies, which made possible the political opportunity for the movement. In developing countries like Ecuador, where formal institutions tend to be weak, informal networks provide citizens with chances to access institutions and their leaders. As explained by Steinberg (2001), such informal networks are not necessarily based on material exchanges, as patron-client relationships are, but can be horizontal relations among friends, colleagues, or family. The relationship is in fact "personal, reciprocal, and non-contractual," meaning that the support granted by a friend, colleague, or a family member is informal, not paid, and must be reciprocated in the future (145-47).

and repression and facilitation; and also a set of stable dimensions of opportunity and constraints, such as state strength, and prevailing strategies and modes of repression. Conversely, in his comparative case study of anti-nuclear movements, Kitschelt (1986) identifies remunerative and informational resources of a movement, access to the public sphere and political decision making, appearance and disappearance of other social movements, the capacity to implement policies, and openness to societal demands, as dimensions of political opportunity. Brockett (1991) identifies the support of allies, meaningful access points, state repression, elite fragmentation, and conflict and location, as the pertinent factors of political opportunity in his comparative study of the mobilization of Central American peasants.

In the case of Ecuador, environmental movement leaders and participants had access to elite allies and informal networks between 2006 and 2008. After Alianza País' candidate, Rafael Correa, assumed office, the Alianza País administration offered governmental positions to various environmental NGO staff members. This created an opportunity to bring about substantive environmental reform. Some of the new political elites were environmental advocates, but movement participants also had access to elites through personal relationships – such as family and friends. In addition, the old colleagues from environmental NGOs were working at the bureaucracy in the central and local governments. The political opportunity for the environmental movement reached its peak during the period of constitutional reform, when movement allies assumed central positions in the Constituent Assembly (the main body responsible for rewriting the constitution). Never before had Ecuador's environmental movement enjoyed this sort of access to the political system. Movement activists recognized, though, that the opportunity would not last long. By late 2007, it became evident that the government would prioritize economic growth over environmental protection and the relationship of environmental movement members with the President began to deteriorate. Chapter V will discuss the deterioration of relationships between the Correa's administration and members of the environmental movement. Pressured to take advantage of this momentary political opportunity, movement intellectuals risked proposing an unconventional "rights of nature" frame. Movement participants, in turn, despite prevailing uncertainties about the frame's meaning and implications, endorsed it.

II. Lack of Contradiction with Participants' Interests

The unique and volatile political opportunity helps to explain the decision by movement participants to endorse the rights-of-nature frame. In addition, the frame's encompassing nature did not contradict participant's respective interests. Following Hertel (2006, 27) and Chong (2010, 3), I contend that the interests of social movement participants can be understood as normative – that is grounded in principles and ideas of “what actions are appropriate in certain situations” (Chong 2010, 20) – and/or as materially-based – that is, the search of the satisfaction of certain material needs and wants. Normative and material interests are not necessarily contradictory; they can be congruent (Chong 2010, 3).

One pioneering study that investigates the role of interests in movement frames is by Shareen Hertel (2006). Hertel demonstrates that movement activists can block a campaign as a result of disagreements over a frame (blocking mechanism), or they can amend the frame without completely sabotaging the campaign (backdoor mechanism). Hertel focuses on transnational campaigns and how activists in developing countries react to human rights frames constructed abroad. While this dissertation explores the process of frame construction within domestic boundaries; however, my argument still can build on Hertel's insights. In fact, movement participants in her study rejected a frame that could harm their material well-being, and broadened the frame so it can respond to their real needs. She notes that in Bangladesh activists blocked an anti-child-labor frame that was promoted by the United States because they feared the frame would hurt the country's overall economy (Hertel 2006, 7, 31). In Mexico, activists amended an anti-discrimination frame created by Human Rights Watch that aimed at reducing the discrimination against pregnant women in *maquiladoras*. Mexican activists added other features to the frame, such as the right to work and reproductive rights, to make it more

inclusive of the needs of local women (2006, 55-56). Hertel's work shows that in order to achieve widespread support and become endorsed, a frame cannot contradict the material and/or normative interests of the movement participants. Otherwise, if participants believe that a frame may harm them, they will either reject it or, at least, they will try to adjust it to better accommodate their interests.

In Ecuador, many movement participants – especially popular or poor ecologists – are concerned about the health of ecosystems for instrumental reasons related to their own survival. Their priority is not first and foremost the rights of other living and non-living species. For the most part, poor ecologists do not think in western terms of rights. For them nature can be used with respect, without abusing it because their lives depend on nature, not because the rights of nature have been legalized in a Constitution. Thus, it cannot be argued that the rights-of-nature frame aligned with the values and beliefs of all organizations within the environmental movement. Yet, the rights-of-nature frame did not prevent movement participants from advancing their particular agendas. Rights of nature is, in fact, encompassing and coherent concept that has implications for such issues as protecting mangroves¹⁸, guaranteeing territory to coastal populations, providing equal access to and distribution of water sources for human consumption, conserving natural resources for tourism, introducing ecologically responsible farming practices that guarantee food security for humans, and prohibiting mining and oil drilling that threatens the lives of local inhabitants. In sum, in contrast to what is argued by framing scholars, movement participants may not only endorse a frame when it is congruent with

¹⁸ Mangroves are a type of forest vegetation located at the sea level that is the home of several species of birds, fish, and crustacean (C-Condem 2007, 47).

their values and beliefs. For some members of the movement, a frame that simply does not contradict their interests may receive their support.

III. Identity

The decision of movement participants to endorse the rights-of-nature frame is also explained by their environmentalist identity. Environmentalists¹⁹ are straightforwardly pro-environment. They advocate for the natural environment and are expected to protect nature. Thus, the environmental community would have found it both shameful and a “political mistake” to reject the rights-of-nature frame. Being a genuine environmentalist entailed the obligation to support environmental initiatives.

To develop this argument, I employ Ross’ (1997) concept of culture. For Ross, culture “is the basis of social and political identity that affects how people line up and how they act on a wide range of matters” (42). In other words, culture connects individuals to a group based on a shared identity. Collective identity refers to the elements that individuals within a group share. It also establishes the opportunities and the constraints that individuals within the group face (Melucci 1988, 342). Particularly important for this argument is that a collective identity differentiates outsiders who do not share the group’s identity and establishes expectations about the behavior within and between groups (Ross 1997, 45, 48). Along these lines, Johnston and colleagues (1994, 12) contend that the identity of a movement activist is partly shaped by “institutional and organizational roles that proscribe normative behavior.” Melucci (1988, 343) adds that identity demands to establish relationships and ties to others who are concerned with

¹⁹ The term “environmentalist” is used broadly here, since the point was made in the first chapter that Ecuador’s environmental movement is divided into ecological and environmental currents. Divisions among them are sharp, but as I suggest below all environmentalists strive to protect the health of the natural environment.

the same cause. Identity requires an emotional investment in the cause as well (Melucci 1988, 343).

Being an environmentalist, therefore, requires at minimum a commitment to the protection of the natural environment and the preservation of flora and fauna (Dalton 1994, 45). Such ideals are expected from an environmentalist and help differentiate an environmentalist from outsiders who do not support such ideals (such as groups of citizens who are indifferent toward environmental protection), or groups that harm nature (such as domestic or international resource extractive corporations).

This shared environmental identity among the Ecuadorian environmental movement constrained the actions of the participants (specifically identity constrained the actions of those activists who disagreed with the idea of granting rights to nature) – insofar as movement participants, regardless of ideological dispositions were persuaded to accept the rights-of-nature frame, which unmistakably championed the protection of the natural environment (even if there was more than one meaning and implications of granting rights to nature). To interfere with the rights-of-nature frame would have meant to renege to the identity of environmentalist. A person who refused to support the frame would have been considered disloyal before their environmental community because the individual did not assume a responsibility inherent to the environmental identity. As is observed by Johnston et al. (1994, 16):

To share a collective identity means not only to have had a part constituting it but also, in some instances, “obeying” its normative proscriptions.... [T]o partake in a collective identity means also doing (and not doing) certain things. Doing (appropriate movement-related behavior) and being (identity) are inextricably linked.

This argument departs from what framing scholars argue. Framing scholars contend that the alignment or congruence between the ideology (namely the values and beliefs) held by frame-makers and frame-receivers explains the endorsement of a frame (Snow and Benford

1992, 135). Framing analysts, consequently, assume identical behavior of all participants within a social movement. According to these scholars, movement participants embrace a frame only when it aligns with their ideology. In contrast, I differentiate the behavior of movement participants. Some movement participants may endorse a frame because, in fact, it aligns with their ideology. However, others may decide not to interfere with a frame and tacitly agree to it, because of an obligation imposed by a shared environmental identity.

To make this argument, the meanings of identity and ideology must first be separated. Identity and ideology are interrelated because one's ideology ultimately shape's one's identity (Dalton 1994, 11; Johnston et al. 1994, 14). Johnston and company (1994, 14), for example, assert that "an individual's identity becomes consistent when it is built in a common ideological orientation." I depart from their position, however, in arguing that it is possible for individuals – here, movement participants – to share a common identity, while differing in ideological orientations on a given issue. My position is consistent with the view of scholars who argue that even if environmentalists share a common identity, they need not agree on everything (Dalton 1994, 45). As Ross (1997, 45) points out, "[I]n a shared meaning and identity system the fact that different individuals and groups understand each other does not imply agreement." Similarly, Laitin (1988, 589) claims that "culture highlights points of concern to be debated and not just areas of agreement." Thus, to be environmentalists, and to agree with the rights-of- nature frame – or, less strongly, to merely not reject the frame – does not prevent participants from subscribing to different environmental political ideologies and different understandings of the relationship human beings have with nature. As posited by Dalton (1994, 45), "[E]nvironmental groups of all colors share a common bond when compared to economic interest groups (unions,

business associations). The political interests of different environmental groups routinely overlap, even if they have separate starting points” (45).

IV. Alternative Explanations

The campaign for the rights of nature was only launched in late 2007. The extant literature fails to address the motives for or causes of its establishment. The framing literature, however, offers general explanations for why social movements’ leaders and activists construct the frames they do. These ideas might illuminate why Ecuador’s environmental movement settled on the unconventional rights-of-nature frame. The framing literature proffers three general explanations.

First, frames are purportedly constructed for rational motivations, such as obtaining material resources from foreign contributors. For example, in *The Marketing of Rebellion*, Bob (2005) investigates the framing process of human-rights campaigns. His research focuses on the framing strategies that rebel groups employ to attract the financial and political support of international non-profit organizations, donors, and third-party governments. Busby (2010) emphasizes other rational motivation in *Moral Movements and Foreign Policy*. He argues that the way issues are framed will determine if a social movement campaign can influence states and change laws and policy-making. Arguably, the most important rational explanation is that movement leaders, who wish to increase the number of activists committed to the social movement’s cause construct a frame that resonates among the broader public (Snow et al. 1986; Snow and Benford 1988). This study adopts this explanation as a working hypothesis and investigates how intellectuals are able to gain the support of participants when the movement is divided (or heterogeneous) and when the frame is not altogether clear to activists.

Second, frames are constructed because they promise to redress social problems or injustices that trouble movement leaders and activists. This normative motive is propounded by Chong (2010) in *Freedom from Poverty*. Third, some exogenous factor might influence the decision of movement leaders to construct a certain frame. For instance, a previous social movement might have constructed a frame to promote its cause and that frame may prove be relevant and helpful to a later campaign. If so, the frame may later be copied by other groups (Snow and Benford 1992, Snow and Benford 1988).

With regard to Ecuador's environmental movement and the rational motivations of movement intellectuals and activists, it is accurate that the rights-of-nature frame was constructed to appeal to policy-makers and to produce substantive changes in environmental law. Intellectuals within the movement argued that the current environmental legal framework only legalized certain degrees of exploitation of nature by humans. They propose the establishment of an ecological legal framework, where nature is granted the legal status of a subject with explicit rights. This explanation alone, however, cannot account for the emergence of the rights-of-nature campaign in Ecuador. For example, why did this challenge to the current environmental legal framework occurred in late 2007 and not earlier. In 1998, for instance, there was a constitutional reform, and environmental movement intellectuals could have, but did not frame their demands in terms of the rights of nature at that time. Before 2007 the political opportunity clearly was not ripe enough for the launching of the rights of nature campaign, even though, in 1998 the conditions were not adverse for the environmental movement. At that time, there was a growing concern over environmental issues both domestically and internationally. Yet, in the 1990s movement intellectuals realized that traditional political elites were not going to support the rights of nature. Furthermore, those movement intellectuals did not have strong allies in

decision-making positions who would support them. Movement intellectuals knew that the probability of successfully exacting substantive social reform with such a frame was slim.

The argument that movement intellectuals constructed the rights-of-nature frame to fit with the agendas of foreign donors, so as to procure material resources for their cause it is not compelling. Certainly, some organizations within the movement, including Pachamama Foundation benefited from resources donated by international contributors to launch the rights of nature campaign. Yet, overall the aim of movement intellectuals was not to obtain material resources. Moreover, few organizations within the international community of donors accept the argument that nature should be considered a subject and should be valued for its intrinsic importance and, thereby, granted rights of protection. In his study of the U.S. environmental movement, Brulle (2000, 242-244), for example, found that organizations that espouse principles of deep ecology (which are those that value the intrinsic importance of nature) are few in number than those that advocate environmental preservation and reform. Further, according to Brulle, organizations that embrace principles of deep ecology have markedly lower annual budgets (\$3.65 million on average), compared with organizations that advocate more moderate principles of environmental preservation (\$619 million), environmental reform (\$206 million), and wildlife management (\$181 million). There are no similar studies for the European environmental movement, but the example of the U.S. environmental movement suggests that environmental organizations with more moderate or conventional goals receive most resources. Thus, this rational explanation about frame construction does not apply to Ecuador's case. Environmental movement intellectuals in Ecuador were not making calculations of how much they could attract from international donors when they launched the rights-of-nature campaign.

A normative explanation more aptly accounts for the rights-of-nature campaign. Ecuador produces and exports raw materials. At different points in history, the country has prospered because of the expansion in exports of cocoa, banana, oil, and others. The production of raw materials has deteriorated biodiversity and violated the economic, cultural, and environmental rights of rural populations that inhabit the lands on which extraction and processing take place. Further, the income that extractive activities generate has not reduced inequality in the country. To the contrary, those who inhabit the resource-rich areas that have been and continue to be exploited remain impoverished. Thus, movement intellectuals and participants wanted to redress this injustice with the rights-of-nature campaign.

Normative motivations, alone, however cannot explain the emergence of the rights-of-nature campaign. Resource extraction is not a new phenomenon in Ecuador. It has been a resource-dependent country since colonial times. Movement intellectuals, thus, could have launched the campaign earlier. However, they understood that the rights-of-nature campaign was possible only under the right political circumstances. As observed by Gaybor (2011) from the Water Forum (one of the networks of the environmental movement), “rights of nature and human right to water were topics that would not have had any political appeal decades ago in Ecuador, but now they are a priority...”

Finally, the argument that the rights-of-nature campaign was copied from other groups is not persuasive. Since 2000, some communities in the United States (in Pennsylvania and New Hampshire) have implemented township ordinances that acknowledge the environmental rights of humans and the rights of nature. The ordinances help the townships fight corporations that contaminate their water, soil, and air. The communities received legal advice and aid from the Community Environmental Legal Defense Fund (CELDF). This non-profit organization travelled

to Ecuador in early 2008 with the goal of convincing environmental movement participants, indigenous peoples, and constitution-makers to support a rights-of-nature campaign. However, environmental movement intellectuals in Ecuador had been considering the rights of nature since the late 1980s. Some had even written their doctoral dissertations about the conception and plausibility of granting rights to nature. So, it is not obvious that the campaign for the rights of nature was copied from other civil society groups.

In sum the campaign for the rights of nature in Ecuador did not emerge because movement intellectuals expected to get material resources from international donors. Nor was the frame copied from other civil society groups. A normative motive that argues that movement intellectuals constructed the rights-of-nature frame as a way to redress the devastation of nature generated by resource extractive activities is compelling. Yet, alone, it cannot explain the emergence of the campaign. Similarly, it is reasonable to argue that movement intellectuals sought to produce changes in the legal system by promoting the rights-of-nature campaign. However, the explanation, alone, is insufficient as well. Both explanations interact with the political opportunity to explain the emergence of the rights of nature campaign.

Before examining the empirical evidence to defend the theoretical argument presented in this chapter, the following chapters will provide empirical evidence concerning the puzzle of the dissertation. Chapter 3 delves into the diverse discourses that movement intellectuals employed to construct the rights-of-nature frame. With the multiple discourses employed and the lack of debate regarding its meanings, it is unlikely that there was alignment between the frame proposed by movement intellectuals and the values and beliefs of movement participants. Nonetheless, movement participants agreed with the frame, which is the puzzle this dissertation addresses. Chapter 4 focuses on the actors within the environmental movement and confirms that

the movement is a fragmented entity, which poses the intriguing question of why did diverse organizations within the movement agree with the rights-of-nature frame.

Chapter 3:

What do Rights of Nature Mean? Discourses Employed in the Frame Construction

An environmental justice frame, a free-market frame, an equal-opportunity frame, a nonviolence frame, a drunk-driving frame, an arms-control frame, a rights-of-nature frame. These are but a few examples of frames that have been studied in the social movement literature. What all have in common is that they are crafted by social movement intellectuals through the articulation of oral and written discourses that emphasize the struggles movement activists face and that motivate them to mobilize (Benford and Snow 2000, 623). Scholars in the framing tradition assume, however, that when movement intellectuals communicate a discourse to movement participants, both groups are “articulating the same meanings” (Steinberg 2002, 210). Yet, oral and written discourses are not understood in a univocal way by everyone (Steinberg 1998, 2002). As Steinberg (2002) observes, “...words and phrases can be interpreted in different ways by different people” (210).

In Ecuador, for example, environmental movement intellectuals constructed the rights-of-nature frame through the articulation of an economic, a legal, and an ethical discourse, which this chapter will analyze. The economic discourse stresses the need to replace the current economic development model that is based on extraction of natural resources with an alternative “post-development”²⁰ model that is respectful of nature. The legal discourse emphasizes the plausibility of instituting an ecological legal system that protects nature for its own sake, but that can also accommodate orthodox environmental laws, protecting nature for the well-being of human beings. The ethical discourse, in turn, defends the intrinsic importance of nature and

²⁰ According to Alberto Acosta (2009a), Ecuadorian academic and President of the Constituent Assembly, “post-development” is a rejection of the unlimited accumulation of material goods inherent in the traditional development model, which benefits a small minority of the population while condemning the majority to bear substantial social and environmental inequalities. Under a post-development model alternative ways of life that are sustainable and that do not resemble materialistic ideals of the West need to be found.

extends legal rights to nature. It is important to clarify that within the ethical discourse, intellectuals emphasize ancestral indigenous philosophies that advocate a harmonious relationship with nature. Given the multiple discourses employed, and the various possible meanings movement participants ascribed to those discourses, even though these three discourses were compatible,²¹ it is unlikely that there was a univocal understanding of what the “rights of nature” mean and of the implications of the frame. For example, while for some groups the goal of granting rights to nature was to reform the economic development model, for others the objective was to reform the legal system.

I. The economic discourse

Historically, Ecuador’s economy has depended on the extraction of natural resources. During the period of Spanish rule, the colonies provided raw materials to Europe. This did not change after independence. Ecuador and other newly established republics continued to supply raw goods. From the late nineteenth century to the present, the country’s principal export goods have been cocoa (1860-1920), bananas (1948-1965), and oil (1972-present) (Larrea 2006). The resultant environmental degradation has motivated movement intellectuals to articulate the rights-of-nature frame. Before delving into these ideas, this section reviews Ecuador’s historical economic dependency on cocoa, bananas, and oil.

²¹ The three discourses are not at odds, but they can besimultaneously pursued. However, some groups push more for the implementation of one of these goals over the implementation of others.

1.1. Cocoa Boom

Due to the notable per capita income growth in such industrialized countries as Great Britain and the United States, by 1860 the demand for cocoa and various cocoa derivatives prompted Ecuador to expand its cocoa industry along its coast. The favorable environmental conditions and the abundance of cheap labor, especially from the economically depressed population of the highlands, helped Ecuador become one of the world's leading exporters of cocoa by the early twentieth century. At its peak (1895-1914), the country's cocoa exports constituted 70 percent of its total exports. The revenues from this agro-exporting industry provided resources that strengthened Ecuador's commercial and banking sectors and created a new economic elite, comprised of approximately thirty families from Guayaquil. The high demand for, and subsequent production of cocoa, however, did not provide for a diversified economy. This left the entire national economy vulnerable to the fluctuation in international prices of cocoa. Moreover, the temporary economic boom that Ecuador's cocoa industry made possible failed to ameliorate the poor conditions of peasants employed as laborers, who received wages that barely met their subsistence needs (Larrea 2006, 47-49; Acosta 1995, 40-41).

In 1914, decline in the exports of cocoa began. The outbreak of World War I, for instance significantly affected Ecuador's ability to trade with Europe. The Port of Hamburg in Germany, where the country's cocoa exports entered Europe, was closed. Moreover, after the War, new producers of cocoa emerged worldwide. With the increased availability of the product, international prices declined. By 1920 the price of cocoa had dropped roughly 223 percent (Acosta 1995, 80-81). Meanwhile, between 1916 and 1922, the cocoa plantations in Ecuador were infested by plant diseases. For example, *monilia*, a type of fungus, affected crops in 1916. Witch broom, another type of fungus, appeared in 1922 and caused a 20-50 percent decline in

crop production (Hurtado 1985, 80). Plantation owners had not made reasonable investments in technology and research to control the plant diseases, which impeded their ability to respond to the crisis. The ensuing economic recession only worsened with the global depression of 1929 and with the onset of World War II (Larrea 2006, 27-58). According to Acosta (1995, 83), the decline in exports of cocoa generated the worst economic crisis and political instability in the history of Ecuador's republican government. Massive unemployment and widespread poverty occurred. Economic elites (well connected with political elites) enacted measures to face the economic crisis that worsened the living conditions of the poorest residents. This prompted the mobilization of the impoverished masses of laborers and peasants, ultimately resulting in the massacre of workers on 15 November 1922 in Guayaquil (Acosta 1995, 66). The economic crisis that shook the country ended only after the fortuitous emergence of a new economic boom, this time involving the export of bananas (Acosta 1995, 93).

1.2. Banana Boom

During the 1940s, motivated primarily by two U.S. multinational corporations (namely, the United Fruit and Standard Fruit companies), the production and export of bananas markedly accelerated in Ecuador. This expansion was due in large measure to the decline in the production in Central America, for the harvests in such countries as Costa Rica, Honduras, Panama, and Guatemala had been decimated by diseases. The multinationals made big investments to control the diseases in their own plantations along Central America, but did not support the farmers in places where the multinationals did not have major investments. The companies instead turned to Ecuador as a new provider (Larrea 2006, 62-63). U.S. multinationals sought to benefit from the temperate climatic conditions that Ecuador offered. They also found an ally in the Ecuadorian

government of Galo Plaza Lasso, who welcomed foreign investors, in contrast to the hostility towards multinational corporations of the newly established nationalist governments of Central America (Larrea 2006; Quintero and Silva 1991, vol. II).

The United Fruit Company had bought the former cocoa *Hacienda*²² *Tengel*, in 1935. After successful trials with the production of banana the company reached an agreement with the government of Plaza Lasso (1948-1952). The government committed itself to develop the infrastructure necessary to transport the banana crops: the multinationals transferred the technology for production and sold the fruit in the markets (Larrea 2006, 63). With the exception of a few banana companies that were created by Ecuadorian entrepreneurs (Alvaro Noboa, Segundo Wong, and Esteban Quirola), small and medium size companies even today provide the fruit to the multinationals (Dole, Del Monte, and Chiquita Brands) that control 80 percent of the world market for bananas (Martínez Valle 2004, 130). According to Martínez Valle (2004, 130) the multinationals have not established their own plantations because it is more profitable to trade the fruit without negotiating wages with local workers. Additionally, by only trading and not producing the fruit, the multinationals avoid the financial risks whenever world demand plummets. If not profitable, the multinationals simply do not buy the fruit to the farmers (Acosta 1995, 85).

By 1948, the economy was prospering due to the income generated by banana exports. The national government encouraged loans for the expansion of banana plantations. The banana boom shaped the emergence of an agrarian social structure along the Coast: a new economic elite who owned land and worked in association with the big multinationals. There also were growing

²² Hacienda is a Spanish word that means a large land property. During colonial and post-colonial periods the hacienda's owner or *patron* exercised total control over his territory and exploited indigenous peoples and peasants as laborers. Land reforms in Ecuador during 1964 and 1973 sought to end the inequalities in distribution of the land, but were only partially successful for inequalities still prevail.

numbers of agricultural producers; paid agricultural workers; and peasants, some of whom had been displaced from their lands in the process of the expansion of plantations (Quintero and Silva 1991 vol. II).

Once a marginal producer, Ecuador became the world's top exporter of bananas by 1948. Yet, there was a cost. The expansion of production brought in its wake the devastation of the country's humid (coastal) and dry (inland) tropical forests. According to a study by the United Nations Economic Commission for Latin America and the Caribbean ECLAC roughly 45,000 hectares were planted with bananas in 1951. This acreage had nearly quadrupled to more than 214,000 hectares by 1968 (Larrea 2006, 64) and completely destroyed the forests in Ecuador's coastal region. Banana plantations require clearing of forests, which leads to deforestation. Moreover, single-crop farming has higher risks than diversified agriculture of being affected by diseases and pests. For single-crop farming to be resistant to pests, pesticides must be used which contaminate land and water and expose human beings to the chemicals. In Ecuador some banana producers used fertilizers and pesticides, such as Dibromo CloroPropano (DBCP) that damaged the health of the workers. DBCP was forbidden in the United States in 1977 because it causes sterility, stomach and skin cancer, and other liver and kidney problems. Yet, DBCP was used in plantations in Ecuador from 1965 until 1986 (Varea et al. 1997, 189, 220).

Despite Ecuador's efforts to expand its banana industry and secure its place in the global market, there was a worldwide decline in the prices of bananas in 1964 that severely affected Ecuador. Moreover, Ecuador began to lose its comparative advantage because since 1955 Standard Fruit had been conducting research to find a variety of banana more resistant to diseases, such as the *Sigatoka* (a type of fungus). Researchers discovered a *Cavendish* variety of banana that thrives more in Central America than in Ecuador (Larrea 2006, 75-81).

The decline in banana production brought a period of political and economic instability. The democratically elected President Velasco Ibarra was deposed in 1961. His Vice-president, Carlos Julio Arosemena assumed office, but was deposed three years later by a military junta that ruled from 1963 until 1966. After some interim governments, Velasco Ibarra returned to power in 1968 as a democratically elected president. In 1970, supported by the military, Velasco Ibarra ruled as a dictator until 1972, when a new military junta assumed power. Authoritarian rule and economic turmoil ended only when Ecuador began exporting oil in 1972.²³ Once more, Ecuador became dependent on a single product to sustain its economy.

1.3. Oil Boom

Oil exploration in Ecuador was initiated in the Santa Elena Peninsula, along the coast. In 1878 the state granted the first oil concession to M.G. Mier and Company. In 1910, the Anglo-Ecuadorian Oil fields, a subsidiary of British Petroleum and Ecuador Oil Fields, started to sell oil to foreign markets. Oil exports continued through the 1930s (Acosta 2009b, 37-38). Yet, oil exploitation was, then, hardly ruled by the state. Concessions (state permits to explore and exploit oil in a specific area) and the leasing of lands for oil drilling were granted to only a few private individuals, who were well connected with the economic and political elites, and a few foreign companies. And this corrupt selection process left almost no revenue from the exploration, extraction, and sale of oil for the state. By 1950, the oil in the peninsula had been exhausted, and Ecuador began to face problems with oil shortages (Gordillo 2004, 46-49). This motivated the extraction of oil in Amazonian reserves, which foreign companies had already expressed interested in exploring.

²³ Since 1987 there has been a rebound in banana exports and the fruit has become the second most important exporting product after oil.

In the 1930s, the state granted an oil concession in the central part of the Amazonia to the Standard Oil Company based in New Jersey. In 1937, the Anglo Saxon Petroleum Company Limited, which was affiliated with Royal Dutch Shell, also explored the Amazonia, but left the country a few years later arguing that it could not find oil reserves (Acosta 2009b, 38-39). In 1967, however, Texaco-Gulf discovered large quantities of oil in the Amazonia, which prompted the exportation of this oil in 1972. The company constructed a pipeline through the highlands to transport the oil to Ecuador's coast.

The state at that time lacked experience with oil exploration and exploitation. Only in 1972 did the state create the national oil company, *Corporacion Estatal Petrolera Ecuatoriana* (CEPE), now Petroecuador. At first, this nascent company was not technically and administratively prepared to manage the drilling of oil (Gordillo 2004, 52). Hence, Texaco supervised the technology used for oil drilling and the training of its Ecuadorian partner, CEPE.

News of the discovery of oil in the Amazonia was enthusiastically received by the military junta which ruled from 1972 until 1979. In contrast to the first several decades of oil exploitation, when the country did not benefit much from its burgeoning oil industry, during the 1970s, the military government adopted a nationalist economic policy regarding the production and sale of Ecuador's oil reserves. This benefited the state enormously (Gordillo 2004, 50-51). The state signed a contract of association with Texaco-Gulf, according to which the state became a direct partner in the production of oil and benefited directly from the oil revenue (Larrea 2006, 96). According to Gordillo (2004, 50), from each barrel of oil sold (discounting the costs of production), the state obtained 63 percent of the revenue from the country's oil sales.

The oil boom accelerated the country's economic growth. This brought about socio-economic changes such as improvements in the education and health sectors, development of roads, and advancements in the telecommunication and energy sectors. Oil revenues, however, were unequally distributed between different social classes and regions. In urban areas, the economic growth prompted by oil revenues strengthened the middle class. With the creation of new state agencies, employment grew, which benefited directly the middle classes. State agencies were created for the provision of housing, health, and education to urban sectors populated by middle-class citizens (Silva 2009, 150). In rural areas, in contrast, poverty continued – although there were certain improvements for the agrarian reforms of the 1960s and 1970s partially redistributed land and enhanced access to credit, and there were also improvements in the provision of basic services, such as potable water and sewage treatment systems (Larrea 2006, 97-98; Acosta 1995, 109; Silva 2009, 150). Beyond the foregoing social changes, the development of Ecuador's oil industry also perpetuated dependency on the health and competitiveness of a single primary export. By 2009, oil exports represented 60 percent of the country's total exports (Larrea 2009, 77).

The oil boom, further, led to the widespread environmental degradation of the Amazonia. This area, extremely rich in biodiversity, constitutes the native territory of indigenous peoples, some of whom (for instance, the Tagaeri and Taromenane) have remained in isolation from the world (Finer et al 2009, 1). Oil drilling displaced indigenous communities from both their ancestral homes and their ways of life. Texaco was only the pioneer. A large number of multinational oil companies – 34 multinationals in 2002, according to the Internal Revenue Service – operated in the Amazonia, in association with the national oil company (Arauz 2004, 65). Exploration and exploitation activities by the multinationals required the construction of

pipelines and infrastructure for transportation, such as roads and heliports; the drilling of wells; and the use of dynamite. The opening of roads into the Amazonia not only invited the Amazon's settlement by peasants, but encouraged new extractive companies to enter the Amazon and harvest its natural resources. Both processes accelerated deforestation. Moreover, oil spills from accidents in the pipelines have frequently occurred (Moog 2004, 94). Texaco, alone, has been charged with spilling 16.8 million gallons of crude oil into adjacent rivers, streams, and their tributaries; and for failing to effectively clean up the spills. This has contaminated water sources, polluted the air and soil, and have threatened public health and safety and, thus, threatened the lives of local inhabitants who have been exposed to these environmental risks (Kimerling 1991b, 850; Kimerling 1994, 205; Yanza 2004, 37). Awareness of such problems caused to the people and the environment by the oil industry, prompted a lawsuit against Texaco, which has attracted much international attention. The lawsuit, however, will be further analyzed in Chapters 4 and 5 led to the formation of an important network within the environmental movement, the Amazonia Defense Front. The Front was created by plaintiffs to continue their struggle against Texaco.

Environmental safeguards against degradation by the oil industry were non-existent before the 1970s. As Gordillo clarifies (2004, 49), "there was no regulation or law for the environment, all the prospecting and oil exploitation, transportation, and distribution for almost seventy years were carried out according to the willingness of the companies that evidently prioritize their operational budgets without any concern for the environment." In the early 1970s, some articles about environmental protection were incorporated in the contracts between the state and oil companies. But those articles were merely declarations because the state never controlled the implementation of environmental standards by the foreign multinationals and the national company (Gordillo 2004, 52). For instance, the first law concerning oil exploitation of

1971 included a provision that required oil companies “to prevent pollution of the water, the atmosphere, and the land.” However, this law did not establish clear standards that would have allowed the state to determine if companies were fulfilling the law (Center for Economic and Social Rights 1994, 91). Similarly, the 1976 Law of Prevention and Control of Environmental Contamination did not change the way oil companies operated in the Amazonia. The 1981 Law of Forestry and Conservation of Natural Areas and Wildlife sought to protect natural reserves and national parks. However, the national oil company and foreign oil companies have found enough loopholes in the law to justify exploitation of sub-surface minerals, such as oil (Center for Economic and Social Rights 1994, 92). Since 1985, under the pressure of environmental organizations and local populations from the Amazonia, the oil companies showed some concern about environmental impacts. Multinationals created departments to liaise with local communities and often used paternalistic methods to co-opt the communities. Only in 2001 did Ecuador implement an Environmental Regulation for Hydrocarbons. The creation of laws, tough, is not enough and the current problem is the lack of implementation of such laws (Gordillo 2004, 52-53).

I.4. A new economic model of “post-development”

Citing the historical record, movement intellectuals have claimed that political elites for decades have endorsed an economic model of development that excessively depends on the continued extraction of natural resources that has caused severe environmental degradation and that is not sustainable. Indeed, according to the academic Rodrigo Sierra and his team of scientists, by 1996, 47 percent of the mangrove ecosystem and 80 percent of forests had disappeared along the coast. They also estimated that roughly 42 percent of the ecosystems in the

highlands had been lost; and 16 percent of the tropical forests in the Amazonia had been destroyed. Yet in the Amazonia, the process of destruction continues at a fast pace because of the oil industry (cited in Larrea 2006, 17-18).

According to Alberto Acosta (2010c) “the materialistic – mechanistic and endless– accumulation of goods considered as progress has no future. The limits implicit in the lifestyles based on the ideological vision of anthropocentric progress are increasingly marked and a cause for concern. If we want the absorption capacity and resilience of the earth not to collapse, we must stop considering natural resources a condition for economic growth or a mere object of development policies.” Like Acosta, Larrea, who is an academic and an advisor of environmental NGOs (2009, 79), maintains that:

The conventional paradigms of economy and development consider nature simply as a scenario where the economic activity takes place, as a source of value production through labor or capital accumulation. Nature is fundamentally conceived, explicitly or implicitly, as a passive and endless source of resources.

In the face of increases in environmental degradation, movement intellectuals rejected the prevalent neoliberal model of economic development and capitalism more broadly.²⁴ As is noted by Esperanza Martínez (2011, 12), a movement intellectual and a proponent of the rights of nature, “the rights of nature are framed in a social process that basically questions, first, the neoliberal model concerning the organization of the economy and society, but ultimately, it questions the capitalist system itself.” Intellectuals argue that economic growth-oriented strategies of capitalism do not take into consideration environmental degradation.²⁵

²⁴ Neoliberalism refers to a specific type of capitalism (Silva 2009, 3 & 17). Movement intellectuals reject both neoliberalism and capitalism without clearly differentiating between them.

²⁵ The author acknowledges that other scholars have offered a different analysis of the relationship between economic growth and environmental performance, and have argued that economic growth leads to better environmental outcomes. Grossman and Krueger (1995) found that environmental quality initially deteriorates, but ultimately improves with higher income levels, which is known as the environmental Kuznets curve (Torrás and Boyce 1998, 148). Others have argued that the link between economic growth and environmental quality is complex and that appropriate public policies are required in order for economic development to lead to better

Industrialization and consumption in developed countries require raw materials. Developing countries enter the global economy as providers of those materials. Increased demand for raw materials has caused the proliferation and expansion of extraction sites for oil, timber, aluminum, copper, and so on. Ecuadorian intellectuals contend, moreover, that beyond capitalism's disregard of the intrinsic value of nature, the heightened levels of extraction and production that continual capitalist expansion lead to greater environmental damage. This inequitably affects and unfairly harms the most vulnerable members of society, whose well-being often depends on the health of the lands on which they reside (Martínez-Alier 2002, 10-11).

In the view of movement intellectuals, local populations have fiercely resisted the intrusion of extractive companies in their lands. Coastal inhabitants, for example, have defended the mangroves from the shrimp industry; and people in the highlands have opposed the mining industry. In the Amazonia, indigenous peoples and peasants have resisted the exploitation of oil reserves (Acosta 2010b; Martínez 2010). As is observed by Varea (2010), a U.N. officer and an environmental movement ally, in “an intercultural country such as Ecuador there have been different types of development... Ecuador is still a megadiverse country with immense reserves of biodiversity, which demonstrates that extraction of natural resources has not been the only model of development in the country, but there are other models that have permitted the survival of ecosystems... Indigenous peoples and nationalities develop their productive and reproductive activities in their natural patrimony... and for that reason we have cases of resistance against

environmental outcomes (Barret and Graddy 2000: 634; Grossman and Krueger 1995: 371-372). Yet, other scholars have found that the level of income per capita is associated with better environmental outcomes up to a certain point. After that, higher per capita income is associated with worsening environmental performance (Scruggs 2003, 9). Finally others argue that growth per se is not the cause of environmental degradation; however, when institutions are weak and property rights are unclear, rapid growth can aggravate environmental problems (Thomas and Belth 1998).

natural resource extraction exercised by those peoples that have permitted the survival of ecosystems.”²⁶

By championing the rights of nature, movement intellectuals, seek to contest neoliberal capitalism²⁷ and to restructure the economic system according a new “post-development” paradigm. As expressed by Larrea (2009, 81):

The constitutional recognition of the rights of nature, and more specifically the right of the ecosystems to exist and maintain their evolutionary processes, is a fundamental starting point towards a new model of development, which contrary to conceiving nature as a simple object of exploitation and endless provider of resources understands that humans are part of the evolution of ecosystems. Their development and prosperity are only achievable in harmony with all the living and non-living beings that are part of the networks that have permitted the evolution and life in the planet.

The basis for a new economic system of this sort was already delineated in the 2008 Constitution. In theory, Ecuador’s goal has moved from a *social market economy* to a *social and solidarity economy*,²⁸ where society, state, and market interact harmonously with nature. Under this new model of development, the purpose of the economic system is the achievement of

²⁶ Though, it deserves to be noted that the rejection of natural resource extraction is not a univocal position of local inhabitants, and that it would be a mistake to idealize their views. Gudynas (2011, 266), for instance, observes that the relationship native people in the highlands to the environment differs from that of indigenous groups in the Amazonia. In the highlands, the relationship of natives to the environment is based on agricultural practices that make intensive use of natural resources. In the Amazonia, on the other hand, inhabitants use nature less intensively. What is the primary challenge in the Amazonia is the intervention of extractive industries, which threatens the traditional relationship of natives and nature. Some groups, therefore, reject any contact with oil companies and oppose plans to extract local natural resources. Other groups, however, want to benefit, say, from the oil extraction and production. Another group, finally, seeks material compensation for the negative effects of the oil industry (Fontaine 2007, 243; Moog 2004, 113).

²⁷ Many will argue that Ecuador did not completely liberalize its economy. Still, in the 1980s, several gradual adjustment measures were taken, and in the 1990s trade and banking liberalization measures were followed. However, Ecuador did not implement privatization and import liberalization. The Constitution of 1998 recognized the economic system of the country as a social market economy, though there were no major visible changes in relation to neoliberal capitalism.

²⁸ Latin American academic Luis Coraggio (2011) understands the social and solidarity economy as a type of social economy. In his view, social economy is an alternative to a market-centered economy and also to a state-centered economy. State institutions should exist for and work towards a participatory democracy and regulate markets so that they cannot continue to follow a logic of capitalist accumulation. He sees markets as spaces for trading goods and services to benefit human beings, not capital accumulation.

Sumak Kawsay or *buen vivir*, or well-being,²⁹ as opposed to economic growth. This new development model builds on alternative theories of development, such as human development, sustainable development, and indigenous philosophies.³⁰

The indigenous academic, Viteri Gualinga (2005), explained the concept of *Sumak Kawsay* (well-being), which is the ultimate goal of the post-development paradigm proposed by movement intellectuals. According to Gualinga, *Sumak Kawsay* is the search of the material and spiritual conditions that allows human beings to have a harmonic life. Viteri argues that according to indigenous philosophies, conventional western concepts of development and notions of wealth and poverty are misguided. Indigenous philosophies reject western ideas that claim that development is linear and that after nations transit several stages from underdevelopment they will become developed. This evolutionary pattern is the main argument of classic economic theory as propounded by Rostow (1960). There is no dichotomy between under-development and development for indigenous peoples. Indigenous peoples, further, see as a peril the introduction of western concepts of development in indigenous communities, which creates confusion and contradiction with their own views. Poverty for indigenous peoples is measured in terms of biodiversity loss that prevents the community from securing food. Alberto Acosta (2008c, 34) adds, that well-being is a concept “in permanent construction and reproduction...where other values are in play: knowledge, social and cultural recognition, codes of ethic [and spiritual] conduct in the relationship between society with nature....” Additionally, well-being is not an individualistic but a communitarian principle, for the social structure of

²⁹ This well-being of the population should be achieved through the provision of economic, social, and environmental rights.

³⁰ Another source of inspiration for this new regimen of development is Dependency Theory of the 1960s, which challenged the modernization paradigm of developed countries. That paradigm promoted the extraction of raw materials from developing countries for the accumulation of capital and for the goal of modernization. Dependency theorists, however, did not offer alternatives to the development paradigm of the global north (Larrea 2010, 18).

indigenous people centers around the community and not the individual. Further, the community is not centered solely on human beings. Rather, the community, as a unity, includes animals, insects, plants, mountains, the air, water, and sun; and so forth – of which human beings are merely a part. Such indigenous philosophies maintain that because humans are only a component of the greater whole, they ought to find equilibrium with nature or *Pachamama* (Huanacuni 2010, 53). For human beings cannot enjoy a good life, it is argued, by hurting the ecological system on which their own well-being depends (2010, 38, 45). Consequently, indigenous peoples reject the individualism of capitalism that, according to them, encourages societies to deplete resources, to produce more, and to consume excessively in order to “live better” than others. This only leads to inequality.

Proponents of human development theories, such as Amartya Sen and Martha Nussbaum, contend that the aim of development should be the satisfaction of human needs and not economic growth. They argue that economic growth as an indicator of quality of life hides economic inequalities as well as gender and racial inequalities (Sen 2006, Nussbaum 2006). Sustainable development goes a step further and maintains that the satisfaction of human needs cannot exceed the capacity of ecosystems and the needs of future generations (Larrea 2010, 19). However, neither the human development nor the sustainable development approaches contradicts the prevalent, conventional socio-economic model: both the human and sustainable development paradigms promote means of development within capitalism (Walsh 2010).

Ecuador views well-being as “the construction of an emancipatory post-capitalist process” (Soliz 2010, 9). Consequently, this new model of “post-development” is not obviously compatible with human development theories. In short, the broad and problematic implications of the new model of development in Ecuador, with its central commitment to well-being, still

need to be worked out, a discussion that exceeds the scope of this study. After all, this small Andean country proposes a course of action that directly contradicts a century of economic theory and conventional wisdom that neoliberalism – capitalism more broadly – is the best path to social progress.

II. The legal discourse

According to environmental movement intellectuals in Ecuador, none of the three environmental regimes³¹ that govern the environmental sector in Ecuador (the regime of natural resources, the regime of environmental protection, and the regime of flora and fauna) (Real 1988) adequately protect nature. Those regimes (with exception of flora and fauna protection) protect human beings from environmental damage. According to movement intellectuals, thus, the problem of the legal system is structural and not merely related to proper implementation of existing laws. To address this limitation of *environmental laws*, intellectuals defend the enactment of *ecological laws* whose goal is the protection of nature. The intellectuals instrumentally use the rights of nature to contest capitalism and propose a new model of post-development. They likewise employ the rights-of-nature rhetoric to challenge orthodox environmental laws and to justify the enactment of ecological laws. Before examining movement intellectuals' ideas, I first analyse why the aforementioned environmental regimes are not enough to protect nature.

The *regime of natural resources* attempts to regulate access to (of state and private individuals or companies), and optimal use of both renewable natural resources (such as water

³¹ Regimes according to International Relations Theory can be understood as principles, norms, rules, and decision-making procedures that constrain the behaviour of states but also facilitate cooperation among them (Keohane 1984).

and timber) and non-renewable natural resources (such as fossil fuels and minerals). In Ecuador, the regime of natural resources is not new. Since colonial times, Spaniards issued regulations that control the use of land and water. After Ecuador's independence, the state issued regulations specifically for the use of water (1832), for the exploitation of forests (1875), for fishing and hunting (1901), and for oil exploitation (1919). Those laws did not consider the ecological dimensions regarding the use of these resources. The laws only regulated its access and use from an economic point of view. Only after 1972 did environmental regulations, such as the Forestry Law (1979), consider ecological cycles of renewable and non-renewable resources (Real 1988, 71-78). One problem with laws that normalize the access and use of natural resources is that they are not appropriately implemented, and frequently the government exercises its power to access resources in protected areas – for instance, claiming that those actions benefit the “national interest.” Even if implementation of laws was successful, the problem is the normative principle underlying such laws is not the protection of nature, but the protection of human interests that would be harmed by the deterioration of natural resources.

The regime of fauna and flora, on the other hand, promotes the protection of nature. Yet, its purview is limited to specific areas, like national parks or ecological reserves; and is further limited to particular important species of flora and fauna within these preserves (Real 1988, 79). As of February 2012, Ecuador's national system of protected areas included 45 protected territories, covering roughly 19 percent of the country's territory (Ministerio del Ambiente 2012). Ecuador's system of parks and preserves is firmly established. In 1936, the first protected area was established in the Galapagos Islands. While few preserves were established after the Galapagos National Park, the number of protected areas increased dramatically after the 1970s

(Lewis 2000, 111). The national system, however, lacks sufficient financial and human resources to effectively protect flora and fauna in those areas (Geo Ecuador 2008, 17).

The *regime of environmental protection* regulates human activities that can threaten the environment and can, subsequently, harm human beings due to the degradation of the shared natural environment. Concern for environmental protection and for safeguarding public health and safety grew after the Stockholm Conference on the Human Environment in 1972, which the United Nations promoted. By the late 1970s, developed and developing countries started to enact laws that protected the environment.³² The proliferation of those environmental regulations contributed to the emergence of a new branch of law known as “environmental law” (Serrano 1994, 114). Yet, the core concern of environmental law was, and continues to be, rather narrow. It concentrates on the defense of the health and safety of human beings. As pointed out by Guillermo Cano, former Secretary of Hydraulic Resources in Argentina (in Serrano 1994, 115), “Environmental Law embraces the legal norms related to the use and conservation of the goods and natural elements that influence the quality of the environment from the point of view of human’s interests.” Furthermore, environmental laws are inadequately implemented by states which privilege the interests of economic groups and which argue that scientific uncertainty justifies neglect of nature’s ecological limits (Crespo 2008, 3).

As an aside, agreement on a definition of “environment” has not been easy. After the Stockholm Conference, international organizations used a broad definition of human environment that includes the natural world. They applied environmental law to the health and well-being of nature as well (Real 1988, 117). Martin Mateo, of the University of Alicante,

³² For example, in 1974 England approved the Control of Pollution Act; Italy passed the Atmospheric Protection Law in 1976; Mexico passed an anti-contamination law in 1971 and a law to control human settlements in 1976; Colombia passed an Environmental Code in 1974; and Venezuela approved the Environmental Organic Law in 1978.

agreed that it was necessary to restrict the concept of “environment” to water, air, and soil (Serrano 1994, 118). According to this narrow definition, environmental law deals with elements of the environment that human beings can control for their well-being (Real 1988, 96).

Environmental movement intellectuals in Ecuador contested conventional environmental laws. They criticized the legal framework for its staunch anthropocentric character and inability to look beyond how degradation of the air, water, and soil can harm the quality of human life (Real 1988, 98). Purportedly, the laws fail to take seriously the interests of the natural environment. The subsequent inability to protect the natural environment from human’s economic activities may negatively affect the environment for nature’s own sake. In concert with these criticisms, Byron Real, a movement intellectual who wrote his doctoral dissertation in 1988 on the rights of nature, observes that “environmental law is not concerned with nature as a whole, but only with a small part that is controlled by human beings... its mission is to maintain an equilibrium between the natural elements necessary for life and the artificial elements created by humans for their well-being” (1988, 97).

In Ecuador, proponents of the rights of nature demand the enactment of an ecological legal framework that identifies human beings as merely *a part* of an interconnected ecosystem that recognizes the intrinsic value and legal standing of the natural environment and that protects nature for its own sake (Stutzin 1984; Real 1988; Morales 2011). The Chilean president and founder of the National Committee in Defense of the Flora and Fauna, Godofredo Stutzin, delineated the bases for such an ecological framework. One of the first intellectuals in Latin America to advocate for the rights of nature, Stutzin (1984) argued that nature should be legally recognized and that its representation should correspond to human beings. In other words, there should be organizations whose central concern is the protection of nature.

The Ecuadorian environmental lawyer and movement intellectual, Manuel Morales similarly advocated for the establishment of a new legal ecological paradigm. He urged people to view the rights of nature not from the point of view of civil law. According to civil law, only people and corporations qualify as subjects and nature is understood as a *good* that can be acquired and used by a private owner. The state exercises property rights over natural goods for public use, such as water basins, mountain chains, plateaus, gulfs, estuaries, and so forth (Real 1988, 20-22). For Morales, arguments that nature does not deserve moral or legal standing – for example, that nature cannot aptly be understood as a moral or legal subject, or as a bearer of such rights, because nature cannot fulfill reciprocal obligations to other rights-bearers, or because nature cannot represent or speak for itself – are mistaken. Those criticisms derive from the traditional civilian conception of the law.

Morales believes that since 2008 nature has been formally recognized as a legal subject with certain constitutionally-enumerated rights. He argues for the enactment of ecological laws that can concurrently be applied with environmental laws (Morales 2009, 10). In his words (2011):

Rights of nature imply the establishment of a new legal paradigm. Besides natural persons (human beings) and legal persons (such as companies and corporations), the new legal paradigm includes now nature, as a third person that has rights. Civil codes need to consider now a new legal order to include this third person. This requires changes in the legal order because we are not talking [only] about environmental rights for human beings anymore. Rights of nature should not be subsumed under an environmental code or an environmental law. Rights of nature require a new legal order because those rights surpass environmental laws...

According to Morales, it is possible to accept legal pluralism – that is, the parallel co-existence of an environmental law framework that is concerned with the well-being of humans, and an ecological law framework that is concerned with the well-being of nature. To persuade

detractors of the idea that the two legal systems are not mutually exclusive, Morales recalls that the judicial system in Ecuador already recognizes consuetudinary law exercised by indigenous peoples alongside positivist law. Consuetudinary law, meaning laws concerning long-standing and entrenched customs, was originally recognized in the Constitution of 1998. Despite the expectation that its exercise would be limited to certain instances of social conflict among members of a community, this type of law has been widely administered by local communities. As expressed by Morales, “Ecuador exercises a plural judicial system with a positivist understanding of the law and other based in customary rights” (Morales 2009, 11).

To implement the rights of nature, Morales has worked on passing a law to initiate the “construction of an autonomous judicial system for nature” (2009, 11). He challenges the idea of subsuming the rights of nature under contemporary environmental laws. Morales believes that if an autonomous judicial system for nature is not enacted, is more appropriate to rely solely on the Constitution according to which rights (the rights of nature and environmental human rights among many others) should be immediately applied, subject to a favorable decision made by a judge within Ecuador. An important legal aspect of the 2008 Constitution is that Ecuador became a *Constitutional State of Rights and Justice*. This established the supremacy of the Constitution over any other laws. Thus, citizens can demand the fulfillment of their constitutional rights in front of any judge. That is, any person or community can demand the fulfillment of the constitutionally-enumerated rights of nature in front of a judge (Ruiz 2010; Prieto 2010).³³ Under a Constitutional State of Rights and Justice, in other words, all rights ratified in the Constitution

³³ In fact, in Ecuador any person can bring a case directly to one of the local judges and demand the fulfillment of his/her rights or the rights of nature. Chapter 6 delves into a specific case in which citizens in the south province of Loja brought a case in front of a local judge and demanded the fulfillment of the rights of the Vilcabamba River in 2009.

are inalienable, indivisible, interdependent, and have equal hierarchy. As such, secondary laws cannot restrict the exercise of those rights approved in the Constitution (Hernandez 2011, 21).

Movement intellectuals see the legal discourse closely intertwined with the ethical discourse in which nature has intrinsic importance and consequently deserves legal rights. The following pages discuss the ethical dimension of the rights-of-nature frame.

III. The ethical discourse

Intellectuals within the Ecuadorian environmental movement constructed the rights-of-nature frame by building on the writings of philosophers who debated the moral standing and intrinsic value of non-human entities like nature. The philosophies discussed the pertinence of considering nature a moral subject deserving of rights. However, in cementing the rights-of-nature frame, movement intellectuals drew primarily from the philosophies of indigenous peoples.

Western culture generally maintains that only human beings (or “higher” sentient animals with the capacity to establish and pursue their interests) have inherent moral worth. Even when nature is viewed as intrinsically valuable, this does not imply the need or the appropriateness of using the language of rights to safeguard nature. Consequently some scholars who have insisted that non-human entities have moral standing have not argued that non-human entities should be afforded the same rights as humans.³⁴

³⁴ The aim of this dissertation is not to discern whether nature should be a subject that deserves rights or not. Such philosophical debates lie beyond the scope of this study. The environmental ethics literature that addresses such questions is broad, and I examine only a few authors to illustrate how environmental movement intellectuals in Ecuador borrowed such ideas when constructing the rights-of-nature frame.

III.1. *Intrinsic Value of Nature*

Nash contends that the “greening” of philosophy (1989, 121), began in the 1970s. Since then environmental ethicists have argued (i) that the abuse of nature is wrong, and (ii) that because nature is intrinsically valuable, it has the right to exist. The first contention is grounded in an anthropocentric moral understanding in which human beings are the focus of all environmental conservation efforts. The latter contention is founded on an eco-centric approach that grants nature equal moral status to humans (Nash 1989, 9). The eco-centric approach, however, ranges from the more shallow to the more radical. Whereas some advocates of an eco-centric approach accept that people should not abuse nature for their own well-being (Heffernan 1993), others give priority to nature and maintain that human lives have no greater value than other lives (Foreman 1993).³⁵

Justifying the intrinsic value of non-human species is one of the main challenges of eco-centric environmental ethics, because many Western philosophers believe that only human beings deserve moral importance (Merchant 2005, 79). Allegedly, human beings possess characteristics that make them morally important such as awareness, self-consciousness, and the ability to formulate goals, to attain them, and to appreciate attainment. Nature does not possess the aforementioned characteristics (Elder 1984, 288). Building on Kant, Elder (1984, 288) contends that moral value assumes rationality:

[Reflective] capacity of persons ... makes them the source of value, the objects of moral concern. The reason that persons are the source of value is that the choice of an alternative must matter to the chooser; the choice must make the difference, it must be

³⁵Deep ecologists are difficult to classify because they describe themselves as a movement rather than an academic philosophy. Arne Naess, one voice of the movement, contends that deep ecologists are not trying to set man apart from nature but for them “life on Earth has intrinsic value and human behaviour should and must change drastically” (Naess 1984, 265).

valued. The idea of a choice being valued is intelligible only if the choice is consistent with a concept of one's self.

Elder (1984) argues that because plants, trees, and ecosystems in general are not sentient creatures, they cannot differentiate what is good or bad for them. He asks if those scholars who deny an anthropocentric morality and defend the intrinsic importance of nature are not themselves mistakenly anthropocentric because they claim that "they know what is best for the natural environment" and make such evaluations by appealing to their own values (289). Elder writes that "if it cannot matter to canyons or trees if they are irreparably damaged, how are their guardians to know what to argue on their behalf, other than by using their own values?" (1984, 289).

In contrast, those who argue that nature is intrinsically valuable, environmental movement intellectuals in Ecuador among others, criticize the scientific community for following Rene Descartes' assigning of value to human consciousness, and their insistence that the objective, physical world, of which nature is part, is value-free (Callicott 1989, 132). Indeed, Descartes separated humans from nature and insisted that only humans, with souls and minds, had consciousness. Animals were allegedly "insensible and irrational machines [that] move, like clocks, but could not feel pain... lacking minds, animals could not be harmed" (Nash 1989, 18). However, there have always been dissenters within the scientific community who value non-human species for their own sake, not for their usefulness to humans.

Callicott (1989), for instance, appeals to the Judeo-Christian belief system, and to concepts of bio-empathy within moral theory. Callicott argues that, at first glance, the Judeo-Christian tradition seems to reject the notion that human beings have duties to the natural world. Environmentalists have maintained that "Christianity is the most anthropocentric religion the

world has seen” (137). Callicott observes, however, there is a countercurrent Genesis,³⁶ according to which, “nonhuman species may have intrinsic value because they are parts of God’s creation and God has conferred intrinsic value upon them, either by creating them or by a secondary fiat” (137). Following this argument, God determines what or who is intrinsically valuable. However, Callicott adds that for those who are not persuaded by religious beliefs might be convinced by bio-empathy, which is conceptually associated with scientific naturalism. Building on the writings of David Hume, Charles Darwin, and Aldo Leopold, Callicott argues that human beings can experience disinterested affections and sympathy for people they do not know. Hume acknowledged “a distinct sentiment which naturally resides in human beings for the ‘public interest’;” Darwin recognized “affection not only for ‘fellows’ but for ‘family’ and ‘tribe’;” and Leopold claimed that “his land ethic would require *Homo sapiens*’ respect for the biotic community as such” (Callicott 1989, 151). Hence, according to Callicott (1989) value is affective and can be extended to non-humans, namely to the biotic community of which we are a part. But value is also cognitive. Some persons might have narrow cognitive understandings of what or who is intrinsically valuable. To grant that non-humans are intrinsically valuable requires “an expansive cognitive representation of nature” (152), one that accepts that humans are part of ecosystems and that humans, therefore, ought to be respectful of nature.

In a similar vein, in *Philosophy Gone Wild*, Rolston III (1986) argues for a non-anthropocentric theory of value that justifies the intrinsic worth of nature. He considers intrinsic value to be intertwined with instrumental value. Nature, of which humans are a part, is a source of both intrinsic and instrumental values. He writes that “no organism is a mere instrument, for

³⁶ According to Callicott, Genesis is a compilation of at least three different texts that date back to different periods in history. The Priestly version of creation presents a very scientific understanding of creation; the Yahwist version considers men as custodians of creation not the masters; the Genesis-J conceives the mastery of humans as “a sign of the fallen and cursed condition of *Homo sapiens*, not [as] a privilege ordained by God” (1989, 138).

each has its integral intrinsic value. But it can also be sacrificed on behalf of another life course, when its intrinsic value collapses, becomes extrinsic, and is in part instrumentally transported to another organism” (Rolston 1986, 132-3).

The respect for nature that Callicott (1989) and Rolston III (1986) demand does not automatically justify that nature should be conferred rights, however. Both authors, themselves, reject the idea of using the language of rights to protect nature. Rights of nature is another enduring debate within environmental ethics, that I address next.

III.2. Nature as Bearer of Rights: The Philosophical debate

Historian and philosopher, Roderick F. Nash (1989) traces the roots of the defense of the rights of nonhuman beings back to seventeenth century Western thought. As early as 1641, Nathaniel Ward was including stipulations that prohibited cruelty against animals in legal statutes in Massachusetts, New England. Similarly, the writer Jeremy Bentham in 1789, Edward Nicholson in 1879, and Henry Salt in 1891, all fought for the rights of animals; though, they did not speak of the “environment” or of “nature” in their writings.³⁷ A specific defense of “nature”, understood as a holistic system or a unified entity, appeared in the writings of Aldo Leopold in 1949. The land ethic he proposed in *A Sand County Almanac* urged a “restraint on humankind’s capacity to modify the environment beyond levels conducive to its own survival and the biotic rights of other species” (Nash 1989, 72). Leopold’s writings are considered by some as

³⁷ More contemporary philosophers who write about protection of animals and animal rights are Peter Singer and Tom Regan. Peter Singer has articulated an argument for the protection of animals, but not rights of animals. In his 1975 work, *Animal Liberation*, Singer makes a rational argument to justify that human beings have a moral obligation to protect animals even in detriment to humans’ own pleasure. Tom Regan makes a defence of the rights of animals in his 1983 book, *The Case for Animal Rights*. He argues that animals have the same natural rights that human beings have, and that animals have intrinsic worth for they are living creatures (Jasper 1999, 151-152).

constituting the intellectual basis of the American environmental movement, which in the 1970s was pushing beyond the rights of animals.

Indeed, by the 1970s, philosophers, lawyers, and environmentalists in the United States were trying to find ways to incorporate the rights of nature in the legislation (Nash 1989, 128). One of the most important scholarly works that attempted to establish a philosophical and legal foundation for the rights of nature was produced by Christopher D. Stone (1973). In his well-known book *Should Trees Have Standing? Toward Legal Rights for Natural Objects*, Stone made the case that rights once unthinkable have been granted throughout history: to blacks, for instance, in the United States, who were once considered a “subordinate and inferior class of beings;” to Chinese in the nineteenth century, who were not allowed to testify against white men in courts because they were an “inferior” race; to Jews in the thirteen century; to women until the early twentieth century; and commonly still to children (1973, 6-8). Hence, for Stone, granting rights to the natural environmental – as a unified whole, inclusive also of forests, oceans, rivers, or ‘natural objects’ – is just the natural progression of our system of morality (9).³⁸ Stone’s proposal, however, did not reject completely utilitarianism. He, for instance, expressed that:

“...to say that the natural environment should have rights is not to say anything as silly as that no one should be allowed to cut down a tree...to say that the environment should have rights is not to say that it should have every right we can imagine, or even the same body of rights as human beings have. Nor is it to say that everything in the environment should have the same rights as every other thing in the environment” (11).

³⁸ Stone advocated the extension of legal standing to natural objects, such that individuals could speak on their behalf in courts and protect the legal rights of voiceless natural objects. This is different than advocating for the extension of moral standing to natural objects – which would entail arguing that regardless of what society the natural objects exist in, or what legal system has jurisdiction over the area in which these natural objects exist, or what laws a society enforces and what legal rights actually are implemented, natural objects have certain (moral) rights that should be enforced/protected if they are not already.

Because natural objects could not themselves claim their rights in front of judges, Stone proposed that a person (or guardian) represents nature. This legal figure had already been used to represent the interests of children, or disabled people, and it was widely accepted (17). The proposal of representation by human beings has been used by critics to suggest that Stone is offering nothing new. Sagoff (1974), for instance, criticizes that if nature is represented by human beings, ultimately the interests of the latter will prevail. In a similar vein, Sagoff criticizes what he considers “utilitarian ambiguity” in Stone’s argument, for Stone has maintained that defending that the natural environment should have rights does not preclude from using its resources for human well-being (Stone 1973, 10). Despite criticisms, Stone’s ideas have continued to be echoed by other scholars and environmental movement intellectuals, such as those in Ecuador. In the words of the former President of the Ecuadorian Constituent Assembly, himself an ally of the environmental movement:

Throughout history, each creation and expansion of rights has always appeared as something previously unthinkable. The emancipation of slaves or the extension of civil rights to African-Americans, women and children were in each case dismissed as nonsensical. For slavery to be abolished it was both necessary to recognise ‘the right to have rights’ and to exert political pressure to change the laws that denied those rights. In order to free nature from the condition of being a rightless subject or a simple object of property, political pressure to have it recognised as being entitled to rights is also required (Acosta 2009a, 110).

In the United States, one of the most audacious proponents of the rights of nature was David F. Favre, a lawyer and scholar, who proposed an amendment to the American Constitution in his 1979 *Journal of Environmental Law* article that would establish a basis for the rights of nature. The amendment to the Constitution that he proposed stated that “all wildlife... shall have the right to a natural life” (in Nash 1989, 133). Like Stone, Favre also argued that the granting of rights to blacks and women in the American justice system, which was once highly controversial,

effectively justifies extending legal standing and rights to nature – a claim that has generated much opposition.³⁹ Elder, for instance, replied to the arguments of Stone and Favre by insisting that, “People and plants are not in the same category” (1984, 288).

Similar to Elder, Taylor (1986) finds it impossible for animals and plants to be bearers of rights. He claims, first, that only moral agents – those with the capacities both to act morally or immorally, those that have duties toward others, and that can be held accountable for their actions – can be bearers of rights. Second, to have rights requires to be able to have self-respect. If something cannot have self-respect, it cannot be bearer of rights. Third, that to be a holder of a right is to assume that the bearer can make the conscious decision whether or not to exercise the right. And finally, that bearers of rights must be able to demand other types of rights. Animals and plants cannot be considered subjects and, thus, cannot be considered bearer of rights, for they do not have the capacity of distinguishing wrong from right; they do not have self-respect; they cannot decide whether or not to exercise the right; and cannot demand other rights (246-251).

Similarly albeit in a different vein, Rolston III (1993), who defends the intrinsic importance of nature, doubts that the language of rights can effectively protect nature, since rights, allegedly, only protect human values. Rolston writes:

A right is a valid claim that a person can make, or have made on her behalf, to have her interests or welfare taken into account. Human rights are statements of basic needs or interests that are politically significant as grounds for protest, for legal treatment, and as justifications in reforming practices and policies. They invoke justice and equality, rather than benevolence or charity. They propose standards of individual treatment which every culture ought to recognize and protect. Human rights produce a legally justified constraint on how other persons may treat the person possessing the right (254-255).

³⁹ The U.S. Constitution has not been amended to include the human right to a safe environment (Nickel 1993, 281), so the inclusion of rights of nature is very unlikely.

When applied to the natural environment, talk of rights, according to Rolston, is simply inappropriate. Nature can have no rights because it has no corresponding responsibilities toward other rights-bearers (1993, 256). Even the concept of animal rights Rolston considers problematic, because rights do not exist independent of people. The idea of the rights of animals comes from human beings' beliefs (258). He concludes that the notion of "rights is a political concept which attaches to the human animal that lives in a *polis*, but is not well suited to nonpolitical animals" (259). Nevertheless, even if rights are not sufficient to justify environmental protections for nature's sake, Rolston does believe that it is possible to invoke human rights to effectively champion environmental protection (more generally). Because environmental degradation threatens life, humans must demand their right to a clean and safe environment; and this claim should be directed toward other humans, which is the classical anthropocentric position.

The environmental rights of humans are not contested by intellectuals within the Ecuadorian environmental movement. To the contrary, they see environmental rights of humans and rights of nature as different but complementary (Melo 2009a, 56). They are different because from an environmental human rights view, a clean and safe environment is instrumental to the well-being of humans. Conversely, as has already been established, the argument for the rights of nature implies that nature is intrinsically valuable, and not (merely) for the benefit it provides to human beings; and, thus, that nature should be respected for its own sake. Despite this difference, these types of rights complement each other because it is beneficial for humans to grant rights to nature, since the protection of ecosystems ultimately guarantees human life (Gudynas 2011).

Within environmental ethics discourses there are also middle ground arguments. Nash (1993), for instance, defends the concept of biotic rights, which is not synonymous with the rights of nature. While for Nash biotic components (or living components) are intrinsically valuable and should be granted rights, abiotic elements (or non-living elements) are merely instrumental. Nash, further, emphasizes the need to conceive the moral standing or moral importance of humans and non-humans as unequal and, thus, advocates for a “graded” model of rights, which can accommodate treating humans and non-humans differently. As Nash’s proposal clarifies, biotic rights or the rights of living, non-human entities, “imply neither equal rights with humans nor the same rights as humans” (1993, 240).

Contrary to Nash (1993), environmental movement intellectuals in Ecuador departed from western concepts of the natural sciences that differentiate the biotic and abiotic components to understand the concept of “nature.” Borrowing from ancestral indigenous peoples’ system of knowledge, environmental intellectuals understand nature as *Pachamama* or Mother Earth. In the words of Acosta (2011, 370):

Pachamama not only incorporates nature, as we know it, but also human beings, the relationship between human beings and their territory, and even spiritual beings. Pachamama is a concept that embraces the community, territory, and biodiversity.

With this definition of nature, environmental movement intellectuals in Ecuador have established a clear differentiation between the western system of beliefs concerning nature, its moral standing and protection, and the system of knowledge of indigenous peoples. The holistic ancestral conception of nature as *Pachamama* is becoming influential in global environmental discourses and movements – the Ecuadorian environmental movement, among others – since the ancestral belief system of indigenous peoples, that I analyze next, is perceived as an alternative to solve the current environmental crises (global warming, deforestation, desertification, loss of

biodiversity, and so forth) that have been caused by the western model of economic development (Ulloa 2003).

III.3 Indigenous Philosophies: The Communitarian Paradigm

According to indigenous philosophies, which Ecuadorian environmental movement intellectuals employed to construct the rights of nature rhetoric, the aforementioned opinions against the intrinsic value of nature are non-sense. *Pachamama* (or Mother Earth) has always been considered a subject that deserves respect. It is presumed that the components of nature are not resources, but living beings (Huanacuni 2010, 55; Ulloa 2003, 7). Nina Pacari, a well-known indigenous leader and the former Minister of Foreign Affairs, explains that

According to the indigenous vision, all beings of nature have an energy called *SAMAI* and, accordingly, they are all living-beings: the stone, the river (water), the mountain, the sun, the plants... all beings have life and they also have a family, they enjoy happiness and sadness as human beings do (Pacari, 2009, 32-33).

The proposal of granting rights to nature similarly does not fit within indigenous peoples' understandings, because they do not think in western terms of individual rights. As is observed by Torres, Coordinator of C-Condem, one of the environmental networks, "rights of nature is a western idea; [indigenous peoples] do not talk about rights, but they talk about a necessary equilibrium [with nature], and about an ethic with life" (2011). The rights of nature language, therefore, has not been present in indigenous discourses. However, the biggest demand in indigenous discourses is the establishment of a plurinational state, and it is not difficult to find points of convergence between the demand of a plurinational state and the rights of nature.⁴⁰

⁴⁰ The demand for a plurinational state was central in the proposal of indigenous peoples for the 2008 Constituent Assembly. Indigenous groups associated with CONAIE, the indigenous umbrella organization, were in favor of the

The plurinational state is grounded in a communitarian paradigm, where the community and not the individual is the center of a society. The community is a concept that includes human beings and nature. Indigenous consider that nature and human beings complement each other, that they mutually need one from the other to survive (Pacari 2009, 33; Ulloa 2003, 8). Because indigenous peoples consider nature as a living being, they can talk to her and request permission to access her elements (Ulloa 2003, 8). Thus, they argue that they have been able to understand the life cycles of species, and have established restrictions on the use of natural resources according to such cycles with the aim to preserve species and ecosystems (Martínez 2009, 85 & 94). They know, for instance, when to cultivate and when they should permit the land to recover. In the words of Aymara philosopher, Huanacuni, “Mother Earth has cycles, periods to sow, periods to harvest, periods to remove the soil, [and] periods for natural fertilization” (2010, 37).

The relationship between indigenous peoples and nature has been studied by anthropologists and historians. Some academics have been interested to study the relationship between indigenous peoples and nature before the Spanish conquest to evaluate if the aforementioned beliefs in fact existed. Those scholars argue that there was a harmonious relationship with nature before the conquest (Ulloa 2003, 5-6). European colonization broke with indigenous traditional communitarian practices and imposed the Western individualistic view. Nature came to be recognized as a valuable resource to be exploited and traded with Europe (Gudynas 2009a, 31). Further, colonization meant the introduction of new commodities and

declaration of a plurinational state. Indigenous groups antagonistic toward CONAIE – FENOCIN, for example – considered the proposal of plurinationalism to be impractical and maintained that interculturality, which embraces respect among different groups, was more appropriate. There is no alignment either among indigenous activists on the exact meaning of plurinationalism but they agree that plurinationalism is not an attempt to divide the Ecuadorian state into autonomous groups, but rather an attempt within the sovereign state to promote the collective rights of indigenous peoples and to implement those rights in practice (see Becker 2011, 142-146).

animals, that influence the relationship between indigenous peoples and nature in at least three ways: some groups were attracted to the new commodities, but those groups did not alter the relationship of respect toward nature; other groups faced a spiritual crisis and their relationship with nature was affected; and other groups strategically decided to maintain their ancestral relationship of harmony with nature as a way to resist the process of colonial and post-colonial oppression (Ulloa 2003, 6). Regarding the last point, Varese (1996) sees the relationship between indigenous peoples and their environment as a form of resistance that has permitted them to survive for centuries after the conquest. These forms of resistance include a “moral ecology” or a type of environmental ethic with the universe; a political economy of reciprocity; the hiding of their knowledge about biodiversity and its uses; and the plasticity of their discourse.

The formation of independent states in the nineteenth century did not entail a return to indigenous ways of living. Power was transferred from Europeans to mestizos,⁴¹ but the exclusion of indigenous peoples did not change. In the newly formed nation-states dependence on natural resource extraction increased, in order to sustain their expanding export-oriented economies. The once dominant communitarian paradigm was not embraced in the new independent states (Gudynas 2009a). This has been the primary reason why indigenous peoples have been fighting for the recognition of a plurinational state in the late twentieth century, which would take seriously the diversity of cultures and not simply heed the predominating mestizo culture. For it is argued that it is only through the recognition of a plurinational state that ancient practices of communitarianism could be embraced again – and with them the respect for nature (Huanacuni 2010, Trentavizi 2010).

⁴¹ People of mixed heritage: European and indigenous.

One of the central motivations of indigenous peoples to fight for the recognition of a plurinational state is that under this model indigenous peoples can gain rights to territory. And right to territory extends beyond the right to land for them. Right to territory is a more encompassing and political concept that concerns the right to make decisions according to their rituals, traditions, and customary laws within the boundaries of their lands (Torres 2011). It also concerns the management and rational use of biodiversity. Indigenous peoples, therefore, consider that the recognition of a plurinational state is the path to truly achieve rights for nature, though as been claimed earlier, they do not use the language of rights in their discourses.

IV. Concluding thoughts

This chapter illustrates that environmental movement intellectuals articulated three different, though compatible, discourses in the construction of the rights-of-nature frame: an economic, a legal, and an ethical discourse. Within the economic discourse, intellectuals instrumentally use the rights-of-nature frame to contest capitalism. They view the rights of nature as the starting point for the construction of a new, “post-development” economic model that takes seriously the intrinsic importance of nature. Along similar lines, the ethical discourse not only defends the position that nature is intrinsically valuable, but promotes the appropriateness of, and the need for, granting legal rights to nature (or *Pachamama*, borrowing the *Kichwa* word for nature). Closely intertwined with the ethical discourse, the legal discourse attempts to produce changes in the environmental governance system. Intellectuals seek for ecological justice that protects ecosystems and species since, so far, environmental justice only protects human beings from environmental degradation.

In short, then, and based on empirical evidence provided in this chapter, I demonstrated that within the specific Ecuadorian case study analysed in this dissertation movement intellectuals employed multiple discourses that resulted in various understandings of what rights of nature means, what the implications of the frame are, and which claims championed by the frame should have priority over another, which made overall alignment between movement intellectuals and movement participants highly unlikely. The next chapter provides additional evidence to justify the difficulties of frame alignment by focusing on the actors, and unveiling the heterogeneity within the Ecuadorian environmental movement.

Chapter 4:

Heterogeneity of the Ecuadorian Environmental Movement

After examining the diverse discourses employed in the construction of the rights-of-nature frame, Chapter 4 focuses on the actors, namely the varied organizations that form the Ecuadorian environmental movement. In Ecuador, opinions are divided whether there, in fact, is an environmental social movement. Some believe that there is no a single, cohesive environmental social movement in Ecuador, but rather numerous environmental movements. Others believe that environmental causes are not solely sought by advocates within an environmental social movement, but also by important groups such as indigenous peoples and peasants. For others there is an incipient environmental social movement that currently lacks a clear objective, but is nevertheless constituted by diverse environmental networks that seek specific environmental objectives. Finally others insist that there is no environmental movement, as the uncoordinated efforts of various environmental non-governmental organizations (NGOs) cannot be considered a movement. Accordingly, before it is possible to justify the explanation for the establishment of the rights-of-nature frame, it is appropriate here to examine the assumption that there is an environmental movement in Ecuador since I am arguing that the frame was created and endorsed by environmental movement intellectuals and participants.

The aforementioned diversity of opinion regarding the Ecuadorian environmental movement reflects the difficulty of conceptualizing what a social movement is because, as is argued by Zirakzadeh (2006, 3), “the term *social movement* connotes different things to different people.” For example, for some groups the growing in number of environmental NGOs demonstrates the existence of an environmental social movement, while for others that is not enough evidence. It is even more difficult to conceptualize what an *environmental* social

movement is for those movements are constituted by a broad array of actors. In developing countries, environmental social movements are not only formed by middle-class, educated professionals, and intellectuals, as New Social Movement Theory scholars argue is principally the case in industrialized countries (Diani and Lodi 1988, 109; Klandermans and Tarrow 1988, 7). Rather, in developing countries, multiple actors – including scientists, academics, students, peasants, workers, indigenous peoples, afro-descendants, women, urban environmental NGOs, and NGOs that seek other social purposes – form the social base of environmental movements (Tobasura Acuña, 2007). And because of this diversity and the loose ties between such movement participants, environmental social movements tend to lack the formal organization that other social movements display.

Despite possible difficulties conceptualizing what an *environmental* social movement is, I argue in this chapter that there is ample reason to grant the existence of an environmental social movement in Ecuador because the multiple actors in this movement feel aggrieved by environmental deterioration and seek to redress the situation that affects them through collective political struggle, which is the core assumption of a social movement. However, as will be discussed in detail below, the Ecuadorian movement is quite heterogeneous: (i) the social base (namely, the groups and networks that form the movement) for instance, is constituted by different types of organizations (environmental NGOs, social NGOs,⁴² and local grassroots organizations), (ii) there is also a class cleavage for some groups of the movement are formed by educated professionals from urban origins, others by technical staff from urban and rural origins, and others by indigenous peoples and peasants, (iii) members of these various sectors espouse diverse environmental political ideologies (environmentalism versus ecologism), and (iv) there is

⁴² Social NGOs' goal is to struggle for the provision of basic human needs for their populations, but they have intertwined environmental protection and natural resource conservation in their mission

variation in the tactics that parties within these varied organizations employ (conventional versus unconventional tactics).

During the 1980s and 1990s, urban environmental NGOs were the most visible actors of the movement. This changed when the National Environmental Assembly (ANA) was formed in 2005 because organizations within the rural sector, which were concerned with environmental issues, became included in the social movement base. And while the inclusion of the rural sector in the ANA has improved issues of representation, as not only urban but also rural organizations have now voice in the movement, it has also amplified the heterogeneity of the movement and tensions among actors because of the diversity of goals sought by the various organizations and the tactics used to achieve them. This heterogeneity is what constitutes the puzzle of this dissertation along with the multiple discourses used in the frame construction: how this divided Ecuadorian environmental movement came to agree to the rights-of-nature frame.

In what follows, Section I defend the case for the existence of an environmental social movement in Ecuador. Section II narrates the development of the movement during its first wave from the late 1970s until 2005. Section III narrates the second wave of the environmental movement from 2005 until the present. The last section concludes.

I. The Ecuadorian Environmental Social Movement

If as argued by Zirakzadeh (2006, 3), “the term social movement connotes different things to different people,” how do we know then when we see a social movement? And how do we know that there is, in fact, an environmental social movement in Ecuador?

Though there is no consensus on the definition of a social movement, contemporary social movement literature acknowledges common characteristics that allow us to identify a

social movement. First, social movement activists pursue collective struggle by making use of peaceful tactics, such as lobbying the government, pursuing lawsuits against opponents, organizing petitions, and engaging in peaceful marches and rallies. Though, the tactics of social movements can also be contentious, such as blockading streets and occupying buildings (Zirakzadeh 2006, 5; Tilly and Tarrow 2007, 8). Second, the members who form constitutive groups or networks within the larger movement,⁴³ feel aggrieved by something, and believe that by mobilizing their fellows they will collectively bring about change relative to their grievances. The change they seek may be structural and long-lasting; a “radically new social order,” for instance (Zirakzadeh 2006, 4). However, not all participants or organizations within a given social movement want to change the established social order. Some participants prefer to work within the system and to maintain stable institutions while still exacting some social change. Third, collective struggle occurs outside formal institutions of government, such as political parties and legislatures. Collective struggle is, precisely, addressed against the power-holder that in the majority of the cases, though not always, is the state and its institutions⁴⁴ (Tilly and Tarrow 2007, 8 & 119; Tarrow 1998, 2). Participants within a social movement, however, may have parallel ties with formal institutions of government and a social movement. This particular characteristic has been analyzed by social movement scholars to examine its implications for the survival of a social movement (Van Cott 2005, 2008).

Based on these common characteristics of social movements identified in the literature, I argue that there is an environmental movement in Ecuador. As already examined in Chapter 3, environmental movement participants feel aggrieved by Ecuador’s economic dependency on the

⁴³ Tilly and Tarrow (2007) refer to those groups and networks as the social movement base.

⁴⁴ Political Process scholars understand social movements as a phenomenon occurred after the formation of the nation-state (Tilly and Tarrow 2007), which is debated by other scholars who argue that not all movements have the state as its target for there are cultural movements with other goals in mind (Goodwin and Jasper 1999, 34; see Zirakzadeh 2008, 532-533).

extraction of natural resources that has degraded the environment and they seek to redress this situation by acting collectively. Some of them seek to radically change the established social order, namely they talk about a post-capitalist model of economic development. Others, however, want to produce change within the established capitalist system of development. Environmental movement participants have developed their campaigns against the state and national and international corporations that extract natural resources (i.e. banana, oil, wood, shrimp and so forth). And similar to other social movements, Ecuadorian environmental movement participants employ peaceful and contentious tactics.

The Ecuadorian environmental movement, however, displays specific characteristics that I analyze in this section. First, the movement is formed by different types of organizations. Second, those organizations have diverse constituencies. Third, the movement is divided by different environmental political ideologies. And, lastly, those environmental political ideologies influence the use of conventional or unconventional tactics.

Table 2 below illustrates the heterogeneity of the Ecuadorian Environmental Movement:

Table 2: Ecuadorian Environmental Movement

Type of Organization	Description of Constituency	Environmental Political Ideology	Tactics
Environmental NGOs	Urban, formally educated	Environmentalists	Conventional
		Ecologists	Unconventional
Social NGOs	Urban and rural, with college or vocational education	Most are ecological organizations	Conventional and Unconventional
Local grassroots organizations	Rural, lack formal education	Ecologists	Unconventional

In fact, Ecuador's environmental movement is organized around three types of organizations: (i) environmental NGOs, whose central goal is environmental protection and natural resource conservation; (ii) social NGOs, whose main goal is the provision of basic human needs, but which have intertwined environmental protection and natural resource conservation in their mission; and (iii) local grassroots organizations, whose main goal is also the provision of basic human needs, but which also seek to guarantee the access, use, and/or conservation of natural resources (Fontaine 2007, 234). The environmental movement embraces all these

different types of organizations. Yet, each category (i.e. environmental NGOs for example), alone, cannot be considered the environmental movement. Additionally, during the second wave of the environmental movement (2005-present), the movement has been organized around thematic networks (i.e. water, anti-oil, and so on) that, in turn, are grouped in a bigger umbrella network known as the National Environmental Assembly (ANA). The second wave of the movement is examined in detail in Section III in this Chapter.

Primary constituents of environmental NGOs largely reside in urban areas, have high levels of education, and earn incomes above the national average (Varea et al 1997, 379; Fontaine 2007, 240). Conversely, constituents of social NGOs tend to reside in both urban and rural regions. While perhaps less advantaged than environmental NGO constituents, supporters of social NGOs still hold university degrees or have technical education. Both environmental and social NGOs are commonly advised by academics. Local grassroots organizations, on the other hand, are comprised of indigenous peoples and peasants. Despite the professionalization of indigenous leaders in the last decades, indigenous peoples and peasants are still among the most impoverished populations, and have limited educational opportunities and access to healthcare. This class cleavage, according to Fontaine (2007, 41), explains tensions within the Ecuadorian environmental movement; between members of the affluent sector whose material well-being is secure, and who are, thus, more likely to defend post-material values (the rights of nature, for example), and members of the poor sector, who lack material well-being and, thus, still strongly defend material values and the pursuit of greater affluence.

Beyond such socio-economic considerations, the movement is additionally divided along environmental political ideology: *ecologism* versus *environmentalism* (Polit 2011; Dalton 1994). Advocates of *environmentalism* defend, for instance, economic growth, but also take seriously

the need to promote sustainable development and the “wise use of resources” (Martínez-Alier 2002, 5). *Ecologists*, in contrast, believe that economic growth is positively correlated with environmental deterioration, and that promoting sustainable development does nothing more than to legitimize the exploitation of the natural world. Thus, they advocate economic principles that can achieve harmony with nature, rather than principles whose aim is simply accelerated economic growth (Dalton 1994, 47; Martínez-Alier 2002, 10).

The origins of *ecologism*, an environmental political ideology that first emerged in developed countries, can be traced back to student protests in France in May 1968, which among many others issues, opposed industrialization because of the excessive use of natural resources. Several ecological organizations emerged in the aftermath of the May 1968 protests (Varea et al 1997, 39). Friends of the Earth, for instance, was founded in 1969 in the United States, and soon Greenpeace was formed in Canada in the early 1970s (Dalton 1994, 39-40).

Ecologism, however, is not an environmental orientation unique to the developed world. Developing countries also foster ecological principles, in terms of what Martínez-Alier (2002) labels as an “ecologism of the poor.” Popular and rich ecologists in Ecuador, for instance, seek a change in the social and economic order, namely capitalism, such that the traditional accumulation of wealth can be replaced by a new economic model harmonious with nature. Motivations and interests within this group, however, vary. Affluent ecologists, for instance, as Fontaine suggests (2007, 41) are uniquely positioned to defend post-material values, such as the rights of nature. Popular ecologists, on the other hand, have vested material interests in the defense of the natural environment, for their welfare and survival are dependent on its conservation. Hence, they are not concerned with the rights of other species or the rights of

future generations. In the words of Martínez-Alier (2002, 11), “[their] ethics derive from a demand for contemporary social justice among humans.”

Environmentalists, in turn, are willing to work within capitalism, albeit their central concern is environmental protection and natural resource conservation (Fontaine 2007, 239). The growing of organizations that subscribe to environmentalism is the product of the international community’s efforts to implement sustainable development, a concept that was first introduced in the *Stockholm Conference on the Human Environment* in 1972, the first UN conference that put environmental issues in the international development agenda. It was later incorporated into the international environmental agenda with the publishing of the document *Our Common Future* (also known as Brundtland Report) by the World Commission on Environment and Development (WCED) in 1987, which captured the debates of 1972. Sustainable development was finally widely debated during the U.N. *Conference on Environment and Development* held in Rio de Janeiro, Brazil, in 1992. International organizations, such as the International Union for the Conservation of Nature, the World Wildlife Fund, and the United Nations Development Program, have defined sustainable development as a mechanism “to improve the quality of human life without exceeding the capacity of the ecosystems that sustain life” (Varea et al. 1997, 36). Since the Rio Conference, the international community has urged national governments to promote economic development in a sustainable way and has, consequently, allocated resources to various NGOs – directly or through state institutions – in order to address environmental concerns (Varea et al. 1997, 36, 44).

Several authors emphasize the existence of *conservationism* (a different environmental political ideology) within the Ecuadorian environmental movement (Varea et al. 1997; Martínez-Alier 2002). A conservationist campaign, focused exclusively on the protection of biodiversity,

was present in the early years of the movement. By 1992, however, organizations purely focused in conservation started to evolve to embrace a wider concern not only about nature but also about the well-being of the populations who inhabit those areas rich in biodiversity. Also, new organizations emerged that aligned with those broader concerns (Geo Ecuador 2008, 135). A purely conservationist orientation has been strong in developed countries. Conservationism originated near the end of the nineteenth century in Europe, with the establishment of organizations that sought to protect birds, and other organizations that strove to preserve both historical sites and territory that was rich in biodiversity (Dalton 1994, 28-30). Similarly, in the United States, in the early twentieth century, organizations concerned with environmental issues were preservationists or conservationists. John Muir, who was an early advocate of wilderness preservation, pioneered the idea of protected natural areas when he pressured for the creation of the world's first national park at Yellowstone in 1872. Conversely, conservationists, such as Gifford Pinchot (a bureaucrat who managed the US Forest Service) argued that natural areas should be wisely or efficiently managed to safeguard against the depletion of valuable natural resources (Nash 1989).

These models of conservation, as understood in Europe, and of preservation, as understood in the U.S., were implemented in developing countries, such as Ecuador, through the funding of transnational environmental organizations (the United States Agency for International Development (USAID), The Nature Conservancy (TNC), and The World Wildlife Fund (WWF), among others.) Originally, conservationist organizations were successful in working closely with the Ecuadorian government and were able to influence the government to declare national parks and ecological reserves (Varea et al 1997, 36). However, conservationists in Ecuador were also criticized for their idealized vision that nature should be untouchable and their disregard of the

controversial implications of protecting certain natural areas rich in biodiversity – lands on which the livelihood of indigenous peoples depend – from being developed (Manosalvas 2011). For that reason, since the 1990s, efforts to conserve biodiversity, while still a central objective of many organizations, were coupled with environmental education and initiatives to improve the living conditions of the populations that inhabit areas rich in biodiversity.⁴⁵

Finally, the environmental political ideology influences the type of tactic (conventional or unconventional) used by organizations within the Ecuadorian environmental movement. I agree with Dalton (1994, 178-179) who argues that most environmental movement organizations have as a priority to influence environmental public policies and as such they constantly interact with governments. Yet, the tactics employed by diverse groups vary. Though all organizations combine conventional tactics with more unconventional ones, ecologists are more inclined to use unconventional tactics, whereas environmentalists lean more toward the use of conventional tactics. Fontaine (2007, 240) identifies as unconventional tactics within the Ecuadorian environmental movement the use of protests, and the use of the media and the internet to publicly challenge actions of the government and corporations that threaten the environment. Other unconventional tactics used by some organizations and not cited by Fontaine involve the peaceful occupation of public buildings and in a few instances the use of violence, such as attacking private property. Conventional tactics, in turn, involve the participation in negotiations

⁴⁵ Consider, for instance, EcoCiencia, a scientific and conservationist organization. Its aim is to provide alternative projects to improve the living conditions of the population, to recover ancestral knowledge of indigenous peoples, and to strengthen the knowledge of local grassroots organizations that inhabit the Andean moor (<http://www.ecociencia.org/inicio/index.php>). In a similar vein, Fundacion Natura, the first conservationist organization of Ecuador, promotes environmental education and not only natural resource conservation (<http://www.fnatura.org/>). Likewise, Fundacion Maquipucuna, whose original objective was to purchase private lands so as to establish the Maquipucuna Reserve (which it accomplished in 1988), currently intertwines conservation with the production and commercialization of coffee and ecotourism in order to improve the quality of life of the native populations of the protected area (<http://www.maqui.org/>).

to solve socio-environmental conflicts,⁴⁶ direct lobbying bureaucrats, and even direct participation in public policy-making through the provision of technical advice to government institutions (Fontaine 2007, 240).

With these specific characteristics of the Ecuadorian environmental movement in mind, in the next section I move to narrate the historical development of the movement.

II. First Wave of the Environmental Movement (late 1970-2005)

The rapid expansion of non-governmental organizations concerned for the environment is the main characteristic of the first wave of the environmental movement that following pages of this section emphasize. During these decades environmental and ecological organizations were created whose participants came mostly from urban origins. The expansion of these NGOs led to the formation of the Coordinating Committee for the Defense of Nature and the Environment (CEDENMA) in the late 1980s, network that despite facing issues of participation and disagreement among its members, until these days represents environmental and ecological organizations of the movement.

The proliferation of environmental NGOs during the 1980s and 1990s can be explained by the restoration of democracy in 1979, which facilitated the creation of environmental and other civil society groups, such as the indigenous movement. In fact, in an attempt to strengthen civil society, the newly-instituted democratic government established an easier process for new NGOs to become legally recognized as nonprofit groups, which directly benefited the growing of environmental and social organizations (Lewis 2000, 112-113).

⁴⁶ The term socio-environmental conflict refers to a conflict that occurs when there is opposition or controversy between groups for the access and/or control of natural resources (Fundacion Futuro Latinoamericano, 2008).

Coupled with the aforementioned explanation, a necessary factor for the growth of NGOs was the influx of resources from transnational environmental organizations interested in protecting biodiversity in Ecuador. As activist and scholar, Rossana Manosalvas, emphasizes, the environmental movement in Ecuador did not emerge solely from the initiative of grassroots civil society groups concerned with the health of the environment, but because of the funding provided from abroad (Manosalvas 2011). Along these lines, Lewis observes that, “[I]n 1991, Ecuador ranked fifth in the world in the amount of funding it received for biological diversity research and conservation projects from public and private donors in the U.S., receiving \$4.5 million in that year alone” (2000, 112). Transnational environmental donors, such as the United States Agency for International Development (USAID), The Nature Conservancy (TNC), and The World Wildlife Fund (WWF), provided resources and influenced how conservation should be carried out in the country. The traditional model of natural resource conservation implemented in developed countries was replicated in Ecuador, which led to an increase in the number of protected areas (Manosalvas 2011).

The transnational transfer of resources, which in some instances was directly channeled to local environmental NGOs, freed the government of some of the responsibility to promote environmental conservation and charged this task to non-governmental organizations instead. However, it also pressured the government to accept foreign models of conservation as a requisite for receiving this external funding.

Fundación Natura was the first national environmental NGO in Ecuador, and was created in 1978 with USAID funding.⁴⁷ Since then, it has become the largest environmental organization

⁴⁷ The Charles Darwin Foundation is much older than Fundación Natura. It was established in Puerto Ayora, Santa Cruz Island, Galápagos in 1964. Charles Darwin, however, is not an Ecuadorian organization, but rather an

in the country, with 5,300 national and 200 international members, and offices in Quito, Guayaquil, and Azogues. Natura's main goal is the conservation of natural areas and the promotion of sustainable development. Since its inception this organization has become a bridge between the state and various international organizations, which has facilitated the channeling of further funds for conservation initiatives. Teodoro Bustamante, Executive Director of Natura, emphasized the apolitical nature of the organization in 1996, and welcomed ideological diversity into the foundation. Accordingly, Fundación Natura has been able to negotiate with government officials of different ideologies within Ecuador; this apolitical position, however, has been criticized by ecological organizations, such as Acción Ecológica. During the administration of right-wing Leon Febres Cordero (1984-1988), a government well-known for committing human rights violations, for instance, Fundación Natura received roughly 10 million dollars through two debt swaps for nature (where foreign debt is exchanged for investment in conservation projects), which were initiated by The Nature Conservancy and the World Wildlife Fund. Both transnational organizations transferred the resources to their partner in Ecuador, Fundación Natura, to invest in the system of protected areas and to purchase further lands rich in biodiversity for protection. Natura also distributed some of the funds to other domestic environmental NGOs in Ecuador. EcoCiencia, for example, was an environmental NGO whose creation was made possible by Fundación Natura's financial contribution, and which was intended to generate scientific research (Lewis 2000, 112; Tamayo 1996, 126). Since its inception, EcoCiencia has been an apolitical organization, concerned mostly with the provision of scientific data for environmental projects of government agencies, private companies, and international organizations (Varea et al. 1997, 146). Similarly, Fundación Antisana (FUNAN)

international organization that was founded in Belgium in 1959. Despite its international origins, however, at least ninety percent of the foundation staff is Ecuadorian (<http://www.darwinfoundation.org/english/pages/index.php>).

was created in 1991 with funding from The Nature Conservancy, and was charged with managing the natural area around the Antisana Volcano that the Ecuadorian government declared as an ecological reserve (Lewis 2000, 113).

Paralleling the growth of environmental organizations, by the end of the 1980s, various ecological organizations also started to be formed in Ecuador. Ecological organizations brought a different understanding from conventional environmental organizations – both in terms of what conservation meant and how it should be carried out. These groups rejected the idea of protection of natural areas without taking into consideration the populations who inhabit those areas. They criticized transnational environmental organizations of the developed world, which they argued overlooked the complexity of natural resource conservation in developing countries like Ecuador, where impoverished, indigenous peoples inhabit the designated natural areas that were targeted for conservation. The ecological organizations also argued the environmentalists failed to recognize the necessity of accounting for the quality of life of those populations that would invariably be impacted by the creation of ecological reserves and national parks (Manosalvas 2011). The Corporation for the Defense of Life (CORDAVI), Fundación Gaia-Tierra Viva, and Acción Ecológica (which broke off from the Society for the Defense of Nature (SODENA)), and the Center for Communication and Social Studies (COMUNICARE), were the early representatives of ecological groups of what would develop into Ecuador's current environmental movement (Fontaine 2007, 234; Varea et al. 1997, 146).

Within the group of ecological organizations, Acción Ecológica, which was established in 1987, has stood out within the environmental movement for its unconventional tactics against the state and resource-extractive corporations. Activists within this organization have used non-violent tactics – such as occupation of buildings and marches – to fight the destruction of the

mangroves, oil contamination, and the introduction of genetically modified organisms. Acción Ecológica is “the Ecuadorian version of Greenpeace” according to Manosalvas (2011), and it is certainly the antagonist of Fundación Natura for their visions are contrasting. While Fundación Natura seeks to work within the current capitalist economic system, Acción Ecológica contests capitalism.

Members of Acción Ecológica have become influential figures in the political sphere. This is true, for instance, of Esperanza Martínez, leader of Acción Ecológica, who became an environmental advisor at the Constituent Assembly of 2007-2008, and one of the proponents of the rights-of-nature frame. In addition, given the fact that members of Acción Ecológica have supported rural populations in their struggle against natural resource extractive corporations, they maintain a relationship of friendship with the indigenous movement. The relationship with the national indigenous organization, CONAIE, and the regional organization, ECUARUNARI, is particularly strong, which helps to explain the unconditional support that indigenous peoples have shown of the ideas and proposals espoused by Acción Ecológica – the rights of nature among them (Manosalvas 2011).

During the 1990s, a determinant factor of the strengthening of the environmental movement in Ecuador was the UN Conference on Environment and Development that took place in 1992 in Rio de Janeiro, Brazil (Kakabadse 2011). Preceding the conference was a period of intense dialogue among ecological and environmental organizations, concerning the preparation of varied environmental proposals to be presented during the conference in Brazil. After 1992, environmental and social NGOs proliferated. This growth, in great part, was supported by international organizations, which sought to promote the paradigm of sustainable development

through the investment in environmental and development projects.⁴⁸ A particular type of organization focused on environmental law also emerged after the Rio conference. The environmental orientation of such organizations was closer to environmentalism in some instances (for example, with the Ecuadorian Center of Environmental Law (CEDA)), and to ecologism in other cases (for instance, with the Corporation of Management and Environmental Law (ECOLEX)). Ecologists Byron Real of CORDAVI and Manuel Morales of ECOLEX are the pioneers of the idea of granting rights to nature in Ecuador. Both Real and Morales wrote their doctoral dissertations on the rights of nature in 1998 and in the early 1990s respectively. Both built on the ideas of the Chilean, Godofredo Stutzin, one of the early advocates of the rights of nature in Latin America (Morales 2011).

By the late 1980s, environmental NGOs throughout Ecuador started to seek ways in which they might coordinate their efforts and, thus, formed the Ecuadorian Coordinating Committee for the Defense of Nature and the Environment (CEDENMA), , which is considered a significant milestone for the environmental movement in Ecuador that I examine next.

II.1. Coordinating Committee for the Defense of Nature and the Environment (CEDENMA)

This network was formed in 1987 during the first Ecuadorian congress of environmentalists and ecologists, which was organized in Quito by Fundación Natura. It was the first occasion that the civil society – which had grown concerned about the health and future of Ecuador’s natural environment – had a forum in which to formally discuss environmental

⁴⁸ Fundación de Defensa Ecológica (FUNDECOL), Jatún Sacha, Fundación Maquipucuna, Fundación Ecológica Arco Iris, Fundación Futuro Latinoamericano, Corporación Oikos, Red de Bosques, and Corporación de Conservación y Desarrollo, were among the numerous environmental NGOs created during this time (Fontaine 2007, 235).

policies for the management and protection of the country's natural resources (Varea et al. 1997, 148-149).

CEDENMA's primary task was to implement the agreements that were struck in the Congress. Originally CEDENMA welcomed not only organizations from all environmental political ideologies, but also indigenous peoples, peasants, and workers. In 1990, however, the organization changed its statutes and restricted the participation to only environmental and ecological organizations, whose general goals are the conservation of nature, the protection of the environment, and the promotion of sustainable development. CEDENMA has, since, come to be considered the network that coordinates the efforts between Ecuador's diverse environmental and ecological NGOs. CEDENMA is also the network authorized to express the political views of their member organizations regarding environmental issues (Varea 1997, 149-52; CEDENMA 2006).

As the network that represents ecological and environmental NGOs, CEDENMA worked for years to prepare a draft of a Biodiversity Law,⁴⁹ which might protect biodiversity rich areas, and also introduced a proposal to halt mining activities in 2003 (Fontaine 2007, 236). The most notable achievements of CEDENMA to date, however, are twofold. First, the organization facilitated the establishment of the National Environmental Assembly (ANA) in 2005: an umbrella network inclusive of rural and urban networks, concerned with environmental issues (which is discussed at length in the next section). Second, CEDENMA can be credited for introducing a historical proposal on behalf of Ecuador's environmental movement to the delegates responsible for the rewriting of the national Constitution in late 2007. In the proposal,

⁴⁹ While this law ultimately was never approved, it was discussed in Congress in 2006. Its failure was due in large measure to the strong opposition of Accion Ecologica and the indigenous movement, both which alleged that implementation of the law would merely lead to the privatization of nature (Manosalvas 2011).

titled “*Hacia Una Sociedad Equitativa y Sustentable*” (“Toward an Equitable and Sustainable Society”), environmental movement participants wrote several articles they envisioned should be part of the Constitution, most of which were concerned with the environmental rights of human beings. However, a closer reading of the document would reveal an inchoate notion of granting rights to nature. The proposal, which ultimately was adopted for ratification, read: “The state recognizes the right of existence to the components of the natural patrimony of Ecuadorians, whose defense and representation should be exercised by an environmental ombudsman” (Asamblea Nacional Ambiental 2008, 46).

The achievements of CEDENMA, however, should not be overstated. For instance, while CEDENMA’s main goal had been to become the organization to represent environmental NGOs before the national government, it has certainly experienced difficulty reaching consensus among the diverse organizations that constitute this network about the best way to work with state institutions on diverse projects, such as the management of protected areas or the passing of environmental laws. Further, during the last few years, the participation of CEDENMA’s members has declined sharply. Bastidas (2011), officer of the environmental NGO, *Corporación Oikos*, explains that of the fifty-five NGO members of CEDENMA, perhaps twelve to fifteen are still actively involved. Even Fundación Natura, the original proponent of CEDENMA, has slowly, though not formally, divorced itself from the network. Acción Ecológica, also an original member, officially left the network because its activists did not agree with the positions of some organizations within CEDENMA, which were willing to work with state institutions on extractive development projects (Martínez 2010).

Bastidas (2011) argues that the decline in participation in CEDENMA can be explained, in part, by the financial crisis that has been negatively affecting NGOs since 2000.⁵⁰ Environmental NGOs have to fight for the scarce resources of international organizations and they cannot invest the time of their staff in participating in CEDENMA's meetings. An additional factor for CEDENMA's decline is related to the leadership of the organization. Ideological diversity divides the network, and some of its constitutive organizations have not agreed with some of the radical positions that CEDENMA's presidency has publicly expressed and have, thus, opted to leave the network. Among such criticisms leveled against CEDENMA is the following (professed by a former member of the network who prefers to remain anonymous): "The leadership of CEDENMA does not consult its constituency and is not able to create consensus. CEDENMA should not proclaim positions that are not consensual, or at least it should mention which organizations disagree with an expressed position." Though, it is unclear that such behavior can fairly be attributed to the organization as a whole, since it seems rather to reflect the particular style of leadership of a specific CEDENMA's president. For other members of the network, conversely, complain that CEDENMA's decision-making process is extremely horizontal, which sometimes slows its decision-making (Bastidas 2011). Lastly, CEDENMA's decline is, ultimately, an outcome of a general weakness of the environmental movement, whose members started to work in the state bureaucracy once *Alianza País* assumed office in early 2007. Cooptation of environmental movement participants has debilitated the movement. This consideration is further developed in Chapter 5 when I discuss the closing of the political opportunity for the environmental movement.

⁵⁰ Since 2000, international aid organizations started to shift their attention toward Africa, which meant less funding allocated for NGOs in the Latin American region (Llaguno et al. 2008).

In 2011, fifty-five environmental NGOs were members of CEDENMA, which is a modest number considering that there are 420 environmental NGOs legally registered in Ecuador by the Ministry of Environment (El Comercio, 26 April 2009). The predominant environmental political ideology within CEDENMA is one of environmentalism, and its tactics more conventional. Those tendencies within the environmental movement shifted with the formation of the National Environmental Assembly (ANA) that I analyze in the next section.

III. Second Wave of the Environmental Movement: 2005-until the present

While the rapid proliferation of urban non-governmental organizations concerned with environmental issues was the main feature of the first wave of the environmental movement, the second wave characterizes by the creation of an umbrella organization called the National Environmental Assembly (ANA) whose member organizations come from the rural sectors of Ecuador (Rivadeneira 2011), and whose origins and development will be analyzed in detail in this section.

Indeed, the establishment of the National Environmental Assembly (ANA) in 2005 signaled the start of a new era in the environmental movement. The ANA's rise was the outcome of the active mobilization of civil society groups after the ousting of President Lucio Gutierrez, leader of the populist Patriotic Society Party, in April 2005. An adequate explanation of the causes of this presidential failure exceeds the scope of this study. However, this breakdown was undoubtedly motivated by the civil society (specifically by urban, middle-class citizens in Ecuador's capital of Quito), which – through protests – were able to pressure the removal of the president. This civil society group known as the “*Forajido* Movement” (“renegades” in English) formed in early February 2005, when other civil society organizations like *Asamblea de Quito*,

Participación Ciudadana, and *Ruptura de los 25* began to contest the unconstitutional decisions made by President Gutierrez.⁵¹ As an aside, the movement participants' anger escalated, in early April, however, when Gutierrez made a pact with the Roldocista Party and facilitated the return of former President Abdala Bucaram to Ecuador, who had lived in exile in Panama since his ousting in 1996. The populist style of Bucaram – namely, the confrontational discourse against the upper classes, the use of inappropriate language in public speeches, and the lack of good manners to appeal to his followers – has always annoyed members of the upper and middle classes in the country, who perceived Bucaram to be “vulgar” and “an embarrassment of the country’s civility” (De la Torre 2000).

The active mobilization that followed Bucaram’s return to Ecuador in early April 2005, and the fall of President Gutierrez a few days later, further motivated grassroots activism throughout Ecuador. Ecologist Vicente Polit recalls that neighborhood assemblies were installed everywhere in the country; and that “there was an extraordinary fever of participation” during those times. The National Environmental Assembly (ANA) emerged in the midst of this heightened period of activism and mobilization, during a congress convened by CEDENMA in May 2005 that was attended by rural and urban organizations concerned with environmental conservation (Polit 2011). CEDENMA’s aim by facilitating the creation of the ANA was to strengthen issues of representation within the movement by making it more inclusive of the rural sectors.

The ANA is considered a pluralist, democratic, and representative umbrella network of the Ecuadorian environmental movement, formed by the Ecuadorian Coordinating Committee

⁵¹ Gutierrez threatened the stability of the judicial and electoral systems when he illegally removed the members of the Supreme Court of Justice, the Constitutional Court, and the Supreme Electoral Court, in order to fill those positions with his new allies (Roldocista Party and *Partido Renovador Institucional Acción Nacional* (PRIAN)) (Pachano 2005, 40).

for the Defense of Nature and the Environment (CEDENMA), Coordinating Committee for the Defense of the Mangrove Ecosystem (C-Condem), Amazonia Defense Front (FDA), Water Forum, Ecuadorian Agroecology Coordinating Committee (CEA), Plurinational Federation of Ecuadorian Communitarian Tourism (FEPTCE), and Intag Coordinating Committee (Asamblea Nacional Ambiental 2008). Each one of these networks, in turn, embraces hundreds of local grassroots organizations and non-governmental organizations; and because in some instances membership is informal, some networks do not have data on how many organizations actually participate in the network. See Table 3 below, which illustrates the structure of the environmental movement during the second wave.

Originally, the ANA was able to invite other institutions, such as the national organization of indigenous peoples (CONAIE), and various organizations of workers, and peasants. According to Manosalvas (2011), “[the] ANA successfully united, for the first time, leftists with environmentalists.” However, considering that the participation in the ANA is informal, organizations have easily entered and exited the network, and, so far, only the aforementioned organizations have maintained their participation in the ANA since its creation. It is certainly true that hundreds of social and environmental organizations may have decided not to participate in the ANA or to leave the network, and that those organizations should still be considered part of the environmental movement. However, the importance of the ANA as the umbrella network of the Ecuadorian environmental movement cannot be understated either, for no other environmental movement in Latin America has been able to create an umbrella organization where urban and rural organizations work together.

Table 3: Structure of the Environmental Movement during the Second Wave

National Environmental Assembly (ANA)		
Networks	Membership	Goals
Ecuadorian Coordinating Committee for the Defense of Nature and the Environment (CEDENMA)	51 NGOs	To represent the political views of NGOs and to influence environmental public policies
Coordinating Committee for the Defense of the Mangrove Ecosystem (C-CONDEM)	150 local grassroots organizations	To defend and recover the mangrove ecosystem
Intag Coordinating Committee	50 local grassroots organizations (approximately), and 6 parish boards	To halt mining exploration in the Intag territory
Ecuadorian Agroecology Coordinating Committee (CEA)	55 local grassroots organizations	To guarantee food security to the Ecuadorian population
Plurinational Federation of Ecuadorian Communitarian Tourism (FEPTCE)	100 local grassroots organizations	To promote communitarian tourism
Water Forum	Informal membership (no data available)	To produce scientific research to influence water public policies
Amazonia Defense Front (FDA)	20 local grassroots organizations	To defend the population affected by Texaco oil company

Since its creation, the ANA has ascribed to an ecological environmental orientation, which is quite visible in the minute of constitution of the ANA, which declares that:

Considering

The political and economic developmental model, based on capital accumulation, excludes the majority of the Ecuadorian population, and benefits only a few sectors, mostly represented by transnational corporations and international organizations.

[The ANA] Agrees,

- 1) To reject any attempt of privatization of natural resources in favor of companies, national, or international organizations.
- 2) To halt the development of megaprojects that damage natural resources and the territorial and cultural patrimony.
- 3) To halt the commodification of nature through the sale of environmental services.
- 4) To demand the moratorium of new concessions for exploration and exploitation of oil and mining, and permissions for logging, fishing, and water extraction, until the state guarantees a new model of use of non-renewable natural resources.
- 5) To demand the reversal of all illegally granted permissions, and permissions granted to mining, oil, forest, and shrimp fishing companies that work in protected areas, and areas declared as forest patrimony of the state.
- 6) To demand the moratorium on bioprospecting and production of genetically modified organisms.
- 7) To declare Ecuador as a country free of genetically modified organisms.
- 8) To commit the support of ANA in redressing laws implemented under the logic of neoliberalism. Our activities must be oriented toward the establishment of legal mechanisms to assert national sovereignty over our water; to challenge the logic of appropriation of water rights; to guarantee that the investment in infrastructure continues to be the patrimony of the state; and, to democratize institutions in charge of the public management of water.⁵²

The creation of the ANA did not bring cohesiveness to the environmental movement. To the contrary, the turn to an ecological orientation has deepened tensions among movement participants because certain beliefs within ecologism do not appeal to all actors. For ecologists the fundamental concern is the capitalist economic system and the promotion of economic growth in detriment of the environment, while environmentalists agree to work within capitalism and economic growth is acceptable to the extent that it is achieved in a sustainable way. Given their rejection of capitalism, ecologists tend to disagree with the implementation of environmental initiatives that involve market mechanisms (payment for environmental services, for example). In contrast, for environmentalists, initiatives that involve the market are considered

⁵² Fragments of this statement were extracted from the minutes of the *Asamblea Nacional Ambiental de los Pueblos, Nacionalidades y Organizaciones Sociales del Ecuador* (2005); the translation is mine.

adequate solutions to prevent environmental degradation. These ideological differences have created tensions within the environmental movement, represented by the ANA. This was expressed by a member of an environmental NGO who argued that “the ANA might represent those who believe in a radical ecologism but not all of us.”⁵³

The heterogeneity in tactics that ecologists and environmentalists employ is another source of conflict. As Lincango (2010) frankly observes, “some organizations want to protest; while others want to negotiate.” In fact, rural networks within the ANA tend to use more contentious tactics – such as protests, pacific occupation of buildings, and in a few occasions violence and assault of private property – while environmentalists lean more toward the use of conventional tactics that involve negotiation, lobbying bureaucrats, and provision of technical advice to government institutions. Certainly, because of their dependence on natural resources for survival, rural inhabitants – whether indigenous peoples or peasants – are more likely to defend it, turning to contentious strategies against challengers (state or extractive companies) if necessary. As an aside, this defense of nature, however, does not necessarily imply a concern for the rights of nature. In fact, scholars who study the relationship between rural peoples and their natural environments in Latin America and elsewhere emphasize that native peoples regularly cultivate, hunt, and fish as a matter of necessity; and that, consequently, the value of and relationship of nature among rural peoples is clearly instrumental. This does not mean, however, that indigenous peoples do not take seriously the intrinsic value of nature. It means that portrayals of indigenous peoples as guardians of nature are merely idealized views depicted by

⁵³ I prefer not to cite the source in order to protect the identity of my informant.

organizations foreign to indigenous peoples, such as the media and international organizations (Ulloa 2005; Ulloa 2003; Lohmann 1995).⁵⁴

The aforementioned ideological differences and contrasting use of tactics have prompted some organizations to distance themselves from the ANA.⁵⁵ As I argue below, heterogeneity prevails within the movement, in part, because the formation of each environmental network is a response to various environmental problems that have impacted the movement's members in different ways, and which have required different tactics to resolve. In some instances, for example, environmental threats have had a direct, negative impact on rural population's health, or on their access to their ancestral lands and the resources they need to survive, which have incited the use of contentious tactics. In other instances, especially in urban areas, movement's members are exposed to environmental threats (pollution for example); however their survival is not immediately in danger, which has motivated the use of more conventional or peaceful tactics.

What follows is a discussion of the respective origins, goals and tactics of each individual environmental network subordinated to the ANA, with the aim to better illustrate the heterogeneity of the movement. CEDENMA, is certainly also a member organization of the

⁵⁴ Ulloa (2003) argues, for instance, that the construction of an "ecological" identity of indigenous peoples coincides with the emergence of environmental discourses in Latin America (beginning in the 1970s), which were shaped by international organizations that have supported the recognition of indigenous peoples' right to control their territories (for example, the International Labour Organization Convention 169, the 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage, the 1980 World Conservation Strategy of the World Conservation Union, and the 1992 Convention on Biological Diversity). This ecological identity, which emphasizes indigenous peoples' ancestral knowledge and its respect for nature as a way to protect biodiversity, is being employed by indigenous peoples in their fight for the protection of their natural resources. However, this representation of the identity of indigenous peoples as guardians of nature is sometimes romanticized, and is grounded in stereotypes that do not correspond to indigenous peoples' beliefs and practices. After all, such western images of indigenous peoples that come from various external groups (such as the mass media and international organizations) have created an idealized vision that do not correspond to the reality of indigenous communities, but which fit well with the organization's convictions about how indigenous peoples should interact with nature (5, 10-11).

⁵⁵ Some network representatives, who I prefer not to cite in order to protect their identity, have expressed that decisions in the ANA are based on ideological positions, rather than on technical and scientific studies, and that there is a lack of long-term planning.

ANA; however, its rationale was already discussed in the first wave of Ecuador's environmental movement, and for that reason it is not included in the following pages again.

III.1. Coordinating Committee for the Defense of the Mangrove Ecosystem (C-Condem)

The mangrove ecosystems mean to our people their vital space; they are the territory that provides a source of life and guarantees our daily subsistence; the mangrove is our only chance to live with dignity.

– Lider Gongora Farias, 2008 (quoted in C-Condem 2011, 10).

C-Condem was established during an international workshop held in July of 1998, which was organized by the environmental NGO, Fundecol, with the support of Greenpeace International. This meeting, which took place in the Coastal city of Muisne, Esmeraldas, gathered 500 representatives from local grassroots organizations that had been affected by the growth of the shrimping industry (C-Condem 2011). Since the organization's inception as a social NGO, the emphasis of C-Condem has been on the achievement of economic, social, and cultural rights for coastal population that depends on the mangrove ecosystem⁵⁶ for subsistence, but the organization has also struggled to champion environmental rights and environmental justice.

Shrimping in Ecuador, for export to the United States, began in 1954, but this fishing originally took place in the open sea. In 1966, however, entrepreneurs of El Oro Province realized that they could farm shrimp in natural ponds. By the 1970s there were more than 600 hectares under cultivation, and Ecuador was already considered an important world shrimp producer and exporter. And by 2010, there were 175,000 hectares of shrimp farms, with the

⁵⁶ Mangroves are a type of forest vegetation located at sea level that is home to several species of birds, fish, and crustacean (C-Condem 2007, 47).

United States and the European Union comprising the largest markets for Ecuador's exports (C-Condem 2007, 24; FAO 2011). Production reached its peak in 1998 when the country exported 114,795 tons of shrimp, which constituted 26 percent of total Ecuador's exports in that year. Despite ups-and-downs in the production in the following decades, Ecuador's export of shrimp continues to be one of the main sources of income for the country, along with the export of oil and bananas (FAO 2011).

While the shrimping industry has generated much income for the country, and has provided employment for the local people, the overall benefits of this activity are questionable. Mangrove ecosystems, where the shrimping industry has constructed the natural ponds from which shrimp are farmed, are a vital source of social, economic, and cultural subsistence for more than one million peasants in the coastal provinces of Guayas, El Oro, Manabi, and Esmeraldas (C-Condem 2007, 7). For these rural people, fishing and hunting are not only necessary for survival, but are central to their heritage – as far back as 3500 BCE when Pre-Columbian cultures⁵⁷ inhabited these territories and depended on the rich resources of these mangroves (C-Condem 2011, 10). Yet, with the boom of shrimp production and export, the regions comprising the mangrove ecosystems have been destroyed by roughly 70 percent. Consider, for instance, that in 1987, 362,802 hectares of mangroves were declared as protected forest, and by 2000 only 108,000 hectares remained – a figure that has continued to drop (C-Condem 2011, 8).

Currently, formed by more than 150 local grassroots organizations, C-Condem's goals oscillate between publicly condemning the impacts of the shrimping industry, and finding ways

⁵⁷ Some of the Pre-Columbian cultures include Valdivia (3500-1800 BCE), Huancavilca (500 BCE – 1532 CE), Atacames (500 BCE – 1531 CE).

to protect and to repair the remaining areas of mangrove ecosystems. C-Condem alleges that the expansion of the shrimping industry, facilitated by neoliberal ideals and governments, has not reversed poverty. To the contrary, the shrimping industry, for instance, has violated the territorial rights of those rural peoples who have been displaced by the usurpation of their ancestral lands (C-Condem 2011, 8 & 32). For these peoples territory is not only a parcel of land on which their well-being depends, but is also the source of their culture and identity. Their lands provide work and food, but it is also where they create and preserve their myths and tales, their songs and dances, and so forth (Torres 2011).

The strategies of the group are mostly unconventional. C-Condem makes extensive use of the internet and social networks to protest against the destruction of the mangroves, but the actions of its members have also occasionally turned violent. During the 1998 congress when C-Condem was formed, activists destroyed a shrimp farm that they believed had been illegally built (C-Condem 2011, 1). Violence between the entrepreneurs who hire private guards to protect their industries, and native peoples who claim that they are being violently denied access to their own lands has prevailed (C-Condem 2011, 15). And while *Law 1391*, instituted in 2008, aimed to better monitor and enforce the activities of the shrimping industry so as to curtail the degradation of the mangroves, the initiative has not been well received by C-Condem – which views this law as merely an attempt to legalize the industries, while blatantly privileging business interests over those of rural people (C-Condem 2007). In short, the enactment of this law has only further motivated the activism of this network.

III.2. Amazonia Defense Front (FDA)

The Amazonia Defense Front is a social non-governmental organization, originally created in May 1994 to represent indigenous and peasant organizations in the lawsuit against the U.S.-based oil company, Texaco, for its contamination of the Amazonia.⁵⁸ However, the network later broadened its goals to include providing legal counsel to communities whose territories become threatened by oil companies, mining industries, and agribusiness. The staff of the network advises communities regarding their human and environmental rights, so that they are better informed and better able to negotiate with extractive industries. The FDA also offers counsel concerning effective strategies of resistance when communities prove reluctant to negotiate with companies (Yanza 2011). The FDA is an umbrella network and includes twenty local grassroots organizations,⁵⁹ whose ethnic base consists in peasants and indigenous peoples from the Secoya, Cofan, Huaorani, and Quichua nationalities (Fontaine 2007, 242).

The lawsuit against Texaco has been the central activity of this network. Luis Yanza, former President of the FDA, recalls that the lawsuit did not start as a demand of the affected communities. Rather, the Ecuadorian lawyer, Cristobal Bonifaz, started to investigate the health effects of Texaco's industrial practices in Ecuador and began persuading people to sue the oil company for its adverse impacts on public health and the natural environment (Yanza 2011). Bonifaz was inspired by the academic work of Judith Kimerling, a U.S. scholar who moved to the Amazonia and documented adverse impacts of oil exploration and drilling over span of

⁵⁸ In 2001, the *Assembly of Delegates of People Affected by Texaco* was formed as an organization charged with representing peasants and indigenous people in the lawsuit. Indigenous peoples did not feel represented by the FDA and decided to form their own assembly. The FDA remains a part of the new Assembly of Delegates and is still in charge of various administrative tasks and of the financial management of resources for the lawsuit (Chavez 2011).

⁵⁹ Including the peasant federations of Orellana, La Joya de los Sachas, Aguas Negras, and Lago Agrio (Nueva Loja); the farming centers of Orellana and Santa Clara cantons; the human rights committees of the Northeast and Shushufindi; and the counties of San Carlos, Tarapoa, and Puerto Libre (Fontaine 2007, 242).

twenty-six years.⁶⁰ Texaco operated in partnership with Ecuador's national oil Company – CEPE until 1989, and Petroecuador since then – from 1964 until 1990, and according to Kimerling's work the company regularly employed outdated technologies to reduce costs and increase profits. And consequently, millions of gallons of toxic waste generated by the company's 235 oil wells were discharged into the environment without treatment. Moreover, accidental oil spills during Texaco's tenure, which could have been prevented, resulted in the further discharge of approximately 16.8 million gallons of crude oil into the rivers and streams. And because Texaco failed to even attempt to clean the spills, the widespread contamination of water sources, and air and soil pollution, effectively devastated the biodiversity of one of the most biologically diverse ecosystems of the world (Kimerling 1991b, 850; Kimerling 1994, 205; Yanza 2004, 37).

Beyond the resulting environmental damage, human, territorial, and cultural rights of indigenous peoples have been violated by the oil extraction that Ecuador's government has permitted. For instance, the emphasis on communitarian life, which is characteristic of indigenous peoples' culture, is in danger of erosion. Younger generations are enchanted by the modern luxuries, technological advancements, and paid employment opportunities that the introduction of multinationals, like Texaco, bring with them. These younger generations do not want to collaborate anymore with unpaid activities which are traditional of the communitarian life of indigenous peoples, and have lost interest in learning the traditional methods of environmental conservation practiced by their ancestors (Kimerling 1994, 207).

Cancer, neurological problems, reproductive problems, skin rashes, headaches, fevers, and gastro-intestinal disorders, are all health problems related to pollution associated with oil extraction, which negatively affect especially those living in the vicinity of oil drilling sites –

⁶⁰ Kimerling, Judith. 1991a. *Amazon Crude*. North Kingstown, RI: Green Ink, Inc.

communities that are comprised predominantly of indigenous peoples and peasants (Kimerling 1994, 206; Yanza 2004, 38). An estimate of 30,000 people has been affected. Environmental deterioration has additionally affected the spiritual health of indigenous populations (Kimerling 2006, 467). As it was expressed by an indigenous shaman who was interviewed by the Inter American Court of Human Rights concerning the violation of indigenous peoples' rights by companies that extract oil in Sarayacu, "what is a grave concern for us is that half of our spiritual beings have left."⁶¹ Deterioration of physical and spiritual health is not the only problem for these people, but with the expansion of the oil activity, they have been displaced from their lands (Kimerling 1994, 206). And for indigenous peoples territory is not only a parcel of land, but it is the physical space that provides work and food security, and where they develop their cultural practices.

In 1993, indigenous and peasant plaintiffs brought their grievances against Texaco to a New York district court and sought to redress the aforementioned deterioration of the natural environment, the violation of the economic rights and public health and safety of Ecuadorians, and the erosion of indigenous culture, that they believed Texaco had perpetrated. Outside the courts and without agreement of the affected people, in 1995 the Ecuadorian government and Texaco signed a settlement agreement, in which the oil company agreed to repair the environmental damages of its operations, and to finance the implementation of various development projects. Texaco alleged that it invested roughly \$40 million in its remediation and cleanup of degraded area, which the Ecuadorian government approved the completion of in 1998, releasing Texaco from any further liability (Acosta 2009b, 73-81). Kimerling, in contrast, argues that the cleanup was "limited in scope and largely cosmetic" (2007, 465).

⁶¹ Anecdote conveyed by Mario Melo (lawyer of the indigenous people of Sarayacu) during a workshop regarding the rights of nature held in Pachamama Foundation on 22 July 2012.

Despite the foregoing settlement, Ecuadorians who had been harmed by the pollution-generating business practices of Texaco insisted that the company was still liable for damages and, thus, believed that their grievances still warranted legal action. Given the fact, that the class-action lawsuit presented in New York was dismissed on several occasions by U.S. judges arguing that the U.S. Courts had no jurisdiction over this matter since the alleged grievances did not occur on U.S. soil, in 2003, the plaintiffs initiated a new lawsuit: this time with the Ecuadorian Courts. Litigation is on-going. Still arguing that Texaco is liable for further damages, the plaintiffs have demanded that the costs of environmental remediation and clean-up of the numerous oil wells that were operated by Texaco (many of which continue to discharge toxic contaminants into the soil and water sources) should be paid directly to the Amazonia Defense Front. This suggestion, however, that the FDA be responsible for administering these resources, created tensions between indigenous organizations that claim are not well-represented by the Front (Acosta 2009b, 73-81; Kimerling 2006).

As part of their struggle against extractive companies, activists of this network combine conventional and unconventional tactics, which include publicly challenging oil companies in the media, participating in strikes, peacefully occupying public buildings, and engaging in non-violent marches. They also employ conventional strategies, such as sending letters of grievance to government offices and the executives of oil companies. Their strategies have been successful in attracting international support. Since its creation, the FDA has received financial support from multiple sources, including the German Cooperation Agency, the Public Welfare Foundation, The Moriah Fund, the International Union for the Conservation of Nature, Oxfam America, the Austrian Cooperation, and the Rainforest Action Network (Yanza, unpublished manuscript).

III.3. Water Forum

Since the 1960s, rural communities in Ecuador have developed their own systems for water management. They have formed water use associations and inter-communitarian systems for water management that, despite technical and administrative difficulties, have become alternative ways to compensate for the inefficiency of public agencies that enforce water rights and the laws that govern access to public waters. And the Water Forum is a platform that connects these actors. The Forum has a decentralized structure, and the membership of private and public institutions⁶² is informal, which means that organizations can freely enter and exit the network.⁶³ It was formed in 2001 and since then has provided a forum for debate and analysis of the main water problems of the country. Small assemblies gather at the provincial and regional levels to discuss their problems and to submit proposals which are later discussed at the national level in larger assemblies (Zambrano 2011; Gaybor 2011).

Water Forum activists have followed more conventional tactics by generating vast research to guide the state's decision-making concerning water-related public policies (Zambrano 2011; Gaybor 2011). They have demonstrated that Ecuador has four times more surface water than the worldwide per-capita average; however, the access to water is inequitable (Gaybor 2008, 13).⁶⁴ Water Forum researchers have found out that the biggest percentage of water concessions or state authorizations to use water (31,519 authorizations or 49 percent in

⁶² Water use associations, farmers, development organizations, research institutions, and local governments participate in the Water Forum (Zambrano 2011).

⁶³ Because membership is informal, organizations do not regularly attend the assemblies, making it difficult to keep a record of how many organizations are active members in this network (Zambrano 2011).

⁶⁴ Antonio Gaybor, National Coordinator of the Water Forum, argues that surprisingly there is lack of research that examines inequality in the access to water in Latin America and for that reason his organization has concentrated in this issue (Gaybor 2010, 48).

2007)⁶⁵ was allocated for agricultural irrigation, which in the last decades has become highly dependent on the waters provided by the country's various canal systems, as opposed to conventional reliance on rainwaters (Gaybor 2008, 14). The water granted for irrigation is largely concentrated in the hands of agribusiness, leaving little for small rural farmers to use on their lands. Eighty-six percent of irrigation users are indigenous peoples and peasants who have access to only 13 percent of the country's water flow; whereas the one percent of agribusiness farmers has access to nearly five times this volume to irrigate their lands (Gaybor 2008, 22).

A specific example of this unequal access to water is manifest in Ecuador's banana industry.⁶⁶ Two of the largest banana producers, Reybanpac and the Noboa Group, were granted 37 percent of the total water concessions reserved for the banana sector in 2005 and 66 percent in 2007. This flow of water would have been enough to irrigate between 11,000 and 23,000 small farms (Gaybor 2008, 30). Despite such discrepancies in access, these big corporations also commonly access more water illegally.⁶⁷ For instance, only 45 percent of the companies that form the Reybanpac group had legal water concessions in 2005. The remaining 55 percent used water illegally (Gaybor 2008, 29). This unequal distribution and illegal use of Ecuador's public waters also mark the country's sugar cane, rice, oil-palm, and livestock industries (Gaybor 2008, 14-53; Gaybor 2010, 47-65; Gaybor 2011). In short, Water Forum activists, through the production of scientific research, publicly contest the state decision to benefit economic elites by allowing them to concentrate water, while excluding the rural sectors from accessing this public good.

⁶⁵ These state authorizations represented 19.65 percent of the total water flow (Gaybor 2008, 14).

⁶⁶ Recall from Chapter 3 that banana exports are one of the most important sources of income for the country along with oil revenues.

⁶⁷ Common techniques used by industries in Ecuador consist in altering the course of a river (Gaybor 2010, 58) and stealing ground water through the perforation of wells without state authorization (Gaybor 2008, 39-40).

III.4. Ecuadorian Agroecology Coordinating Committee (CEA)

The CEA is a social NGO of national scope that promotes the use of agro-ecology: a scientific discipline that connects ecological theories with farming methods in the search for a respectful way of using natural resources without devastating biodiversity. Agro-ecologists from this network strongly believe that scientific knowledge must be combined with ancestral knowledge of indigenous peoples in order to better preserve the natural environment (Minga 2011). This network was formed in the late 1990s by members of various NGOs that worked on rural development (Rivadeneira et al 2005, 4). The founding members were concerned with the expansion of the agricultural model that was inspired by the green revolution: a model that is based on the expansion of farming, the use of technology to improve yields, and the increase in the global trade of foodstuffs.

CEA's members argue that the expansion of farming is ecologically unsustainable because of the soil erosion and the destruction of biodiversity that it entails; the use of toxic pesticides and fertilizers, in the name of technological improvement, has become pervasive and has created widespread harm to the natural environment and the public health; and the competition between small producers of developing countries and large-scale farmers in developed nations that free-market principles have promoted remains highly unequal (Rivadeneira et al 2005, 31-34; Rivadeneira 2011).

During its early years, the CEA focused on training rural farmers and members of local NGOs that worked on rural development projects. CEA strove to make rural farmers more competitive in Ecuador's agricultural industry and to preserve the ways of life in rural Ecuador (to better enable indigenous people and peasants to earn a living). In Ecuador, food supply for national consumption is produced by relatively small farms, not by large landowners who export

the majority of their harvests. Consequently, the members of the CEA understood that guaranteeing food security for Ecuadorians required safeguarding and promoting the interests of rural farmers. Thus, the CEA developed a training plan that covered major topics of agro-ecology, such as the proper management of topsoil, the effective conservation of local biodiversity, the use of native seeds as opposed to genetically modified seeds, the development of efficient irrigation systems, the mitigation of crop-destroying diseases and pests, the use of sustainable natural fertilizers, and the successful sale and trade of their foodstuffs in the country's agricultural industry.

Besides offering this training to local farmers, since 2005, this network has been negotiating with the state agency of agriculture the inclusion of agro-ecology and agro-biodiversity principles in rural agricultural public policies. With that aim, the fifty organizations that constitute the CEA work in two separate assemblies in order to debate and prepare proposals for policy-makers, and to effectively commercialize and distribute their agricultural products (Rivadeneira 2011; Rivadeneira et al 2005).

The strategies employed by the CEA have mostly been conventional for they have focused on the development of educational curricula and the production of a vast numbers of publications detailing the organization's experiences with training rural farmers. However, as explained by Jose Rivadeneira, Executive Coordinator of this network (Rivadeneira 2011), the organization has used oral and written discourse (speeches in assemblies, training seminars, training materials, and various publications) to contest capitalism. According to the CEA, the agrarian problem is caused by the capitalist system of accumulation that promotes inequalities. For example, in rural areas land concentration impedes rural farmers to access land to cultivate. The land reforms that took place in Ecuador in 1964 and 1973 that were supposed to end the

colonial and post-colonial inequalities in the distribution of property did not fully achieve redistribution. Still 42 percent of the land in Ecuador is in the hands of merely 2.3 percent of citizens – concentrated in the hands of owners whose respective properties exceed 100 hectares – whereas more than 60 percent of Ecuadorians own less than five hectares, and approximately 30 percent of Ecuadorians own less than one hectare (Rivadeneira et al 2005, 38). A further problem is that the most productive lands are still in the hands of large landowners in the highlands, and agribusiness corporations along Ecuador's coast. Small farmers, in contrast, have access to less productive lands which leads to lower yields, which, in turn, adversely impact the livelihoods of small farmers, but more generally puts the food security of Ecuador and its citizens at risk (Rivadeneira et al 2005, 38-39).

III.5. Plurinational Federation of Ecuadorian Communitarian Tourism (FEPTCE)

The FEPTCE is a social NGO that was established in 2002 to coordinate and promote communitarian tourism, which is a type of tourism managed by indigenous peoples and peasants that seeks to economically benefit those communities in contrast to benefiting large touristic companies, and that attempts to immerse the visitor into the cultural richness (social and natural) of the host community (Ruiz and Solis 2007, 5). Communitarian tourism started to develop among local grassroots organizations in the 1980s, during the period when the political mobilization of indigenous peoples started to become more prevalent. This economic activity seeks to improve the quality of life of indigenous and peasant populations, and to reduce their migration from Ecuador. It benefits approximately 100 communities of indigenous peoples and peasants (roughly 3000 families or 15,000 individuals in the rural areas) (Ruiz and Solis 2007, 22). Communitarian tourism is, further, considered a mechanism to safeguard nature given that

communities become more interested to protect it when their local economies depend on the health of the natural environment. Communitarian tourism is also a form of re-vindication of indigenous peoples' culture for their gastronomy, folklore, clothing, and handicrafts become important aspects of the business to be shared with the visitors, which improves the self-esteem of indigenous communities (Ruiz and Solis 2007, 37).

The tactics of this network are conventional. When communitarian tourism became a state-sponsored activity, the Ministry of Tourism supported the creation of the FEPTCE. This institution is part of the *Consejo Consultivo de Turismo*, a decision-making board within the Ministry of Tourism. Under the auspices of the Ministry, the FEPTCE is also the institution charged with reviewing the proposals presented by grassroots communities to evaluate if they fulfill the requirements to be granted a certification as communitarian touristic centers (www.feptce.org).⁶⁸ William Ochoa, legal advisor of this organization, observes that grassroots organizations within this network use “passive activism,” as opposed to direct confrontation, when challenging extractive industries that attempt to enter the territories of indigenous and peasant communities for these organizations do not want to discourage tourism. Such passive activism might include, for instance, utilizing media outlets to publicize the network's policy stances, or to promote reform initiatives through legal and political channels (Ochoa 2011).

⁶⁸ The main requirement to be granted status as a communitarian touristic center is that the touristic activity should be backed by the community. If a touristic activity is not backed by a community it becomes a private activity. There are several models to pursue communitarian tourism: for example, communitarian tourism can be pursued by the whole community; however, two or three families can also pursue communitarian tourism if they have an authorization of the community and if they commit to share the gained income. In addition, two or three communities can associate to pursue communitarian tourism (Quishpe 2011).

III.6. Intag Coordinating Committee

The *Coordinadora Zonal de Intag* (Intag Coordinating Committee) is an informal network that includes various organizations⁶⁹ that seek to defend their territory from mining exploration. The subtropical Intag region is part of the *Cotacachi* Canton located in the northwestern part of the country, in the *Imbabura* Province. Parts of the Intag region are located within the Choco and the Tropical Andes – two of the world’s biodiversity hotspots – and this region borders as well with the Cotacachi-Cayapas Ecological Reserve, which contains important remnants of humid forests. Additionally, the Intag region is home of 14,000 citizens distributed in seven townships from various ethnic decent: mestizos, Afro-Ecuadorians, and indigenous Kichwas (D’Amico 2010, 3-5).

The history of mining exploration has been prolonged in this area. Copper reserves in Intag were first found in the 1980s, during an exploration initiative that was financed by the Belgium and Ecuadorian governments. In the early 1990s, the International Cooperation Agency of Japan (JICA) financed a largest scale exploration that was conducted by the Metal Mining Agency of Japan (MMA) and whose studies concluded that Intag contains important copper reserves ((Bebbington et al 2007, 202). Additionally, the World Bank granted a loan to the Ecuadorian government to continue activities of exploration, activities that confirmed the existence of copper and gold in the area. The Ecuadorian government, then, sold the mining concession to Bishi Metals (a subsidiary of Mitsubishi) in 1994 (D’Amico 2010, 6). However,

⁶⁹ Toisán Consortium—formed by the following: (i) Asociación Agroartesanal de Caficultores Río Intag, (ii) Defensa y Conservación Ecológica de Íntag, (iii) Corporación de Talleres del Gran Valle de los Manduriacos, (iv) Coordinadora de Mujeres de Íntag, (v) Corporación para la Producción Íntag sustentable, (vi) Corporación para la Producción de Íntag Leche, (vii) Asociación de Campesinos Agroecológicos de Íntag, (viii) Corporación para el Desarrollo y Progreso de Íntag, (ix) Red Ecoturística Íntag, and (x) Fundación Palabra y Pueblo—the Community Board of García Moreno; the Intag communities—consisting in at least the 40 communities that are part of the Coordinating Committee—and six Parish Boards: Peñaherrera, García.Moreno, Selva Alegre, Plaza Gutierrez, Apuela, Vacas Galindo, and Cuellaje (Robalino 2011a).

the organized mobilization and confrontation of inhabitants of the Intag region forced Bishi Metals to abandon its operations and to leave Ecuador in 1997. Yet, the Ecuadorian state sold the mining concession to a private prospector, Roque Bustamante, who in turn sold the concession in 2004 to the Canadian mining company, Ascendant Copper Corporation (Bebbington et al 2007, 202). And it was the threat of further mineral exploration by Ascendant Copper that motivated local civil society to form the Intag Coordinating Committee.

This network has mostly used unconventional tactics, such as attacking private property. With regard to Bishi Metals, the environmental impact assessment that the company had prepared concluded that it was going to be necessary to relocate certain communities to exploit the mines. Community leaders obtained copy of the document and started a campaign against Bishi metals (Bebbington et al 2007, 203). After a meeting where seven communities participated, they decided to attack the Bishi Metals' operation site on 12 May 1997, which forced the Japanese company to leave the country (Bebbington et al 2007, 204). A community leader (cited in Bebbington et al 2007, 204) expressed "I do not care if I am sent to jail for the next ten years if this protects the future of my children." The adoption of similar contentious forms of activism continued with the presence of the Canadian Ascendance Copper in Intag. Intag community leaders argued that Ascendance had divided the community by offering communitarian programs in exchange of support for its operations (Bebbington et al 2007, 211). Community leaders, further, complained that Ascendant Copper had used death threats to frighten community members into accepting its development of Ecuador's mining industry in the Intag region (Pérez 2011). On 10 December 2005, after a meeting of the *Consejo de Desarrollo Comunitario de las Comundades de Junin* (Junin Community Development Board), between 70

and 300 members of the community burned down a building where the company had been developing its social programs (Bebbington et al 2007, 2012).

So far, mining exploitation has not developed in the Intag area, partly because the resistance efforts of the communities have been successful, but also because the local political context has been favorable to the communities. Ecological Defense of Intag (DECOIN), organization that is part of the Intag Coordinating Committee, was able to introduce on September 2000 a municipal law that gives Cotacachi (canton where Intag is located) the category of ecological canton. While this law can only be symbolic, DECOIN members have also occupied seats within the local government of Cotacachi where they have been able to introduce their concerns regarding the development of mining in the area (Bebbington et al 2007, 212).

IV. Concluding Observations: The Environmental Movement in Ecuador and the Rights-of-nature frame

Evidence provided in this chapter demonstrates that there is a heterogeneous environmental movement in Ecuador. The groups that form the environmental movement are motivated by issue specific concerns. The movement is not only comprised by organizations whose main objective is environmental conservation, but also by various social organizations and local communities that struggle not only to champion environmental justice, but which are also equally committed to safeguarding the socio-economic and cultural rights of their members. Further, there are stark dissimilarities in the environmental and political ideologies that the organizations involved in the environmental movement espouse, which influences their decisions about which tactics to employ to best achieve their respective goals.

An environmentalist ideology predominates within urban NGOs, though a few urban NGOs, such as Acción Ecológica, embrace ecologism. Environmentalism, as a philosophy, advocates sustainable development and efficient use of resources. Economic growth, therefore, is not contested – so long economic growth does not violate environmental protections. The use of market mechanisms (for instance, payment for environmental services such as financial remunerations for maintaining existing forests) are considered appropriate means to avoid exceeding ecological limits. And because environmentalists do not dispute the current social order, such organizations tend to use conventional forms of political activism that involve proper legal and political channels to reform, and commonly negotiate with governments and industries.

In contrast to these views, the rural sector, which is represented by a host of social NGOs and grassroots organizations (of indigenous peoples and peasants), largely subscribes to the ecological ideology. For these organizations and their members, economic growth is thought to lead to environmental degradation; and, consequently, they directly question the social order that traditional economic principles support. Some of these organizations believe that those who hold the political and economic power do not leave them other option but to protest, denounce, or use violence to produce some change; though this is not a homogenous position of all ecologists

The heterogeneity that I have evidenced in this chapter reinforces the paradox of this study that seeks to understand how this divided movement came to agree to the rights-of-nature frame. The predominance of an ecological environmental orientation within the movement since 2005 does not indicate a consistent alignment with the idea of granting rights to nature. The ecological sector should not be considered homogeneous either for ecologism comprises affluent, but also popular organizations. Wealthy as well as poor ecologists share common values, but disagree on others. Affluent sectors of ecologists are more prone to defend post-material values,

such as the rights of nature, whereas popular ecologists are concerned with issues of survival and satisfaction of current material needs (Fontaine 2007). Popular ecologists, from the different environmental networks, among other human rights, have defended the environmental rights of their populations, but their struggle has not been for the rights of nature. By no means, do I want to convey the idea that those populations do not value nature, because they do as has been widely demonstrated in my narrative of each environmental network. Yet their valuation of nature is instrumental as they need natural resources for their own survival.

The rights-of-nature frame, therefore, aligns better with the values and beliefs of a more affluent sector of ecologists. There is evidence that Ecuadorian intellectuals from the ecological sector had already been debating about the pertinence of advocating for the rights of nature since the late 1980s. Some of those intellectuals – such as Manuel Morales and Byron Real – were more interested in producing changes in the legal system that governs the environmental sector, using concepts from Ecological Law, discipline where the rights of nature are a core concern. Others, such as Esperanza Martínez, were more interested in the change of economic model with a post-development alternative that aligns better with the rights-of-nature frame (see the varied discourses employed in the construction of the rights-of-nature frame examined in Chapter 3). Yet this group of intellectuals, that constituted a critical mass for the construction of the rights-of-nature frame, was small, and it would be inaccurate to argue that their eco-centric values align with the values and beliefs of popular ecologists and environmentalists. Chapter 5 turns to my explanation of why this fractured environmental movement agreed to frame their demands in terms of the rights of nature.

Chapter 5: Constructing and Endorsing the Rights-of-Nature frame

The suggestion that nature should be a subject that deserves rights has gained traction since the late 1980s, especially among a small group of intellectuals within Ecuador's environmental movement. These intellectuals have been influenced by the writings of various Latin American scholars, such as Godofredo Stutzin of Chile. The work of Christopher Stone, *Should Trees Have Standing* (Stone 1973), has been another source of inspiration. So if this group of intellectuals had taken seriously the possibility of extending rights to nature for almost twenty years, why did they delay with promoting the rights-of-nature frame among movement participants? And why did they not try to introduce the rights of nature language earlier during the constitutional reform of 1998?⁷⁰ Furthermore, why did movement participants accept the rights-of-nature frame in 2008, as constructed by movement intellectuals, when the frame clearly is not congruent with the values and beliefs of all the sectors within the movement, and when movement participants hardly debated about the meaning and implications of the frame? As the previous chapters have demonstrated, the heterogeneity of the movement, and the multiple discourses employed in the frame construction should have motivated widespread contestation over the movement's framing – which did not occur.

This chapter explores both the influence of the political context on the decision of movement intellectuals to risk framing their cause in terms of the rights of nature, and also movement participants' decision to endorse the frame. My argument is that both groups sought to act swiftly in order to seize the political opportunity of the 2008 Constitutional referendum which did not afford them the time to deliberate and debate extensively over the proposed frame. Both parties perceived that the political opportunity was unique, but they also recognized that the

⁷⁰ Since 1830 when Ecuador first gained its independence, the country has ratified twenty different constitutions. Preceding the 2008 Constitutional Reform, there was another ratification in 1998.

political climate was volatile and that the opportunity would most certainly be short-lived. And this, indeed, proved to be the case, for the political context soon became, and has since remained, unfavorable to the environmental movement and to other civil society groups. Accordingly, this chapter illustrates how the political opportunity, understood as favorable changes in the state's institutions and the establishment of alliances with various political elites, cemented in 2006 with the formation of Alianza País, a political movement whose original proponents have had a trajectory of work with social movements. The political opportunity that environmental movement leaders ultimately seized continued through January 2007, when Alianza País' candidate, Rafael Correa, assumed office, and grew stronger during the period of constitutional reform in 2007 and 2008. This political opportunity began to wane by the end of 2008, however, as President Correa made clear his intention to prioritize economic growth over the health of the environment. This chapter details how the rights-of-nature frame was introduced during the aforementioned period of constitutional reform, when the political context was most conducive to substantive environmental reform.

Additionally, this chapter also explains why political opportunity should be understood as a necessary but not sufficient condition for the decision of movement participants to endorse the proposed frame. Undoubtedly, without the ripe political opportunity, the rights-of-nature frame would never have emerged as the movement's objective in the first place, and it is also noteworthy that movement participants endorsed the frame during this window of opportunity for substantive environmental reform. Yet, movement participants, motivated by discrete beliefs, values, and objectives, accepted the rights-of-nature frame for different reasons: a first group did not consider that the frame contradicted their interests and, thus, they agreed with it. A second and small group disagreed with the frame. However, this group was constrained by their

environmental identity and they never opted for openly rejecting the frame. Irrespective of the salient differences among the parties involved, I argue that to block the rights-of-nature frame by these parties would have been condemned by the environmental community and would, thus, have been a grave political mistake.

What follows in Section I is a discussion of the domestic and international political context in which Ecuador's environmental movement developed between 1970 and 2006. Section II details the emergence of the political opportunity that movement intellectuals ultimately took advantage of – with an emphasis on the formation of the political movement, Alianza País; the rise of Rafael Correa to the presidency; and the establishment of the Constituent Assembly in late 2007. Section III, then, explains at length the origins of the rights-of-nature frame, and the reasons for its endorsement by environmental movement participants, indigenous peoples, and constitution-makers. Section IV clarifies what prompted the closing of this political opportunity. And finally, Section V synthesizes the findings of the chapter.

I. Political Context 1970-2006

Preceding the formation of the Alianza País political movement – which members of the subsequent environmental movement perceived as a profound change entailing redistribution of power within the political system, and which marked the emergence of an opportunity for environmental reform- the political context, both international and domestic, was not, at least on the surface, adverse for the environmental movement's efforts of achieving environmental reforms. During this period environmental covenants, that I fully explain next, were created at the international level and laws and institutions were established at the domestic level in Ecuador. What I claim in this section is that whereas the existence of international environmental

covenants and domestic laws and institutions are necessary conditions for substantive environmental reform, they have not been sufficient to ensure it occurs. Environmental reforms have only been introduced within the traditional model of economic development, and the priority of economic growth has commonly overshadowed any government willingness to protect nature in Ecuador.

I.1. International context

At the international level, instruments of environmental governance began to proliferate since the 1970s. Among the instruments with which environmental reform became possible and more prevalent are the Stockholm Declaration (1972), The Earth Charter (1982), the Brundtland Report or *Our Common Future* (1987), Agenda 21 of the Rio Declaration on Environment and Development and the Statement of Principles for the Sustainable Management of Forests (1992), the Draft of the International Covenant on Environment and Development (sponsored by the International Union for the Conservation of Nature in 1995), and the United Nations Millennium Declaration (2000) (Fontaine et al. 2007, 14). Beyond these specific developments in global environmental governance, a broad international environmental regime also has emerged in the past four decades, comprising numerous covenants that aim to establish norms of environmental sustainability among states. This environmental regime has helped to advance the conservation of biodiversity, the abatement of climate change, the elimination of persistent organic pollutants, the protection of international waters, and the prevention of land degradation. Ecuador has signed and ratified nineteen of those international environmental covenants⁷¹ (Consortio Manufactura-Ecolex-SCL Econometrics 2007, 8).

⁷¹ Stockholm Convention on Persistent Organic Pollutants (7 June 2004); International Treaty on Plant Genetic Resources for Food and Agriculture (7 May 2004); Rotterdam Convention on the Prior Informed Consent Procedure

The state's commitment to this international environmental regime, however, is difficult to enforce; the majority of the documents cited above are written as binding treaty law. Rather, they are examples of "soft law" which, at best, morally influences state policy-makers to implement changes at the domestic level (Fontaine et al 2007, 14). In other instances, states may ratify binding treaty law on the environment (see FN 71) but even compliance with it is often incomplete at best. Occasionally, states decide to enforce the environmental compacts to which they voluntarily agree because they benefit from financial and technical resources from the international community to implement development projects at the domestic level (Pearlman 2005, 19-20). Reputational concerns also create pressure on states to comply with the international environmental regime (Bernstein 2002, 204).

However, international environmental law is generally poorly enforced. A contemporary example is Canada's decision to abandon the Kyoto Protocol in December 2011 to avoid paying the \$13.6 billion in penalties for failing to reduce its national greenhouse gas emissions by six percent (from 1990 levels) by 2012 (El Comercio, 12 December 2011). In 2002 the Canadian government already estimated that by 2010 its national GHG emissions would be 33 percent *higher* than its rate of GHG emissions in 1990, but still the government committed to a six percent reduction target by 2012, which was ultimately unfeasible (Bernstein 2002, 209).

for Certain Hazardous Chemicals and Pesticides in the International Trade (4 May 2004); Agreement on the Conservation of Albatrosses and Petrels (18 February 2004); The Convention on the Conservation of Migratory Species of Wild Animals (2 October 2003); The Cartagena Protocol on Biosafety (30 January 2003); The Inter-American Convention for the Protection and Conservation of Sea Turtles (29 August 2000); Kyoto Protocol (20 December 1999); United Nations Convention to Combat Desertification (6 September 1995); The United Nations Framework Convention on Climate Change (4 October 1994); Basal Convention on Hazardous Wastes (23 February 1993); Convention on Biological Diversity (ratified on 23 February 1993); Ramsar Convention on Wetlands (7 January 1991); Montreal Protocol on Substances that Deplete the Ozone Layer (30 April 1990); Vienna Convention for the Protection of the Ozone Layer (10 April 1990); Conservation of Antarctic Marine Living Resources (16 June 1987); Convention for the Conservation and Management of the Vicuña (14 April 1982); Convention Concerning the Protection of the World Cultural and Natural Heritage (16 June 1975); The Convention on the International Trade in Endangered Species of Wild Flora and Fauna (11 February 1975); (Consortio Manufactura-Ecolex-SCL Econometrics 2007, 8).

Although the Kyoto protocol was supposed to provide clearer enforcement mechanisms than its predecessor, the United Nations Framework Convention on Climate Change UNFCCC, those mechanisms failed.

I.2. National context

At the domestic level, Ecuador has slowly improved its legal environmental framework and created new environmental institutions over the past four decades. The government's commitment to environmental protection began in 1976, with the issuance of a law that would prevent and control environmental contamination. That law, however, was never implemented in practice (Fontaine & Narváez 2007, 25). Examples of more substantive reform efforts included the implementation of a Forestry Law in 1979, and the adoption of a human right to a clean and safe environment in 1983 (Narváez 2009, 287-291). Despite these achievements, however, the 1980s in Ecuador can be overall characterized as lacking clear and effective environmental laws – an unfortunate fact for environmental advocates in Ecuador that would only began to change in the 1990s.

The Rio Summit of 1992 motivated governments to strengthen environmental institutions at the local level, and Ecuador was no exception. In 1993, the *Comisión Asesora Ambiental* (Advisory Environmental Commission) was established to advise the President regarding policies and strategies for environmental preservation. The organization was formed by representatives from the Ministry of Planning (CONADE), the Ministry of Agriculture, the Ministry of Foreign Affairs, as well as by representatives from the economic sectors of Galapagos, the Coast, the highlands, and the Amazonia, and a representative from environmental

NGOs (Hoy 1993). In 1996, the Ministry of the Environment was created with the responsibility of issuing public policies in favour of the environment (Narváez 2009, 288).

In the Constitutional reform of 1998, the environmental movement achieved some important gains. In addition to the human right to a clean and safe environment that had already been adopted in 1983, the 1998 Constitution added safeguards to preserve the natural environment and to conserve ecosystems and biodiversity judged to be goods of public interest, a proposal to establish a national system of protected areas, and requirements to consult local communities before any extractive development project on their lands can be approved (Narváez 2009, 291; Fontaine & Narváez 2007, 25).

In the aftermath of the 1998 constitutional reform, additional environmental laws were enacted at the national level. Among others, for instance, the environmental management law was issued in 1999;⁷² two indigenous zones in the Amazonia (Cuyabeno-Imuya and Tagaeri-Taromenane), home of indigenous peoples that have decided to remain in isolation from the outside world, were declared protected areas in 1999;⁷³ laws requiring the conservation and sustainable development of the Galapagos Islands were passed in 1998; and, the “National Biodiversity Strategy” project was launched in 2001 to guide environmental policy-making for the protection of Ecuador’s biodiversity (Fontaine & Narváez 2007, 26).

After 1998, then, the problem was no longer an absence of laws, but the weak enforcement of environmental laws – due in part to budgetary constraints, overlap in functions among environmental institutions, and also the unwillingness of the government to prioritize

⁷² The environmental management law of 1999 established national regulations to decentralize environmental management from the national government to the local governments (Llaguno et al 2008, 13-14).

⁷³ This measure was taken to avoid further deterioration of the environment in the Yasuni National Park and to protect the Tagaeri and Taromenani uncontacted indigenous peoples. The law restricted all extractive activities in both indigenous areas.

environmental conservation over economic development (Llaguno et al 2008). As Narváez observes (2009, 61), in Ecuador “a legal framework is a necessary but never enough condition to implement actions toward environmental protection in practice.” This problem, however, is not unique to Ecuador. The Latin America region more generally has too many environmental laws, and lacks the capacity to effectively implement environmental protections (Rodriguez-Becerra & Espinoza 2002, 47; Diez 2006, 11).

Further, Ecuador’s different administrations have found ways to undermine environmental regulations by issuing other laws on behalf of the “national interest” that effectively trump environmental protections. A clear example is the violation of the Article 75 of the Forestry Law (2004-017), which prohibits extractive activities in nationally protected zones. The National Institute of Agrarian Development (INDA) has allowed the selling of land titles inside protected areas. Additionally, the state has undermined efforts to conserve protected areas, and multinational and national oil companies have been granted concessions for exploitation (Narváez 2009, 292). One of the most affected areas has been the Yasuní National Park in the Amazonia, whose boundaries have been circumscribed – leaving large tracts of land beyond the borders of once-protected areas, which have later been leased to oil companies (Narváez 2009, 38). As Fontaine argues (prologue in Narváez 2009, 19), “[the experience] of the Yasuní National Park illustrates the schizophrenia of a state that attempts to protect biodiversity while extracting oil in the same area.” In fact, mining and oil extraction, according to law, are considered activities of “national interest,” which means that reserving an area as protected does not necessarily safeguard it against extractive activities if the government decides, as a matter of national interest, to exploit natural resources in those areas.

What is more, such contradictions have also motivated the violation of international covenants, such as ILO Convention 169, regarding the rights of indigenous peoples. According to this compact (Article 15, #2), indigenous peoples have the right to be consulted about any plans to exploit natural resources in their territories before any proposal is accepted and before any extraction takes place (Narváez 2009, 218). However, indigenous peoples living in protected areas, such as the case of the Huaorani or Kichwa groups that inhabit the Yasuní National Park, have neither been consulted about plans to extract natural resources from their ancestral lands, nor compensated for the use and abuse of these lands, since the category of national interest supersedes any other laws.⁷⁴ Moreover, even if such indigenous groups were commonly included in discussions about future development projects, this involvement and the voicing of their interests and the pressing of their rights to keep protected areas free from development do not guarantee that their interests or rights must be heeded. In short, this right to being consulted about prospective development projects does not afford indigenous groups any veto power against the extraction of natural resources from their native lands.

In sum, since the 1970s international environmental covenants were created and laws and institutions were subsequently established at the domestic level in Ecuador. Whereas both are necessary conditions for environmental protection, they have not been sufficient, for environmental protections have been introduced within the traditional model of economic development – whereby economic considerations take precedence over objectives like environmental protection. And with the logic of economic growth prevailing in domestic policies, international initiatives – especially those that have been promoted since the World

⁷⁴ This right of indigenous peoples was ratified in the 1998 Constitution (Article 84). It was also approved by executive decree 1215 on 2 December 2002 (García y Sandoval 2007, 22).

Commission on Environment and Development published its Brundtland Report in 1987- have largely been adopted and served to legitimize the belief that environmental protection can be achieved through economic growth.

The promotion of this belief is quite clear, for instance, in the Rio Declaration of Environment and Development of 1992. Principle 12 asserts that “States should cooperate to promote a supportive and open international economic system that would lead to economic growth and sustainable development in all countries, to better address the problems of environmental degradation.” Agenda 21, which is the proposed plan of action agreed to during the aforementioned Rio Summit, widely promotes the implementation of market mechanisms to concurrently achieve economic growth and environmental protection (Bernstein 2002, 206-207).

The pervasive demand for economic growth is precisely what the environmental movement in Ecuador criticized, and which movement participants perceived has fundamentally changed since the Alianza País political party was formed. The original founders of Alianza País were critical of traditional economic models that insist that the growth of GDP is the most important indicator of a healthy society, and which ignore or understate the various environmental impacts caused by economic growth (Martínez-Alier 2002, 16). Some of the intellectuals within Alianza País were proponents of ecological economics (19). Ecological economists “question the sustainability of the economy because of its environmental impacts and its material and energy requirements, and also because of the population growth” (19). In general terms, ecological economists propose to take nature into account when developing indicators of (un)sustainability of the economy (19). Proponents of the environmental movement thought that if those political elites who believe in reforming the development model and taking nature into

consideration were able to assume office, there would be an opportunity for genuine and substantive environmental reform in Ecuador (Manosalvas 2011).

II. A Ripe Political Opportunity for the Environmental Movement (2006-2008)

II.1. Phase I: The Formation of Alianza País

In Chapter 4 it was suggested that political participation among members of Ecuador's civil society markedly increased after the ousting of President Lucio Gutierrez in April 2005. This fervor for participation prompted the formation of various social organizations. Alianza País was one of the many groups that emerged after the presidential coup of Lucio Gutierrez. Behind the proliferation of social organizations and the creation of Alianza País was a desire for substantive economic and political reform. The last twenty-six years of a democratic regime and specifically the pressure to implement neoliberal development policies imposed by the governments in office since the 1980s had generated widespread citizen discontent. By 2005 the citizenry had developed a deep-seated lack of trust in the political and economic system. A study by Seligson and colleagues (2006, 65), for example, found that political institutions – namely, political parties, Congress, the President, the Supreme Court, and the electoral institution – obtained less than thirty percent of citizen confidence in three consecutive polls conducted in 2001, 2004, and 2006 (65-69).

It was against this tumultuous political backdrop that a group of intellectuals and political leaders, some of whom had had a trajectory of work with social movements (the environmental movement among others), decided to establish the Alianza País political party in 2006. The organization emerged under the leadership of Rafael Correa, who was preparing his

candidacy for the 2006 presidential elections (Gudynas 2009c, 35).⁷⁵ Correa became a political figure during the administration of Alfredo Palacio, the interim president who replaced Lucio Gutierrez. As the Minister of Finance during this time, Correa's policy stances revealed both his opposition to neoliberalism, and also his inclination to avoid having Ecuador develop a reliance on international financial institutions. These considerations appealed to leftist activists, and academics, among them Alberto Acosta, Javier Ponce, Augusto Barrera, Hugo Jacome, Virgilio Hernandez, and Ricardo Patiño -- all of whom participated in the initial meetings intended to organize Alianza País. And during the 2006 presidential campaign, these leaders allied with other leftist political organizations -- such as the Democratic Alternative,⁷⁶ National Democratic Action, and the Citizen's Alternative, all of which had achieved political importance during the coup of President Gutierrez (Falconí 2010; Hernandez & Buendía 2011).

With Alianza País subsequently standing as a formidable opponent to rightist political organizations and parties, its intellectual wing constructed the organization's campaign platform. They made explicit their intention and the principles necessary to achieve a "genuine revolution of the citizenship." Among its specific talking points was (i) a commitment to the redistribution of resources, which would invariably require an expansion of the state's role and authority; (ii) the nationalization of strategic sectors; (iii) the strengthening of participatory democracy; (iv) achieving regional integration; (v) eliminating corruption within the political system; and (vi) radically instituting substantive environmental safeguards. The proposed environmental reform

⁷⁵ One clarification is necessary: Alianza País is not a political movement that emerged from within a social movement, though some of its founders had had a trajectory of work with social movements. Correa, himself, did not have a history of working with social movements. He earned a Ph.D. from the University of Illinois, Urbana-Champaign, and worked as a professor in Ecuador prior to running for office. His relationship with the indigenous movement was tense, since the indigenous population largely had denied support to Correa during his bid for the presidency—deciding instead to nominate and back its own presidential candidate (Becker 2011, 103-121; Ospina 2008, 13).

⁷⁶ Ruptura de los 25 and Movimiento Foro Urbano merged to form the Democratic Alternative.

demanded a sustainable use of resources, and the halting of *all* extractive activities in the south-central region of the Amazonia (Hernandez & Buendía 2011; Alianza País 2006). Until 2006, no other political party had been concerned with environmental issues in a presidential election. The specific campaign platform of Alianza País (2006, 50) read as follows:

We propose the conservation and sustainable management of natural renewable and non-renewable resources, biodiversity, and genetic resources. We propose the protection of forests especially in the Amazonia, Andes, and the northern area of Esmeraldas. We propose the conservation and sustainable use of the moores, and the preservation of the Galapagos Islands, the mangroves, and national parks.... We propose the use of clean technologies through a mechanism of tax incentives. We propose to control pollution in the cities. We propose permanent environmental audits of oil companies that destroy the Amazonia.... We want to protect the nationalities that coexist with natural ecosystems, particularly in the Amazonia. We propose the active participation of social movement members in the design, implementation, and evaluation of environmental public policies. We want a real integration of economic, social, and environmental policies....

The unique language and aims of Alianza País' campaign platform paralleled the political ideologies and activism of several of its intellectual figures, such as Jeannette Sanchez, Alberto Acosta, Rene Ramirez, Hugo Jacome, Luis Tupac Yupanqui, Jorge Jurado, Veronica Oquendo, and Fander Falconí—all of whom had a history of working with various grassroots social movements, such as the indigenous movement (Falconí 2010, 36). Moreover, the work of some of the Alianza País' intellectuals had been strongly influenced by ecological economic theory. Fander Falconí, for example, who was a student of one of the most highly regarded proponents of ecological economics – Joan Martínez-Alier, of Autonomous University of Barcelona – wrote his doctoral dissertation on the distortions of market prices when environmental externalities resulting from economic activity are not taken into consideration, and how these prevalent distortions have affected the Ecuadorian economy.⁷⁷ Others, such as Alberto Acosta, whose academic work focused on creating a post-development paradigm, claim

⁷⁷ Falconi, Fander. 2001. *An Integrated Economic Environmental Assessment of the Ecuadorian Economy*. Ph.D. Dissertation: Autonomous University of Barcelona.

that Ecuador's historical dependence on natural resources has both failed to achieve the widespread development it promised and also, subsequently, to improve the welfare of all citizens. Acosta (and others) have also argued that because Ecuador will soon exhaust its oil reserves, the country needs to prepare for a post-oil economy (Acosta 2009b). He insists that Ecuador "cannot live first and foremost from the rent of natural resources" and that the country's prosperity and well-being depend upon striking a balance between the needs of humans and those of nature (Acosta 2008c, 46). In sum, the prospect that political elites who were truly concerned with protecting the natural environment might assume power in the government was immensely appealing to members of the environmental movement. And this trust in the principled platform of Alianza País quickly translated into support for Correa's candidacy among environmental advocates.

II.2. Phase II: Rafael Correa Assumes Office and Establishes a Constituent Assembly

The perceived need for radical change, the disappointment with status quo politics and traditional political institutions, and the negative outcomes of neoliberal market reforms, created a political climate in which a political outsider like Rafael Correa and the unconventional party he represented were able to win the 2006 presidential election. Declining to run without candidates for the Congressional elections as a way to underscore his distaste from the corrupt "partidocracia" (traditional political parties) of the country, Correa's campaign promised to establish a Constituent Assembly to draft a new Constitution. These strategies were successful and Correa won the presidency, securing 57 percent of the popular vote in a second round and defeating coastal entrepreneur, Alvaro Noboa. The rise of Alianza País reconfigured political power within Ecuador's national government, alienating traditional political elites, and creating

an opportunity for members of the environmental movement to participate in public policy-making.

Correa assumed office in January 2007, and political elites close to the environmental movement were subsequently appointed to strategic positions in the national and local governments. Fander Falconí, for example, was appointed as the National Secretary of Planning and Development, and was later appointed to the Ministry of Foreign Affairs. Maria Fernanda Espinosa, the former Regional Director of the International Union for the Conservation of Nature (IUCN), was designated as the Minister of Foreign Affairs, and later acted as the Minister of Natural Patrimony. Further, Miguel Carvajal, the former director of the environmental NGO, Ambiente y Sociedad, was assigned as the Vice-Minister of Defense; and Alberto Acosta was appointed as the Minister of Energy and Mines. Movement participants also had access to the new elites in power through existing networks of personal contacts – commonly consisting of former colleagues from various environmental NGOs who had acquired positions with state and local government institutions. The availability and support of these sympathetic elites, thus, expanded the opportunity for the environmental movement to see its proposals translated into substantive public policy reform.

From within their newfound positions, allies of the environmental movement started to launch radical environmental initiatives. In March 2007, for instance, Alberto Acosta proposed to Correa's administration a detailed plan to safeguard the oil reserves in the Yasuní National Park in the Amazonia, by calling on the international community to compensate Ecuador with the equivalent financial resources that the nation would forfeit in refraining from extracting these resources. Consisting of 4,000 square miles, Yasuní was declared a National Park in 1979, and it is considered one of the most bio-diverse areas in the world. Yet, the natural reserve is also rich

in oil (Walsh 2012, 36). The Ishpingo-Tambococha-Tiputini (ITT) oil field, located within the Park, alone, contains 78 percent of the total oil reserves of Ecuador (or approximately 938 million barrels of crude oil), compared to the estimated 262-562 million barrels existing in the remaining eleven fields in the Amazonia (El Universo, 25 January 2010).

Given the abundance of these oil reserves, and strong national interests to exploit these resources, environmentally-minded policy-makers had to think creatively about how to protect such natural areas from development. It was precisely in this vein that the ITT-Yasuní Initiative – as it has come to be known globally – was born. A state-driven project, with a team of technical experts facilitating the international negotiations, this initiative required that the international community pays the Ecuadorian government \$3.6 billion over a period of thirteen years for conserving the Yasuní National Park and the carbon sink it provides – and, thus, for helping to mitigate the effects of climate change. With the value of the oil reserves appraised at \$7.2 billion, the Ecuadorian government, too, subsidized this conservation project, contributing the other \$3.6 billion in lost revenue. The United Nations Development Program (UNDP) established a trust fund to administer these resources that will be used for conservation, alternative energy programs, and development programs for the inhabitants of the park (Martin 2011).

The long-term feasibility of the ITT-Yasuní project, however, was always in doubt. By November 2011, the team of negotiators in Ecuador appointed by the state to secure the commitment of countries abroad announced that only \$70 million had been committed (El Comercio, 7 November 2011). Environmentalists were concerned that the global economic crisis was going to undermine the capacity and willingness of the international community to invest in the conservation of Ecuador's rainforests. In addition, some observed that "there is not a logical

explanation why other countries should pay Ecuador to preserve the Yasuní; the Ecuadorian government should have been more forthright and commit[ted] to the non-exploitation of the oil since the beginning” (Morillo 2011).

The ITT-Yasuní Initiative already signaled tensions within the new government between sectors committed to environmental conservation and groups that continue to press for greater economic development. Given these conditions, the political opportunity first identified by the environmental movement appeared to have been short-lived. Carlos Pareja, the president of Petroecuador, Ecuador’s national oil company, for instance, criticized the project as absurd. To the frustration of environmentalists, President Correa, too, expressed his skepticism that while the conservation of natural areas and the nation’s resources are important policy objectives, in this case “the medicine was more expensive than the illness.” Correa added that “the ITT field needs to be exploited; otherwise, who is going to give the government \$1,500 million annually... the government needs to provide health, education, and work” for people within and beyond the Yasuní region (Lucas, in Martínez and Acosta 2010, 165). Nevertheless, after negotiations with Acosta, Correa backed the initiative in April 2007 and announced that

“I am facing a dilemma regarding the exploitation of an oil field with major reserves in my country, located in the Yasuní National Park, an area in the Amazonia with great biodiversity and which is home of two isolated indigenous groups. For that reason, we are going to present to the world a proposal to refrain from exploiting the Ishpingo-Tambococha-Tiputini (ITT) field, if we receive in exchange a monetary contribution from the international community for the \$700 million that we would otherwise receive annually by extracting the oil. Ecuador prefers to receive a monetary compensation for not exploiting the ITT field” (Campodonico, in Martínez and Acosta 2010, 169).

In June 2007 when the ITT-Yasuní Initiative was launched in a ceremony held at the presidential palace, where representatives of international development agencies were invited, Correa announced that he would give the project a probationary one-year term to assess its

feasibility. Correa made clear that should the proposal fail to gain the necessary support in that time, the oil reserves would be extracted (Martínez, in Martínez and Acosta 2010, 239). This decision left all environmental movement participants concerned about the fate of Yasuní and uncertain as to whether the new administration would ultimately help to facilitate or would undermine efforts to institute substantive environmental reform; and, thus, they quickly realized that the political opportunity that had presented itself would not last long.

While frictions between the President and environmentalists subsequently began to emerge, Correa still assumed a moderate position on such policy issues when engaging with civil society groups because he still needed to mobilize their vote for the establishment of a Constituent Assembly to re-write the constitution, which had been the central commitment of his presidential campaign. And, in fact, Correa was able not only to gain the vote for the establishment of a Constituent Assembly on November 2007, but his political party also won the majority of seats at the Assembly (73 out of 130 seats) (Collins 2008, 39). As for the environmental movement, the establishment of the Constituent Assembly enhanced its potential to translate its proposals into constitutional reforms because both advocates and members of the movement held strategic political positions in the Assembly.

Alberto Acosta, for instance, who had left his position at the Ministry of Energy, was appointed as the president of the Assembly;⁷⁸ Esperanza Martínez from Acción Ecológica was Acosta's advisor; Carmen Barrera from Ambiente y Sociedad, an environmental NGO, was charged with screening and vetting the proposals the delegates would discuss; Patricio Carpio also from an environmental NGO, Fundación OFIS, was named the Assembly's Coordinator of International Relations. Further, environmental movement participants also had certain access to

⁷⁸ Alberto Acosta won the majority of the votes in the elections for delegates to the Constituent Assembly that took place on September 2007 and for that reason he was elected President of the Assembly (Becker 2011, 134).

the political elites in the Assembly through various networks formed by family and colleagues. Anamaria Varea, for example, a committed environmentalist who coordinates an environmental program with the United Nations, was the wife of Alberto Acosta; Martha Núñez, of the Fundación Ambiente y Sociedad, was the sister of delegate Pilar Núñez. The environmental movement had never experienced such openness in the political system, and they understood that this unique opportunity would not repeat soon. Before discussing the details of the Assembly's debates about the rights-of-nature frame, however, it is important to examine the origins of this notion.

III. Origins of the Rights-of-nature frame

The roots of the rights-of-nature frame are diverse. It can be attributed to environmental movement intellectuals, but also to Bill Twist, a philanthropist from the United States. Indeed, environmental movement intellectuals had already introduced an inchoate idea in favor of granting rights to nature in the document, titled *Toward a Sustainable and Equitable Society*, which they submitted to the drafters of the new Constitution in late 2007. Moreover, among the specific articles that intellectuals had proposed for inclusion in the new constitution was one that regarded these rights of nature: “the state recognizes the right of existence to the components of the natural patrimony of Ecuadorians, whose defense and representation should be exercise by an environmental ombudsman” (Asamblea Nacional Ambiental 2008, 46). These intellectuals, however, neither fully clarified what the frame meant or implied, nor did they debate these matters with the environmental organizations involved in the larger movement.

In addition, by mid-2007, having learned about the establishment of the Constituent Assembly in Ecuador, Twist committed to financing the launch of a political campaign for the

rights of nature. Having traveled to the Ecuadorian Amazonia in 1995, where he witnessed some of the hardships endured by the nation's indigenous communities, Twist decided to create Pachamama Alliance (a non-profit organization based in San Francisco) to support the interests and welfare of the Achuar indigenous group in Ecuador. To that end, the organization financed the establishment of Pachamama Foundation in Quito in 1997, whose initial objective was to help the Achuar indigenous people develop. Later, the group expanded its efforts to include such projects as the "Green Plan," whose objective was to halt oil exploration in the south-central region of the Amazonia. The leaders of the Pachamama Foundation also later decided to support the ITT-Yasuní Initiative, and the campaign for the rights of nature (Vasconez 2011).

Twist's interest in the rights of nature began when he met Thomas Linzey, a U.S. attorney with the Community Environmental Legal Defense Fund (CELDF). CELDF was established in Pennsylvania in 1995 to provide affordable legal services to individuals, groups, and municipalities struggling to protect their communities from environmentally-destructive business activities, such as the incineration of solid waste, the storage and disposal of sewage sludge, agricultural run-off from factory farms, the treatment and disposal of hazardous tailings from mining quarries, and so forth. CELDF's strategy had been to find problems with corporations' environmental permits in order to stop their pollution-generating activities and new project proposals, but the organization soon realized that corporations were able to overcome these legal barriers. The CELDF, therefore, opted for changing the law itself, including formalizing the rights of nature (CELDF 2011).

The CELDF, for instance, supports municipalities in the writing and adoption of ordinances in which their rights to self-government are asserted; and which advance legal claims on the basis of both the rights of citizens and those of nature. The town of Tamaqua in

Pennsylvania, for example, was the first to approve a local ordinance asserting the rights of nature in 2006. Barnstead and Nottingham in New Hampshire also approved similar ordinances in 2008. Since then, twenty municipalities in the United States have followed suit – passing ordinances against environmentally-destructive corporate activities in the name of nature’s rights. The ordinance approved by Wales, New York, for instance, declares that “[e]cosystems and natural communities possess the right to exist and flourish within the Town” – whereby, “[t]he residents of the Town of Wales have the inalienable right to enforce and defend those rights to protect all ecosystems, including, but not limited to, wetlands, streams, rivers, aquifers, and other water systems, within the Town of Wales” (CELDF 2011). US State and federal government institutions have resisted the authority of local governments to enact such ordinances, insisting that such local ordinances do not supersede existing federal and state environmental standards including the Clean Air Act, Clean Water Act, RCRA, CERCLA, and also fail to recognize the constitutional rights of corporations. CELDF argues, to the contrary, that state and federal statutes “legalize environmental harms by regulating how much pollution or destruction of nature can occur under law.” Consequently, “[r]ather than preventing pollution and environmental destruction, these laws instead codify them” (CELDF 2011).

Inspired by the work of the CELDF, Bill Twist provided Pachamama Foundation with the resources to launch the rights of nature campaign and appointed Natalia Greene to lobby the Constituent Assembly for the ratification of these rights. Greene was a young and enthusiastic professional who initially did not have much experience with the rights-of-nature frame. She had studied and worked with Carlos Larrea, a well-known Ecuadorian economist and academic, who like Alberto Acosta, strongly believes that Ecuador should overcome its dependence on traditional energy sources like oil production and should institute an alternative, non-resource

dependent model of economic development. Per the request of President Correa and Alberto Acosta, and with the funding of Pachamama Foundation, Greene and Larrea helped to draft the ITT-Yasuní Initiative in early 2007 – having estimated the available oil reserves in the ITT field, and assessed the compensation that the Ecuadorian government should request from the international community for leaving these reserves in the ground (Greene 2010). Charged with the task of implementing a campaign for the rights of nature, Greene organized a technical team within Pachamama Foundation to marshal the political support necessary to include the rights of nature language in the Constitution. The group consisted of Belen Paez, Mario Melo, and Carlos Larrea.

III.1 Building Alliances with the Environmental Movement

When Pachamama Foundation launched the rights of nature campaign, it strove to appeal to several groups, including members of the environmental movement, those of the indigenous movement, constitution-makers, and the general electorate more broadly. To establish this wide support base, the organization first aimed to establish an alliance with the environmental movement. Greene contacted Manuel Morales, the Executive Director of the key environmental NGO, the Corporation of Management and Environmental Law ECOLEX. At that time, ECOLEX was in the Presidency of CEDENMA, and was leading the National Environmental Assembly (ANA) (Melo et al 2010, 8). For Morales, granting rights to nature was not a novel idea, and it certainly was not introduced from abroad by U.S. philanthropist Twist. Rather, Morales had written his doctoral dissertation on the rights of nature, arguing for the formal implementation of an eco-centric legal paradigm (see Chapter 3). Morales had also pushed for the idea of granting rights to nature in the proposal that the ANA had prepared for constitution-

makers. Thus, when Pachamama Foundation approached Morales about cementing a lobbying strategy for the rights of nature, he was quick to lend his support – collaborating on the construction of the frame’s content, detailing its legal meaning and implications, and promoting its endorsement among environmental networks and the drafters of the new constitution.

To secure the support of proponents of Ecuador’s environmental movement – namely, the various networks associated with the National Environmental Assembly – Pachamama Foundation and Morales convinced the ANA to endorse the rights-of-nature frame in exchange for the efforts of the Foundation to lobby for ANA’s own constitutional reform proposals. In this way, an important alliance was formed, with each network within the growing lobbying effort focusing on different issue-areas: the Pachamama Foundation would lobby for the rights of nature, the Water Board would focus on the right to water, C-Condem on the right to territory, and so on (Morales 2011; Greene 2010).

Uniquely, the rights-of-nature frame, however, did not arise from any deliberated decision by movement participants (Vasconez 2011; Manosalvas 2011; Ulloa 2011), and subsequent negotiations about the frame were informal. The frame was, for instance, casually discussed among movement participants in the halls of the Constituent Assembly and outside this institution. Similarly, while Manosalvas (2011), the former Executive Director of Ecociencia, recalls her organization contributing to this dialogue with written documents about the rights of nature and other environmental proposals, a committee of the various environmental networks never convened to formally discuss this framing option for environmental reform. Among the principal reasons for this lack of organized discussion and debate was the constraint of time. With the Constituent Assembly taking place in Montecristi, there was no time to coordinate a formal meeting among environmentalists to deliberate extensively about the

meanings and implications of granting rights to nature. Further, some, like Morales, believed that the idea of granting rights to nature, while inchoate, had already been adequately delineated (in such reports as Morales' aforementioned *Toward an Equitable and Sustainable Society*, which had been submitted to constitution-makers).

Contrary to Morales' perspective, however, while the concept of granting rights to nature may have been discussed among a small group of movement intellectuals –those who aligned with the central bio-centric argument that nature has intrinsic importance despite the utility it can provide to human beings – the rights-of-nature frame remained unfamiliar to many movement participants. For instance, as Garcia (2011) and the Water Board note, “[The] ‘rights of nature’ was not a discourse that had been debated within ANA, not even in the Water Board. I think it was promoted by constitution-makers and fundamentally by Alberto Acosta”. Similarly, as Ulloa (2011) from ECOCIENCIA observed, “the ‘rights of nature’ discourse was neither explicit within CEDENMA, nor within ANA; we have ever talked about the rights of nature; I remember we discussed other issues such as mining, protected areas, oil exploitation, and indigenous peoples.”

Further, for some environmental organizations, it is striking and confounding that there was not greater debate about the meaning of “nature” (Ulloa 2011; Manosalvas 2011). Recall from Chapter 3 that intellectuals within the environmental movement conceptualized nature as *Pachamama*, as they built the frame on the ancestral knowledge of indigenous peoples, which again conflicts with the Western scientific system of knowledge that guides the work of biologists. For biologists, this more holistic understanding of nature is not a sufficient justification for public policymaking. It can further be problematic because nature can range from plants and animals to fungi and bacteria. Further, within these categories, there can be

species harmful to human beings – such as insects that destroy crops, harmful bacteria, and rats, among others (Nash 1993, 248) – and it becomes unclear whether protection should be extended to those species that are part of nature as well.

The lack of a clear biological definition of nature resulted in complaints by some movement participants about the movement's overall frame. The Executive Director of ECOCIENCIA, an environmental organization, for example, explained that even after the process of constitutional reform was over, her organization has been committed to formulating a clearer understanding of what rights of nature really mean, which has been frustrating since members of her group have not been able to surpass the ethical understanding of the frame. Practically speaking, the frame has become unintelligible (Ulloa 2011).

Surprisingly, despite the ambiguities in the frame, certain contradictions in definitions, and the lack of coordinated or formal deliberation, there was widespread agreement over the decision to frame constitutional environmental reforms in terms of promoting the rights of nature. “For us it was a pleasant surprise when we knew about the debate of the rights of nature among the drafters of the new Constitution. We tried to tie the rights of nature to the need to preserve ecosystems that are fundamental for the water cycle as the moors, wetlands, and forests,” says Garcia from the Water Board (2011). “We agreed with the rights of nature, it is an improvement; the situation would be worse if the rights of nature would have not been included in the Constitution,” added Luis Robalino (2011a) of the anti-mining network. Similarly, Morillo (2011) of the Jatun Sacha Foundation explains that, “We agreed with the rights of nature; we might have not declared it publicly, but through our delegate in CEDENMA, we expressed our support of the discourse.” “We were at the forefront of the promotion of the discourse,” claims Rivadeneira (2011) of the agro-ecologists; “there was no opposition within

the environmental movement [to the rights-of-nature frame], the opposition came from lawyers who accept a positivist understanding of the law”.

While it has been alleged that some organizations were hesitant about endorsing the frame, whatever opposition from within the environmental movement that may have existed never galvanized publicly and instead remained private. No organization ever outwardly contested the frame or tried to block it. As Maria Amparo Alban, the director of CEDA, one of the most moderate environmental organizations in Ecuador, expressed, “I and other lawyers were skeptical of this discourse, but we just maintained distance to see how the concept would be sold politically” (Alban 2011). Vasconez (2011), the director of Environment of Grupo Faro, an NGO that has not participated in either CEDENMA or ANA, recalls that she expressed her hesitation about supporting the rights of nature rather than a more concrete idea, such as an office for environmental issues with check and balance powers that replaces the concentration of power that, so far, exists within the Ministry of Environment.

Yet despite all its ambiguity, the rights-of-nature frame became integral to the environmental movement's efforts at seizing the favorable political opportunity presented by the 2008 Constitutional reform process. The need to capitalize on this political opportunity explains the decision of movement intellectuals to propose something as radical as the rights-of-nature frame and the decision of movement participants to endorse this frame and to try to get this language inserted into the new constitution. Both parties were aware that with so many political allies and social networks of contacts to access those allies, the political opportunity was unique. The environmental movement had not had such openness in the past and the possibilities for the future were uncertain. Therefore, some participants openly agreed with the frame, while others did it tacitly and refrained from interfering with or blocking it. Manosalvas (2011) nicely

summarizes how the political opportunity weighed on the movement's decision to endorse the frame:

It is true that the “rights of nature” frame was not debated within ANA... Within CEDENMA, we have talked about the rights of living beings (we did not frame it as rights of nature though), but we were afraid of how that discourse was going to be received... When we heard that the ‘rights of nature’ was being discussed in Montecristi, from outside we tried to give some foundation to that discourse... We perceived the rights-of-nature frame as an opportunity; it did not matter who proposed it... It is also true that we neither discussed what we were winning by promoting the rights of nature, nor did we debate about its implications. Neither the philosophical dimensions of granting rights to nature were analyzed nor were the biological dimensions... We took advantage of the opportunity because we knew we could not make major changes in the coming years; for me, it was correct to take advantage of the chance. However, we are now facing a black hole that is not only legal but also conceptual.”

Coupled with the favorable political opportunity, what the different movement participants understood the rights-of-nature frame to be did not outwardly impede or contradict their diverse and particular agendas. Consequently, despite discrepancies in understanding what the rights of nature meant and what their implementation would entail, movement participants proved willing to rally around this framing decision. The frame's inherent ambiguity accommodated diverse understandings of it. The dominant understandings of the rights of nature were, nevertheless, anthropocentric.

The representatives of each network associated with the environmental movement were not only advocating for the rights of nature per se. Most important for them were the rights of the people affected by the deterioration or over-exploitation of natural ecosystems. In other words, this group wanted to protect nature for instrumental reasons related to their own well-being, which effectively demonstrates that there was no alignment on this framing decision.⁷⁹

⁷⁹ The human-centered nature of the movement participants' demands is evident in the document, titled “Toward an Equitable and Sustainable Society” (Asamblea Nacional Ambiental 2008), which proponents of the environmental movement authored for consideration by constitution-makers with regard to possible environmental

Alignment would have required that movement participants advocate the bio-centric idea that nature has intrinsic importance regardless of the utility it can provide to human beings. Nevertheless, there was agreement without alignment as environmental movement participants recognized that the ambiguous frame did accord with their general interest for environmental reform and, thus, recognized that the rights-of-nature frame did not seem to undermine their objectives.

The reader may recall that Chapter 4 explains in detail the different goals of each network within the environmental movement. The mission of the Water Forum, for instance, has been to promote the responsible and sustainable access, use, and management of water sources. This network has been concerned with the contamination of water, the inequality in its distribution, and the lack of an efficient state institution to deal with the management of this public good. At the Constituent Assembly in Montecristi, Water Forum participants lobbied for the recognition of the human right to access a minimum amount of water that may guarantee their survival (Gaybor 2011).⁸⁰ Movement participants recognized that this human right to water required the sustainable management and protection of such water sources as basins, moors, wetlands, and forests (Zambrano 2011); and granting rights to nature was compatible with the preservation of

reforms. Here movement participants advocated for the human right to a clean and safe environment, which had already been part of the constitution since 1983. What they emphasized was the state's obligation to generate policies that would guarantee the enjoyment of this right through the conservation of biodiversity, the sustainable use of ecosystems, the control of pollution, and the active participation of civil society in environmental management (Asamblea Nacional Ambiental 2008, 19). Evidence of the success that the diverse networks within the environmental movement had in pushing their own particular *anthropocentric* agendas are the inclusions in the 2008 Constitution of the fundamental and inalienable human rights to water (Article 12) and to food security (Article 13). As I develop in this chapter, while the human right to water is compatible with the protection of water sources, such as basins and moors, the aim of such rights is the protection of the well-being of human beings and not nature *per se*. Similarly, the human right to food security demands the protection of soil and biodiversity, which is compatible with the rights-of-nature frame; but the intention, again, is to safeguard the welfare of human beings.

⁸⁰ According to the World Health Organization the minimum amount per year required by a person to survive is 1000 m³ of water. In Ecuador, each inhabitant has access to an average of 22,500 m³ of water per year. However, this amount masks the facts that there are sharp regional and provincial differences in the availability of water (rendering access to water unequal) and that the water that some Ecuadorians have access to is contaminated, leading to serious health problems (Weemaels 2010, 89-91).

such ecosystems that are water sources. As observed by Zambrano (2011), “rights of nature are totally intertwined with other rights..... If we do not guarantee the sustainability of the ecosystems, we would not be able to guarantee the human right to water.”

In a similar vein, the goal of the Ecuadorian Agroecology Coordinating Committee (CEA) has been the promotion of a sustainable model of agriculture, in order to guarantee food security for Ecuadorians, which requires the responsible access and use of biodiversity and soil. The “rights-of-nature frame”, thus, was consistent with the use of different models of agriculture that neither overexploit the soil nor hinder access to biodiversity resources integral to the regeneration cycle. The emphasis, however, was centered on improving food security and thus the well-being of humans. As expressed by Minga (2011), “it is not possible to isolate the natural world from the human beings that inhabit those territories.... The relationship between humans and nature is not only ecological but also social,” meaning that according to the ancestral knowledge of indigenous peoples nature is a living being and human beings have a relationship with nature of mutual complementarity. Nature and human beings need each other for survival (see Chapter 3).

Likewise, the goal of the Coordinating Committee for the Defense of the Mangrove Ecosystem (C-Condem) has been to denounce the expansion of the shrimp industry in coastal areas, which is alleged to have violated the economic, cultural, and social rights of the communities that inhabit those areas. Additionally, C-Condem members have been concerned with the restoration of regions of mangrove. Yet, as Torres (2011) observed, “people fight for the mangrove because it is an issue of survival, they are not fighting for the survival of the mangrove itself; that is nonsense.... The life of the mangrove is the life of the communities.”

Along similar lines, there was no contradiction between the rights-of-nature frame and the goals of the Intag Coordinating Committee and the Amazonia Defense Front (FDA). Both networks have been struggling to defend their territory from mining exploration and oil drilling. Their priorities have been the protection of sources of freshwater, such as river basins and native forests (Zorilla 2011). Yet, as with the aforementioned examples, the Committee and FDA were fighting for the rights of their communities and not for the rights of nature. As Zorilla of Intag (2011) asserts, “Frankly, we think that communities have rights...the right to live in an environment free of contamination, free of conflict, we do not want to drink contaminated water. I do not doubt that the river has rights, but it is very difficult that rural people understand that. [For in the rural areas] it is an issue of survival. You cannot survive if you have a contaminated river....” Similarly for people in the Amazonia “rights of nature [entail] the right to clean water, a healthy environment, the right to food, the right to land to cultivate” (Yanza 2011).

By the same token, the rights-of-nature frame could accommodate the aim of the Plurinational Federation of Ecuadorian Communitarian Tourism (FEPTCE). As with the previous examples, the rights-of-nature frame did not impede non-governmental organizations from advancing specific proposals in favor of a national system of protected areas, which will benefit the communities of the FEPTCE whose survival depends on the protection of natural areas that attract tourists.

In short, the representatives of each network within the National Environmental Assembly did not find that the rights-of-nature frame hindered the advancement of their particular causes. Yet, in pursuing their diverse goals, the aforementioned environmental organizations were not defending the intrinsic value of nature, which is the bio-centric belief that the rights-of-nature frame espouses, but were, rather, promoting the instrumental interests and

environmental rights of the communities they represented—whose survival and living conditions depend on the health of ecosystems.

What further conditioned the simultaneous effects that the unique political opportunity for reform and this lack of contradiction with the participants' interests had on the acceptance of the rights-of-nature frame was that the small group of movement participants who disagreed with the frame never publicly opposed it. This was largely due to a sense of loyalty to the environmental cause, and for fear of being considered traitors by the environmental community. As some movement participants have suggested, “[T]o be against the rights of nature is a political mistake, as an environmentalist you cannot be against the rights of nature” (Ulloa 2011). Similarly, as Torres (2011) of the mangrove defense network adds, “The discourse is politically correct, who can be against nature?”

Such sentiments illustrate that even if members of the environmental community have divergent policy preferences that do not align with a particular frame or policy proposal, their identity as environmentalists requires them to support environmental reforms more generally. In other words, when a framing decision or policy proposal promises to advance the protection of the natural environment, members of the environmental community will be reluctant to forfeit an opportunity for environmental reform because of their potential reservations about the substance of the proposal. What is good for the environment is good for environmentalists, whatever their particular brand or ideology, and whatever their particular goals.

The agreement with or the tacit agreement of the rights of nature campaign is not the first instance in which the effects of this environmentalist identity have been observed within the broader environmental movement. A transnational anti-oil advocacy network – composed of diverse domestic and international actors – brought together organizations within the

environmental movement that differed in their environmental political ideologies, lobbying strategies, and policy preferences.

Since the 1960s, when oil exploration began in the Amazonia, thirty-four different multinational corporations (as of 2002) have operated within Ecuador's rainforests (Arauz 2004, 65). Texaco, however, took the lead in the extraction of Ecuador's oil reserves and was the first to establish oil wells in the Amazonia – bringing its expertise to a developing country that was not familiar with the technology of oil extraction. In 1990, in opposition to Texaco's presence in Ecuador's rainforests, Acción Ecológica, in partnership with various environmental advocates, launched the *Amazonia para la Vida* or the “Amazon for Life” campaign. The two core criticisms of the campaign were (1) the environmental and social degradation caused by Texaco's operations in the Sucumbios, Napo, and Orellana provinces between 1964 and 1990, and (2) the government's willingness to open the Yasuní National Park to oil extraction (Moog 2004, 97; Fontaine 2007, 242). The campaign began with a peaceful protest outside Texaco's offices in Quito, on June 28, 1991. It continued with several peaceful demonstrations, marches, occupations, and letter-writing and media campaigns (Moog 2004, 102). One of the most publicized demonstrations occurred in January 1994, during the visit of Texaco's President, Mr. York Le Corge to Ecuador. Upon his arrival to a hotel in Quito, to his surprise, he was greeted by a group of young activists, who offered him a beautiful bouquet of flowers. Yet, as the activists handed him the flowers, they poured oil over them and expressed that “these flowers, contaminated with oil, symbolize what you did in our Amazonia” (Varea et 1997, 158).

While gaining international support and resources from international environmental and human rights organizations (such as Rainforest Action Network, Center for Economic and Social Rights, Oxfam America, and Coalition for Amazonian Peoples and the Environment), the

Amazon for Life campaign, failed to have any serious effect in prohibiting the exploitation of oil reserves in the Amazonia. However, a remarkable achievement of the campaign was its ability to promote cooperation across ideological lines, among diverse actors like ecologists,⁸¹ environmentalists,⁸² social NGOs,⁸³ academic institutions,⁸⁴ and indigenous peoples⁸⁵. While some groups focused on contentious tactics during the campaign, others tried more moderate tactics such as lobbying policy-makers (Fontaine 2007, 241, 246). This further example of how organizations with different ideological orientations, objectives, and policy preferences, were still able to work together toward a common purpose, demonstrates that these important differences – which contemporary social movement scholarship claims to thwart the requisite alignment of interests around a framing decision (Snow et al. 1986, Klandermans 1988) – need not necessarily impede movement participants' willingness and capacity to agree on a frame and cooperatively strive for reform.

The “Amazon for Life” campaign, additionally, motivated activists to continue exploring for alternative strategies to block further oil exploitation. The ITT-Yasuní initiative, for instance, discussed earlier in this chapter, built on the ideas and the policy demands that were initially underscored by Amazon for Life, and also on those of a broader 2003 environmental initiative that called for a moratorium of oil extraction in the southern-central part of the Amazonia (Acosta 2010a, 16-17). The ITT-Yasuní initiative – whose objective is to safeguard the Yasuní National Park against development, in return for financial compensation by the international community – is another instance when no environmental advocate has openly opposed the

⁸¹ For instance, Accion Ecologica and Tierra Viva.

⁸² For example, Fundacion Ecologica Arco Iris and Amigos de Mazan (who are volunteers from Fundacion Ecologica Mazan).

⁸³ Including Centro de Investigaciones Sociales y del Desarrollo (CEDIME).

⁸⁴ Escuela Politecnica del Litoral (ESPOL), for instance.

⁸⁵ Such as the National indigenous organization (CONAIE) and regional indigenous organizations (CONFENIAE and OPIP in the Amazonia).

campaign for environmental reform. Some such advocates regret that the national government has co-opted what they considered an initiative proposed by civil society. Yet, nobody has publicly contested the initiative, which is intriguing since certain ecological organizations, such as Acción Ecológica, have historically opposed market-based policy proposals and the ITT-Yasuní is a clear example of a market-based initiative that involves getting carbon credits in exchange of financial resources.

This proposal was, in fact, originally presented to the international community as a way to avoid the emission of CO² and, thus, as a way to help to mitigate climate change because leaving these oil reserves in the ground would prevent the emission of 407 million tons of CO² and other greenhouse gases. Halting the extraction of oil in Yasuní would also prevent widespread deforestation, which is the second most important cause of global warming (Larrea 2010, 76). For these emissions reductions and the safeguard of these carbon sinks, the international community, would then, agree to pay approximately \$22.07 for each ton of CO² whose release the initiative would prevent (Larrea 2010, 82).⁸⁶ Nevertheless, despite their divergent political ideologies and policy preferences, environmental movement organizations agreed with the broad aim of the ITT-Yasuní initiative and, thus, uniquely, have supported the policy proposal – which, again, evidences a loyalty to broader environmental causes, even when particular initiatives or framing decisions do not allow for the alignment of involved parties' objectives, ideologies and preferences.

⁸⁶ Carbon markets were central, for instance, to the 1997 Kyoto Protocol. The Kyoto Protocol is a clear example of a policy proposal that aims to reduce greenhouse gas emissions through market-mechanisms : specifically, *via* (i) emissions trading that allows countries to trade emissions permits; (ii) joint implementation that permits developed countries to avoid making reductions in their *own* emissions, and to instead invest in the efforts of *other* developed countries to reduce their levels of emissions; and (iii) the clean development mechanism, which works in the same manner as the joint implementation alternative, but where countries invest in the efforts of other *developing* countries to reduce their emissions (Bernstein 2002, 210-211).

III.2. *Building alliances with the Indigenous Movement*

Proponents of the rights-of-nature frame had hoped that multiple audiences would find appeal in this framing option, and the indigenous movement was one of them. In order to secure the support of members of the indigenous movement, Natalia Greene of Pachamama Foundation (who had been commissioned to lobby the Constituent Assembly for the inclusion of the rights of nature in the new Constitution) turned to Esperanza Martínez, an advisor to the President of the Constituent. Esperanza Martínez was one of the movement intellectuals who have already been thinking about the rights of nature since the late 1980s. Since then her discourse has focused in the need to change the economic model for a post-development alternative that respects the rights of nature.

Additionally, Martínez has been a long-time leader of grassroots initiatives with the ecological NGO, Acción Ecológica (established in Ecuador in 1987, see Chapter 4), and a strong advocate of indigenous peoples. Martínez had a strong influence on the broader indigenous movement, and was well-positioned to get their support for the rights-of-nature frame. Since its inception, despite occasional tensions with organizations representing the interests of indigenous peoples,⁸⁷ Acción Ecológica has been involved in supporting the grassroots efforts by indigenous peoples and peasants to prevent economic development projects that entail the extraction of natural resources from lands on which their livelihood depend. The aforementioned *Amazonia por la Vida* campaign, for instance, was led by Acción Ecológica between 1989 and 1994, in order to halt oil extraction in the region. Consequently, Acción Ecológica has fostered the

⁸⁷ Acción Ecológica and the Amazonian Defense Front (FDA), for instance, the NGO that represents the indigenous communities affected by operations of Texaco oil, experienced some conflict over the resolution of this policy dispute. And so in 1999, the board of FDA, which consisted in peasants and indigenous peoples, severed ties with Acción Ecológica —accusing the organization of attempting to divide the people (Yanza unpublished manuscript).

establishment of close ties with CONAIE, the national indigenous organization, and with ECUARUNARI, a regional umbrella organization for indigenous peoples in Ecuador's highlands. Pachamama Foundation, certainly, had allies among indigenous leaders, but mostly in the southern-central area of the Amazonia, where that NGO has been supporting the plight of the Kichwa people of Sarayacu against the Ecuadorian state to protect their ancestral lands from the development projects of the Argentinian General Company of Fuels (CGC).

Gaining allies among the indigenous movement to support the rights-of-nature frame was essential for securing its favor also meant procuring the support of parties involved in the grassroots environmental movement. As Chapter 4 argues, the ethnic base of local grassroots environmental organizations is largely composed of indigenous peoples and peasants, such that there is a great deal of overlap in the policy objectives of both the indigenous and environmental movements. The rights of nature, however, were not part of the reforms that the indigenous movement had sought to lobby in the Constituent Assembly. In fact, this framing has never been part of the indigenous movement's discourse, since the movement engaged in contentious forms of activism in the 1990s (Simbaña 2010; Ortiz 2010; Manosalvas 2011; Vasconez 2011). More specifically, while it is central to indigenous cultures to live off the land and, thus, to make consistent use of its natural resources, indigenous peoples take very seriously the sustainability of natural ecosystems; wisely managing the use of resources in such a way as to never exhaust the resource reserves or to do irreparable damage to the ecosystems. Accordingly, indigenous peoples have supported efforts to protect nature, but they have never advocated for measures to preserve natural areas, since their survival is contingent on the exploitation of its natural resources (Ortiz 2010).

During the initial conversations among Pachamama Foundation, Acción Ecológica, and indigenous leaders, the latter were concerned about the implications for indigenous groups if the rights of nature language were incorporated into the constitution.⁸⁸ Monica Chuji, indigenous activist and one of the authors of the nation's new constitution, recalls that indigenous groups were hesitant to endorse a frame that they thought was grounded in a conservationist approach toward nature, and which was going to interfere with their territorial rights and access to the resources necessary to sustain themselves (Chuji 2011). Eventually, indigenous peoples supported the frame because of their trust in and loyalty toward Acción Ecológica and Pachamama Foundation, organizations with whom they have worked, and who had striven to protect their rights and promote their interests. For these reasons, Marlon Santi, for instance, the President of CONAIE, actively supported the frame, as did the leadership of ECUARUNARI (Vasconez 2011).

Other regional organizations involved with the indigenous movement in the Amazonia and Coast, were less enthusiastic about the frame. Nevertheless, while these organizations did not endorse the framing decision they refrained from openly opposing the rights of nature campaign (Chuji 2011),

III.3. Lobbying Constitution-Makers

Drafters of the constitution were also concertedly targeted by Pachamama Foundation's campaign for the rights of nature in late 2007. Acosta, President of the Constituent Assembly, proved to become an unconditional advocate of the frame. Like Martínez, Acosta believed that the most important consequence of granting rights to nature would be the gradual transition to a

⁸⁸ A seminar for indigenous leaders was organized by Pachamama Foundation on 25 February 2008 in Manta (a coastal city in Ecuador), in order to address some of their specific concerns (Melo et al 2010, 7).

post-development paradigm – radical reform for which he, both as an academic and as a bureaucrat, had been a strong advocate. Acosta created unique forums and lobbying opportunities for Greene, Morales, Martínez, representatives of the Community Environmental Legal Defense Fund (CELDF) from the U.S., and so on. For instance, Thomas Linzey and Mari Margil, of CELDF, who had been invited by Greene to visit the site of the Constituent Assembly in Montecristi, were afforded the opportunity by Acosta to present to the Assembly their experience working with townships in the United States, and how those towns had successfully implemented ordinances that granted rights to nature.

Acosta also welcomed into the Assembly's discussions various groups from civil society that were, for instance, demanding rights for animals, which according to him was the foundational catalyst for the subsequent discussions that nature should be granted rights (Acosta 2010b). Acosta thought that if animals deserve rights, the plausible extension of this philosophical and policy position is to grant such rights to nature as a whole. He himself started to publish articles on the Constituent Assembly's website that supported the idea of granting rights to animals,⁸⁹ and he later advocated for the rights of nature.⁹⁰ Building on the normative ideas of Latin American, North-American, and European philosophers, Acosta strove in these articles to create an ethical dimension or justification for the rights-of-nature frame (Acosta 2010b).

At the Constituent Assembly, Acosta took the lead in the negotiations between supporters and dissenters of the frame. Since the discussion of constitutional articles was organized around working commissions, Acosta realized that the commission on biodiversity and natural

⁸⁹ Acosta, Alberto. 2008a. "Tienen los Animales Derechos?" In *Bitacora Constituyente: Todo para la Patria, Nada para Nosotros!* January 8. Quito, pages 287-289.

⁹⁰ Acosta, Alberto. 2008b. "La Naturaleza como Sujeto de Derechos." In *Bitacora Constituyente: Todo para la Patria, Nada para Nosotros!* February 29. Quito, pages 293-296.

resources, where the notion of the rights of nature had been first introduced, was making slow progress (Greene 2010). He, therefore, moved the discussion to the commission on fundamental rights, where he had closer political allies. This commission ultimately prepared and approved the preliminary articles concerning the rights of nature, which the general assembly later deliberated. Members of the commission voted internally for each of these articles, which were approved with no votes against, and few abstentions. With this decision, the commission turned to the general assembly and emphasized that the legalization of the rights of nature in the Constitution would produce a change in the development paradigm in Ecuador, in the legal approach that regulates the protection of nature, and in the relationship that human beings have with the natural environment (Asamblea Constituyente 2008a, 4).

Anticipating the resistance of some of the members of the Assembly, for whom there was no apparent legal basis for the articles (since nature has no legal standing), proponents of the rights-of-nature frame insisted that the legal system had in the past recognized the standing and, thus, the rights of other non-human entities like corporations. And, therefore, proponents argued that treating “Pachamama” – the Kichwa word for nature that the commission explicitly pressed to be included in the Constitution – as a ‘legal person’ in the same manner was not unreasonable. To extend standing and rights to nature would simply reify a relationship of respect between human beings and nature that had already been assumed centuries ago by the nation’s indigenous ancestors (Asamblea Constituyente 2008a, 5-6).

At the general assembly there were mixed opinions. To the delight of proponents, such figures as Norman Wray, Aminta Buenaño, Martha Roldos, León Roldos, Sofia Espin, Maria Soledad Vela, Pilar Núñez, Cesar Grefa, Fernando Vega, and even various delegates from opposition parties (such as Manuel Mendoza and Rafael Esteves, of the Patriotic Society Party)

expressed their unconditional support for the proposed reform. On the other hand, where unanimous consent to the proposal had been anticipated – among, for instance, the delegates of Alianza País – there were unexpected divisions. In concert with some of these delegates’ objections to the legal basis of the frame, Rosanna Queirolo, of Alianza País, argued:

I think that nature should not be subject of rights. We should not talk about rights of nature, but about the duties that human beings have to [protect] nature. The claim that nature is a subject that deserves rights would only work if we recognize an absolute value of nature, superior even to the value of humans. Yet, this contradicts human interests and choices. Rights exist because of human beings and for human beings; the language of rights only has meaning to humans. Recognizing rights of nature is more symbolic than it is practical. It would force legislators to give more consideration to animals, trees, and rivers, but it would generate unwanted negative effects. If nature is the subject of rights, who can guarantee that a person who [claims to] represent nature is not simply defending his economic interests? (Asamblea Constituyente 2008b).

Similar opinions were expressed by delegates Diana Acosta and Jorge Calvas of Alianza País. Calvas further argued that “we should understand that humans have to coexist with nature, we have to respect it, but we cannot give nature the status of a god; humans need resources.” Questioning the rationale of granting rights to nature, which would in principle prohibit human beings from exploiting natural resources, Calvas declared, “[W]hat are we going to live off of then? Don’t the salaries that we receive as delegates come from oil resources? Don’t highways, education, health, and housing need resources from oil” (Asamblea Constituyente 2008b)?

According to Acosta (2010b), the endorsement and involvement of the Uruguayan academic, Eduardo Galeano, became central in convincing the general assembly about the plausibility of the proposal. When the debates about the rights of nature were taking place, Galeano published an article, titled “Nature is not Voiceless,”⁹¹ which resonated strongly among

⁹¹ Galeano, Eduardo. 2008. *La Naturaleza no es Muda*. IPS. Retrieved from <http://ipsnoticias.net/print.asp?idnews=88386> on 21 November 2011.

skeptical Assembly members – reminding them of the recent environmental disaster created by Texaco in the Amazonia (see discussion regarding Texaco’s work in the Ecuadorian Amazonia in Chapter 3). Quoting Galeano, delegate Rafael Esteves encouraged the drafters of the new constitution not to be afraid of revising the law. He asserted that “law evolves, constitutionalism evolves, and we should feel proud to give an example to the international community and improve the laws. We cannot continue considering nature as an object, we need to recognize its rights” (Asamblea Constituyente 2008b).

The articles regarding the rights of nature were formally approved by (a simple majority of) the Assembly on 10 April and 7 June 2008 (Melo et al. 2010, 8). There were five specific provisions incorporated into the new constitution which are detailed below.

Article 10: Nature is subject to those rights given by this Constitution.

Article 71: Nature or *Pacha Mama*, where life is reproduced, has the right to the respect of its existence and to the maintenance and regeneration of its life cycles, structure, functions, and evolutionary processes. Any person, community, or [indigenous] nation can demand that the public authority observe the rights of nature.

Article 72: Nature has the right to be repaired. Reparation is independent of the obligations of natural and judicial persons or of the State to compensate the people and the collectives that depend on the natural ecosystems. In case of severe or permanent environmental degradation, including that caused by the exploitation of non-renewable natural resources, the State will establish the most efficient mechanisms for [restoring the health of the degraded areas], and will adopt adequate measures to eliminate or mitigate the harmful environmental consequences.

Article 73: The State will apply precautionary and restrictive measures in all the activities that could lead to species extinction, ecosystem destruction or the permanent alteration of natural cycles. The introduction of organisms and organic and inorganic material that could alter, in any permanent way, the national genetic heritage is prohibited.

Article 74: The persons, communities, tribes and nationalities will have the right to benefit from the environment and from the natural resources that allow them to achieve their well-being. Environmental services will not be susceptible to appropriation; their production, provision, use and exploitation will be regulated by the State.

The last step in the implementing these rights of nature was to secure the support of the Ecuadorian electorate for the foregoing provisions. To accomplish this, proponents of the rights-of-nature frame used media outlets (radio, television, and newspapers) to persuade the citizenry about the importance of endorsing a constitution that was the first in the world to grant rights to nature. They also appealed to theatrical performers,⁹² who communicated the frame to citizens, via the avenues that pop-culture made available (Melo et al. 2010, 8). In the end, 64 percent of voters approved the full draft of the constitution in a referendum that was held in September 2008.

IV. Closing of the Political Opportunity for the Environmental Movement

The political climate following of this period of constitutional reform proved to be entirely unfavorable to the environmental movement. Evidence of this change in political climate that I will develop in this section include the decision of President Correa to continue with a model of economic development based on extraction of natural resources, specifically large scale mining, the Presidential Decree 982 that threatened the work of non-governmental organizations, the demobilization of the environmental movement due to co-optation of their members, and Correa's opposition to the Yasuní-ITT initiative at the domestic level (not in international forums).

Two notable results of the constitutional reforms were the expansion of the powers of the president,⁹³ and a stronger role of the state in promoting economic development. To guide the

⁹² For instance, the theater group "Las Marujitas."

⁹³ The new constitution not only permitted the president to seek a consecutive four-year term, which provided Correa's administration the likely option to remain in power until 2017 (Article 144), but it also granted the president the ability to dissolve the National Assembly (Congress) with the approval of the Constitutional Court (Article 148).

revised responsibilities of the state in achieving greater economic development, the small National Agency of Planning and Development (SENPLADES) was expanded. Accordingly, SENPLADES developed a four-stage proposal for a slow transition from an economic model largely dependent on primary goods to a model based on knowledge and tourism – requiring the strengthening of national industries through import substitution, changing the country’s energy portfolio to reduce its dependence on fossil fuels by increasing its use of renewable sources, and investing in human capital through training in technology and sciences (Senplades 2009, 96).

The first two stages of the plan, however, are heavily dependent on natural resources and require extensive extractive activities, which could provide the financial resources necessary for the subsequent phases of the new economic plan and could allow for the redistribution of wealth to the broader population. Yet, not only was this heightened need for greater extraction unacceptable to the environmental and indigenous movements, but with the new constitution, the previous economic principles that underlie this new development model were no longer reasonable. Even Alberto Acosta, a strong advocate of the environmental movement, and who might have been expected to work toward further compromises, distanced himself from Correa’s administration and his Alianza País party because of these irreconcilable differences between environmental protection and economic development (Hernandez and Buendía 2011, 134).⁹⁴ Acosta (2008c, 46) has expressed that “it is naïve to believe that by propelling the extraction of natural resources [the government] will procure the resources to finance those [environmental] activities that could balance the massive extraction of natural resources.” This event signalled the end of a favourable political context for the environmental movement.

⁹⁴ Acosta’s slow separation from Alianza País began during the period of constitutional reform, when President Correa pressured him to accelerate the reform process. Acosta’s style was more democratic; he tried to give voice even to delegates of opposition parties. His style, however, required protracted deliberations, which frustrated Correa. Unable to meet Correa’s deadline, Acosta resigned from the Presidency of the Constituent Assembly in June 2008.

Coupled with the foregoing, the following developments only reinforced the environmental movement's sentiment that they had been betrayed by Correa's administration. Already in March 2008, the President issued Decree 982, constraining the operations of non-governmental organizations. According to environmentalists, this law restricts the freedom of association and expression of civil society, increases the cost of legal registration of non-profits from \$400 to \$4000 (a substantial amount for many grassroots organizations in Ecuador), forces non-profits to pursue their activities according to the national plan of development designed by SENPLADES, and allows the government to close an organization when it "runs against the interest of the state and when it contravenes the rules issued by ministries and other control entities" (El Comercio, 10 March 2009; El Comercio, 29 June 2011; Moore 2009).

In fact, one year after the decree, in March 2009, Acción Ecológica's legal permit to function as a non-profit organization was rescinded: whereby, the state claimed that Acción Ecológica was not pursuing the goals for which it was created (El Comercio, 26 April 2009). Its leadership, in turn, complained that Correa's government was punishing the organization for its participation in protests against mining laws (Moore 2009). According to Ivonne Ramos, President of Acción Ecológica, Correa argued that it is not the task of non-profit organizations to "carry out any political activity," which she challenged – arguing that "we are political beings and we view working in the interests of nature and the common good as a political act" (Moore 2009). It took two months for this organization to recover its non-profit status, and it quickly became clear that President Correa was not willing to tolerate the resistance of environmental organizations toward the extraction of natural resources.

Beyond curbing the influence of environmental organizations in this way, on 12 January 2009, President Correa also passed a mining law that legalized large scale extraction. While the

Constituent Assembly was working in Montecristi, during which time Congress was in recess, a mining mandate was approved (in April 2008), which revoked or suspended 5,000 mining permits for a six-month period until a new law was issued (Becker 2011, 179). However, the new law (of January 2009) legalized large scale extraction, something entirely different from issuing rules to artisan mining, which was the expectation of social movements. In an indigenous newsletter, the author expressed: “the proposal of organized civil society sectors is to regulate the artisan mining for gold exploitation and other construction materials, activity that so far is performed in a chaotic way that only generates illnesses and contamination. But we totally reject large scale mining, our position is non-negotiable.” In addition, she argued, “we need public policies oriented toward inserting miners, who do not want to continue with this practice, into agricultural activities” (Chicaiza 2009). The new mining law, however, welcomes the participation of large international mining corporations that are interested in extracting gold, copper, and silver.⁹⁵ Ecuadorian academic Paul Cisneros considers that large scale mining is nothing new and has, in fact, existed in Ecuador since the late 1990s, when international mining companies began exploring for resource reserves (El Comercio 26 September 2011). Ecuacorriente, for example, which signed a new contract with the state in March 2012, had already been conducting exploratory drilling in the Amazonian provinces of Morona Santiago and Zamora Chinchipe for ten years (El Comercio 2 March 2012).

Members of the indigenous movement quickly mobilized against the mining law, arguing that it was a violation of the rights enumerated in the 2008 Constitution, including the human right to water and the rights of nature (Dosh and Kligerman 2009). As Humberto Cholango, an indigenous leader with CONAIE, insisted, “We do not accept that a government

⁹⁵ Until March 2012, only the contract with the Chinese Ecuacorriente has been signed (5 March 2012). Other contracts with Kinross and International Mining Company (IMC) are still under negotiation (El Comercio, 2 March 2012).

that says it is in favor of marginalized people should not take their views into account when it makes laws. It's inconceivable that laws as important as those on mining or food sovereignty should be passed without public debate, or that they should contain articles that run counter to the Constitution itself, which enshrines the rights of nature” (Lucas 2009). Acosta also contesting this mining law, observed that “the mining law, approved after the constitution, is putting the Magna Carta in danger. This is the root of the problem. Why is this? Without a doubt it is the incoherent aspects of the government that clearly continue to inspire neoliberal policies that continue to represent the interests of the most traditional economic groups” (Zibechi 2009b).

Indigenous peoples initiated the “Day of Mobilization for Life” campaign on 20 January 2009, and thousands of protestors blocked the main highways that connect the highlands with the coast and the Amazonia (Zibechi 2009a; Lucas 2009). The relationship between the government and indigenous peoples had already become strained when Correa strongly opposed constitutional reforms that would require the consent of indigenous communities before the extraction of any resources would be permitted within their territories. Ultimately, indigenous communities were only given the right, as in the previous constitution, to be *consulted* by the government before permits could be issued to companies aiming to explore for or extract resource reserves. This, coupled with the fact that with his newfound political powers the president can unilaterally approve development plans for the exploitation of non-renewable resources in protected areas (Article 407), left the indigenous movement feeling alienated from the government.

The new mining law, moreover, reinforced their fears that some of the constitutional reforms, including Article 15, which considers mining a “public utility,” can be used to justify the expropriation of indigenous peoples from their lands for the sake of securing the collective

needs and interests of the country (Zibechi 2009a). In the midst of the protests against the mining law, and in response to social movements, such as the indigenous and environmental movements, President Correa underscored that “we are not going to hesitate to pass the mining law because the responsible development of mining is crucial to the country’s progress; we cannot sit like beggars in a gold sack” (quoted in Gudynas 2009b, 214). In sum, President Correa did not believe that mining operations were inherently hostile to environmental protection and the well-being of local indigenous communities.

Immediately after the protests over the mining law, indigenous communities engaged in further grassroots efforts to oppose the new water law that the government had passed to Congress in August 2009. Indigenous peoples believed that this law would permit the mining operations in sensitive areas where natural freshwater springs are located; as it guarantees water resources to mining companies but not to rural users, and centralizes the management of water sources to certain state institutions – rejecting the autonomy that rural communities had had over this management for decades (Zibechi 2009b). Social movement protests against mining are inherently connected with concerns over the access to and distribution of water, since one of the strongest concerns of rural communities, where most mines are located, is that mining activities require excessive amounts of water to separate the minerals from the rock – impeding the access of indigenous communities themselves to both adequate amounts and potable sources of freshwater (Bebbington 2009, 15). Moreover, social movements have also highlighted the fact that several of the mining leases are located in moors and protected forests, which constitute vital sources of freshwater reserves (El Comercio, 6 April 2012).⁹⁶

⁹⁶ The fact that in some instances the mining activity is located in moors or protected forests generates additional legal conflicts between the environmental advocates and the state. For the state, moors and protected forests do not have the same status as other designated protected areas. Consequently, according to such state

In contrast, the environmental movement did not exhibit such organized resistance, at least to the new mining law,⁹⁷ partly because once its reform proposals had been incorporated into the new Constitution, the movement lost its momentum; but also because a considerable number of environmental activists were working within state bureaucracies (Peralvo 2010). As Peralvo (2010) from Fundación Ambiente y Sociedad notes, “we trusted that the government would produce a transformation; the [environmental movement], then, dropped its guard because we thought it was no longer necessary to be mobilized, since we had elected a government that we thought would respect our rights. Once those rights had been included in the Constitution, we thought we only needed the legal mechanisms to implement them” – adding that the “demobilization also occurred because many of our activists were coopted by the government...and that conditioned their behavior.”

When social movements achieve some degree of institutionalization and are integrated into an established system of government, demobilization and cooptation are well-known explanations in the social movement literature for understanding why grassroots efforts dissipate; explanations that have been empirically validated in this Ecuadorian case (Tilly and Tarrow 2007, 129). The demobilization of a once-robust support base did not only affect the environmental movement, but other civil society groups also experienced diminished involvement of and commitment by their members. Alianza País, for instance, originally appealed to leftist groups to fight for a “genuine revolution of the citizenship.” The party

institutions as the Ministry of Environment, certain business activities can still be carried out in those areas. Environmentalists argue, to the contrary, that areas which constitute water sheds should not be jeopardized by mining operations, regardless of whether or not they have been designated as protected areas. A study by Ecociencia, an environmental NGO, suggests that in Ecuador, prior to March 2010, over a tenth (12.53 percent) of the nation’s moors had been on lands leased to mining companies (El Comercio, 6 April 2012).

⁹⁷ This is not true of all environmental organizations as some of them (Acción Ecológica, for example) *did* participate in grassroots efforts to resist the mining law. Acción Ecológica contends also that it is from the mobilization against mining that a “new urban-rural alliance that embraces the principles of ecologism [was born]” (Zibechi 2009a). My claim here, however, is that the response of the environmental movement was not as strong as that of the indigenous movement.

subsumed the policy objectives of these groups and, thus, left its members without a strong motive to mobilize (Pachano 2010, 300). But the demobilization of such social movements can also be attributed to the populist and authoritarian style of the President. As Becker argues, “equally surprising as Correa’s rapid rise to power has been the rapid collapse of social movements” (2012, 116). It took at least two years for the environmental movement to rebound and mobilize again, but since the constitutional reforms, activists continue to struggle to reorganize the social movement support base.

Finally, in December 2009, President Correa criticized the proposed establishment of a trust fund to administer the resources that Ecuador would receive from the international community for protecting the oil reserves in Yasuní National Park. Correa characterized the proponents of the trust fund as “infantile ecologists,” including his Minister of Foreign Affairs, who had supervised the drafting of the initiative and who was an ally of environmentalists. Correa insisted that the ITT-Yasuní proposal was a violation of Ecuador’s national sovereignty, and forbade its authors present the initiative at the Copenhagen Summit on Climate Change. These public statements prompted the resignation of both the Minister of Foreign Affairs, and also committed environmentalist, Fander Falconí (Pachano 2010, 301-302, fn. 12-13).

Ultimately the trust fund was approved by the government and is currently administered by the United Nations. The ITT-Yasuní Initiative became a landmark policy of the Correa administration, and was conveniently invoked in international settings to promote the environmental accomplishments of the president. For instance, during a meeting held with high level officials at the United Nations on 23 September 2011, President Correa quoted Miguel de Escoto, former U.N. Assembly Secretary who had expressed that the “ITT-Yasuní Initiative is the most concrete proposal presented in the history of humanity’s fight against climate change

and global warming.” Correa added that “the initiative is a clear commitment of a poor country to face climate change and global warming, where the greatest sacrifice has to be made by Ecuadorians” (Presidencia de la Republica del Ecuador 2011). At home, however, Correa’s resistance to the ITT Initiative has merely revealed that his administration, once outwardly committed to environmental conservation during its bid for the presidency, has turned its back on its campaign promises and has instead prioritized economic development.⁹⁸

V. Synthesis of the chapter

The rights-of-nature frame, promoted by intellectuals involved in the environmental movement, would have never emerged without a favorable political opportunity to institute environmental reform. This chapter has argued that this political opportunity expanded with the creation of Alianza País, and the subsequent appointment of numerous socially and environmentally-minded political officials. Thus, while traditional political parties found themselves isolated and their political influence constrained, civil society groups – environmental organizations among them – saw their supporters assuming positions in 2007 that would prove to make reform possible. This was confirmed when key environmental advocates were appointed to key positions in the Constituent Assembly in Montecristi. A radical frame like the “rights of nature” would have never been politically feasible under different circumstances. Despite this unique political context, members of the environmental movement recognized that any such opportunity would be short-lived. And, thus, the time was severely limited for thorough deliberation and debate about the meanings and implications of the “rights of nature” framing.

⁹⁸ By August 2013, Correa’s administration ended the ITT Initiative and approved the exploitation of oil in the national park. In May 2014, permits were issued to drill oil in the park. This decision has generated contestation from the citizenship that formed the movement “Yasunidos” to protest the government’s decision.

Thus, movement participants took the risk in framing their demands in these radical if only unconventional terms. The rights-of-nature language was successfully incorporated into the new Constitution. The environmental movement, however, soon found the support of Correa and his administration diminish, and these policy achievements threatened.

While political opportunity was a necessary condition of the rights of nature framing decision and the environmental reforms that followed, this chapter also illustrated that political opportunity is not sufficient to explain this framing decision of movement participants. Conventional social movement scholarship suggests that framing decisions depend on the alignment of parties' interests: whereby members of a social movement believe that the particular way their campaign is framed promises to advance their unique interests. However, as this chapter maintains, there was merely agreement among intellectuals and participants of the movement. While many of the environmental movement participants did *not* view the rights-of-nature frame as reflective of their particular ideologies or integral to advancing their particular policy objectives – such that there could be *no* alignment around the frame – the rights-of-nature frame did not contradict the movement participants' general interests to bring about environmental reform. In short, the proposed frame – couched in terms of protecting the rights of nature - was a broad enough and ambiguous enough framing alternative that all parties believed that the environmental movement would benefit (somehow) from its constitutional reforms. And for those environmentalists who were not enthusiastic about the frame, the commitment to the broad environmental cause hindered them from interfering with it or publicly criticizing its feasibility. Being environmentalists required them, as a matter of principle, and as a matter of a shared identity, to support (even hesitantly) pro-environment reform initiatives. (This finding does not pose a contradiction with the argument of Chapter 4, which stresses the

heterogeneity of the Ecuadorian environmental movement). Thus, while alignment around the frame was not possible, environmental movement participants could and did *agree* with the framing decision and this, in turn, enabled them to influence the constitutional drafting process significantly.

Chapter 6: After the Constitutional Reform

Having analysed the factors that shape such framing decisions by exploring Ecuador's recent constitutional reform and its environmental movement, it is appropriate to examine how the rights of nature have been implemented since the ratification of the new Constitution in 2008. I argue in this chapter that the implementation of the rights of nature has been slow-going. However, despite limitations with their implementation and enforcement, my research suggests that the rights of nature are starting to have some effect on environmental conservation in Ecuador, and are also having some international ramifications.

One important recent accomplishment for proponents of the rights of nature was the decision of the first lawsuit in which nature's rights were invoked: where a court in the southern province of Loja in Ecuador ruled in favor of the rights of the *Vilcabamba* River and ruled against the local government for contamination of the river. While this case has merely been an isolated instance in which the rights of nature were seriously taken into consideration, the rule in favor of the rights of a river cannot be understated, since the plausibility of such a legal justification would have been unthinkable in Ecuador and elsewhere years ago. It has yet to be seen, however, whether this ruling, and others like it that followed, will have created a new precedent for legal standing and environmental protection.

At the international level, the efforts of the Ecuadorian environmental movement have become but a part of a broader and emerging global movement for the rights of nature. This closing chapter does not attempt to demonstrate any causal connection between the framing decision in Ecuador and the formation of this emergent international movement to protect the rights of nature. However, there is some evidence that demonstrates that Ecuador's constitutionalization of the rights of nature helped to prompt an acceleration in the establishment

of this global movement for the rights of nature. For instance, after the *World People's Conference on Climate Change and the Rights of Mother Earth* summit in Cochabamba, Bolivia in April 2010, Bolivia passed a law that seeks to protect the “Rights of Mother Earth.” Further, the *Global Alliance for the Rights of Nature* was formed in Patate, Ecuador on September 2010 (Cullinan 2011).

I. Influence of the Rights-of-nature frame at the Domestic Level

Recognizing the Rights of the Vilcabamba River

Thus far, the most visible achievement for the proponents of the rights of nature has been the ruling of the judge Luis Sempértegui Valdivieso, of the Loja Provincial Court of Justice, to protect the health of the *Vilcabamba* River – as a matter of the river’s rights. Plaintiffs Richard Frederick Wheeler and Eleanor Geer Huddle (local landowners in the region) had brought suit against the Provincial Government of Loja for damages stemming from the degradation of the Vilcabamba River which resulted from a road construction project between the towns of Vilcabamba and Quinara. During the three years of construction, the local government had conducted no assessment of the potential environmental impacts of the project on the river ecosystem. Further, construction workers had routinely discarded tons of excavation materials, such as rocks, sand, and gravel in the river – which the plaintiffs claimed violated the newfound constitutional provision that protects the rights of nature. Certainly, Wheeler and Huddle were concerned about the rights of nature, but the threat to their material interests also motivated their suit against the government. They maintained that during the rainy season, the river has swelled and that excavation materials had been swept along by the river causing severe damage to their lands. Moreover, these wastes from the construction project had also reduced the normal size of

the river bed, producing flooding during the rainy winter season, which had similarly and directly damaged their most productive lands.

While the merit of the suit brought by Wheeler and Huddle was denied by an interim judge of the Provincial Court of Loja on 15 December 2010, the following spring Judge Sempértegui ruled in favor of protecting the *Vilcabamba* River, declaring that “given the indisputable and elemental importance of nature and taking into consideration its process of degradation, an action of protection is the only viable and effective way to end and remediate immediately the environmental damage.”⁹⁹ Sempértegui justified his ruling on the following grounds. First, he argued that damage caused to nature constitutes “generational damage,” referring to “those [damages] that because of their magnitude affect not only the present but also the future generations,” meaning that because future generations have the right not to be unnecessarily harmed, current generations have an obligation to constrain their pollution-generating behaviour.¹⁰⁰

Second, was his reference to the principle of caution in favor of nature, Article 73 in the 2008 Constitution, according to which “the state will apply measures of caution and restriction in the activities that could lead to the extinction of species, the destruction of ecosystems, or the permanent alteration of the natural cycles.” Accordingly, Sempértegui ruled that “until it is objectively demonstrated that there is *no* probability or risk of contamination or environmental damage, it is the duty of the courts to immediately protect [nature] ordering whatever is necessary to avoid its contamination or to repair it.” This resembles the “precautionary” environmental regulations that the U.S. instituted in the 1960s and 1970s – a willingness to

⁹⁹ This section draws on the proceedings of trial no.11121-2011-0010, decided by the Provincial Court of Justice of Loja, against the Provincial Government of Loja (Provincial Court of Justice of Loja 2011).

¹⁰⁰ For similar arguments see Hiskes 2005 and Hiskes 2009.

regulate pollution-generating behavior even in the absence of scientific proof that such actions pose unreasonable risks. However, Sempértegui uniquely justifies such precautionary regulation not to protect public health and welfare from potential risks, but to protect the natural environment, and this is a big difference from previous environmental regulations where the judge went one step further in the interpretation of the law.

Third, Sempértegui invoked the principle of the inversion of the burden of proof (Article 397, 1 in the 2008 Constitution): whereby, as the Constitution states, “[t]he burden of proof regarding the absence of potential or real danger [to nature] of the activity [in question] shall be the responsibility of the defendant.” In the case of the river, the judge underscored that “the plaintiffs should not have to prove the damages [to the riparian ecosystem], but rather that the Provincial Government of Loja should provide proof that the construction of the road will not affect the environment.” And this could not be demonstrated because the local government had failed to carry out any study of the project’s anticipated environmental impacts. Sempértegui added that the Under-Secretary of Environmental Quality of the Ministry of Environment had already examined the project site (on 10 May 2010) and had concluded that the Loja Provincial Government should implement a plan for restoring the river and the degraded lands of the affected inhabitants.

Fourth, Sempértegui dismissed the argument of officials that building this road was necessary for the well-being of the inhabitants of Quinara and Vilcabamba. The judge insisted that there was no conflict of interest in this case. It was mistaken to claim that promoting the welfare of these inhabitants has to come at the cost of the health or welfare of the natural environment. In other words, that it is mistaken to believe that it must be decided whether the interests of human beings or the interests of nature are more important. Thus, while there is no

need to doubt the proposed need to build the road, its construction cannot come at the expense of the environment; and the government of Loja failed to respect the rights of nature during the process. Despite the absence of any conflict of interest in this case, Sempértegui insisted even more strongly that even when human interests do conflict with those of the environment, the latter still “has priority.”

Finally, the judge determined that the Lojan government was required to initiate, within a five-day period, the implementation of all the recommendations already made by the Under-Secretary of Environmental Quality. Further, that were Loja to disregard this ruling, an injunction of the construction of the road would be issued. Additionally, Sempértegui ordered the Lojan officials to apologize to the public for constructing a road without first acquiring an environmental license to do so. On March 2012, the plaintiffs denounced in the Constitutional Court that activities of restoration of the river have not been fulfilled. The case is still pending to be ruled by the Constitutional Court (El Comercio, 15 May 2013).

II. A Global Movement for the Rights of Nature

While still the implementation of the rights of nature is in its early stages in Ecuador, there is some evidence that the 2008 ratification of the rights of nature language has helped to motivate a global movement for the rights of nature (or Mother Earth). The *World Peoples’ Conference on Climate Change and the Rights of Mother Earth* that took place in Cochabamba, Bolivia in April 2010, and the *Global Alliance for the Rights of Nature* that was formed in Patate, Ecuador in September 2010, are two examples of early developments in this global movement.

As an aside, the rights of nature, certainly, have been discussed in academic settings and international forums since the late 1970s, and Ecuador and Bolivia are not the first to engage in these debates. However, such academic work and forums (which are briefly addressed below) have concentrated on the various ethical arguments for considering nature a moral subject and the appropriateness of granting nature rights, and have had no influence on legal reforms as occurred with the Ecuadorian Constitution and recent changes in Bolivian environmental laws.

Consider, for example, Christopher Stone's (1973) seminal work, *Should Trees Have Standing?* Stone's novel argument that natural objects should have legal standing and, thus, legal rights; and that individuals or groups should be able to act on behalf of natural objects in safeguarding their interests, shaped both academic and legal debates about the acceptability of existing environmental policies and prospects for reform. Stone's argument, for instance, was appealed to by a Supreme Court Justice William Douglas in *Sierra Club v. Morton* (1972): a case in which the Sierra Club was attempting to stop the construction of a Walt Disney amusement park in a biodiversity-rich area known as Mineral King Valley, which is home to the giant sequoias. The ruling in this case ultimately went against the Sierra Club, which claimed to represent the interests of these ancient trees, because there was no evidence of injury to any of Sierra Club's members. However, Justice Douglas, who delivered the famous dissenting opinion, was sympathetic to Stone's thesis and invoked it during the trial. While Douglas' sentiments proved to motivate Walt Disney Corporation to change the construction site of the amusement park, this case illustrated that society was not ready for such a radical change in environmental laws.

Similarly at the international level, the *World Charter for Nature*, approved by the United Nations General Assembly on 28 October 1982 (A/RES/37/7),¹⁰¹ also paved the way for future debates about the rights of nature (though, it should be noted that the Charter, as other international legal initiatives in soft law, was non-binding¹⁰²). The Charter already recognized some of the principles espoused by proponents of the rights of nature in Ecuador – including, for instance, that “mankind is a part of nature and life depends on the uninterrupted functioning of natural systems which ensure the supply of energy and nutrients,” and that “every form of life is unique, warranting respect regardless of its worth to man, and, to accord other organisms such recognition, man must be guided by a moral code of action.” Further, as with the language of the revised Ecuadorian Constitution, the World Charter for Nature also recognized the need for human beings to use natural resources in a sustainable way—stating that “[e]cosystems and organisms, as well as the land, marine and atmospheric resources that are utilized by man, shall be managed to achieve and maintain optimum sustainable productivity, but not in such a way as to endanger the integrity of those other ecosystems or species with which they coexist.”

Many years later, the *Earth Charter* was launched; an initiative that had been under discussion since 1987, when the World Commission on Environment and Development recommended the creation of a “Universal Declaration on Environmental Protection and Sustainable Development.” Though the desire of Maurice Strong, Secretary General of the 1992 Rio Summit, was to prepare a draft of the charter during the Summit, agreement over the substance of the initiative was never reached. As Chairman of Earth Council, Strong

¹⁰¹ United Nations General Assembly (1982). World Charter for Nature. A/RES/37/7. Retrieved from <http://www.un.org/documents/ga/res/37/a37r007.htm>

¹⁰² Article 22 of the World Charter for Nature expressly recognizes the sovereignty of states when it maintains that “Taking fully into account the sovereignty of States over their natural resources, each State shall give effect to the provisions of the present Charter through its competent organs and in co-operation with other states.”

collaborated with Mikhail Gorbachev, President of Green Cross International, and the pair revisited the initiative and began drafting the *Earth Charter* with the financial support of the Dutch government. Taking into consideration the diverse ideas of a multitude of organizations and individuals, and analyzing previous international initiatives and treaties, the Charter was finally approved in Paris in March 2000¹⁰³ - which provided the philosophical underpinnings of the rights of nature. The Charter maintains, for example, that “[h]umanity is part of a vast evolving universe,” and that “Earth, our home, is alive with a unique community of life.” Moreover, while the rights of nature are not explicitly mentioned, some of the principles of the Charter do explicitly concern fostering a respect for nature. Principle 1, for example, demands “Respect for Earth and life in all its diversity,” by “[recognizing] that all beings are interdependent and every form of life has value regardless of its worth to human beings.” Principle 5 also notably calls to “[p]rotect and restore the integrity of Earth’s ecological systems, with special concern for biological diversity and the natural processes that sustain life.” Principle 6 also advocates for the prevention of environmental degradation in its suggestions that “prevent[ing] harm [is] the best method of environmental protection” and that a precautionary policy approach to environmental management should be assumed “when knowledge is limited” (Earth Charter).

The development of progressive ideas in favor of the rights of nature within academia, however, did not translate into tangible legal reforms. Similarly, the international agreements and initiatives, such as the *World Charter for Nature* and the *Earth Charter*, while advocating principles that served to ground the plausibility of the rights of nature, did not explicitly endorse

¹⁰³ The history concerning the preparation of the *Earth Charter* was retrieved from http://www.earthcharterinaction.org/download/about_the_Initiative_history_2t.pdf

the rights of nature – and, thus, analogously failed to motivate any such legal reforms. In the United States, the Community Environmental Legal Defense Fund (CELDF) has been a pioneer in proposing practical legal changes, and advised communities to write and adopt local ordinances asserting their right to self-government and the protection of the rights of nature (see Chapter 5). Such proposed legal reforms, however, have only been initiated at the local level, and in some instances have generated strong resistance from judges who considered these ordinances a violation of constitutional law, as defended by the United States Supreme Court.¹⁰⁴ Consequently, while their policy significance and environmental legacy are yet unclear, Ecuador's substantive constitutional reforms are a clear milestone for the conservation of nature.

And soon after Ecuador's ratification of the rights of nature, Bolivian President, Evo Morales, announced that Bolivia would host a conference to bring together representatives of various social and environmental movements throughout the world, in order to discuss the abatement of climate change and the rights of Mother Earth. This announcement was a direct response to what Morales considered a failure of the Copenhagen Summit on Climate Change, where deliberations wrongly excluded representatives of developing countries from several key meetings (EFE News Service, 23 Dic. 2009; EFE News Service, 19 April 2010). The first *World People's Conference on Climate Change and the Rights of Mother Earth* took place in Tiquipaya, Bolivia in April 2010, drawing more than 20,000 participants, including government representatives, social movement activists, indigenous peoples, intellectuals, and environmental activists.

¹⁰⁴ In July 2008, for example, Washington County's Blaine Township passed an ordinance banning mining by corporations with the support of the CELDF. When Penn Ridge Coal and Range Resources sued the township, the case went to the Chief U.S. District Judge, Donetta W. Ambrose, who ruled that the township "does not have the legal authority to annul constitutional rights conferred upon corporations by the United States Supreme Court" and ignored provisions of the state Oil and Gas Act (Lord 2010).

In each of the seventeen working groups that discussed diverse topics on climate change, the dominant policy position was a rejection of capitalism, a position that resembles that of environmental movement intellectuals in Ecuador who sought to promote the rights of nature. This was reflected, for instance, in the denial that market mechanisms – such as the REDD programs (Reducing Emissions from Deforestation and Degradation), which were promoted by the United Nations Framework Convention on Climate Change (UNFCCC) – could successfully mitigate the effects of climate change (Leahy 2010). REDD programs are mechanisms for payment of environmental services, which offer monetary compensations to forest owners in developing countries for conserving their forestlands. The assumption of REDD programs is that the majority of forests are located in developing countries, and given the fact that forests absorb CO₂ emissions, the conservation of these biodiversity-rich lands is central for climate change mitigation (Pereira 2010).

Opinions are divided about the real effects that REDD programs may have on environmental protection and the well-being of rural inhabitants.¹⁰⁵ Activists and academics at the Cochabamba Conference, though, shared the opinion that REDD programs would ultimately harm indigenous peoples, who may lack formal ownership of their lands or who need the forests for subsistence, by promoting conservation programs that do not take into consideration the needs of rural inhabitants, and more complex social and cultural relations regarding land tenure in developing countries. Such market-based programs, according to Conference participants, which are sponsored by institutions in developed countries, in agreement with the political elites in developing countries, commonly ignore the interests and policy perspectives of those who will ultimately bear the costs of conservation. Moreover, market-based programs, allege Conference

¹⁰⁵ See, for example, Pereira (2010)

participants, do not solve the central problem, which is the excessive amount of emissions produced by developed countries. Market-based programs, on the contrary, by allowing for the purchase of carbon credits, simply create incentives for developed countries to refrain from curtailing their emissions, and to justify their dirty practices by acquiring carbon credits elsewhere (Leahy 2010).

Another example where an anti-capitalist position prevailed among Conference participants regards the declaration of the Rights of Mother Earth, and the call for a formation of a global movement that will defend those rights. Similar to the arguments advanced by intellectuals within the Ecuadorian environmental movement, those who gathered at Cochabamba blamed the espousal of economic growth central to capitalism for motivating a conception of nature as merely a resource to be dominated and exploited without limit, and without considering that the health of the natural world also facilitates and is necessary for the prosperity of humankind. The Universal Declaration for the Rights of Mother Earth agreed to in Cochabamba states the following:¹⁰⁶

Article 2: Inherent Rights of Mother Earth¹⁰⁷

- (1) Mother Earth and all beings of which she is composed have the following inherent rights:
- a. the right to life and to exist;
 - b. the right to be respected;
 - c. the right to continue their vital cycles and processes free from human disruptions;
 - d. the right to maintain its identity and integrity as a distinct, self-regulating and interrelated being;
 - e. the right to water as a source of life;
 - f. the right to clean air;

¹⁰⁶ CELDF (2010), available on <http://www.celdf.org/rights-of-nature-universal-declaration-on-the-rights-of-mother-earth>.

¹⁰⁷ Nature and Mother Earth are synonymous. Constitution-writers in Ecuador conceptualized nature as “Pachamama,” which can be translated as Mother Earth (Article 71 of the 2008 Ecuadorian Constitution). Mother Earth is the subject of the rights agreed to in the Cochabamba Declaration (Melo 2009b, 3).

- g. the right to integral health;
 - h. the right to be free from contamination, pollution, and toxic or radioactive waste;
 - i. the right not to have its genetic structure modified or disrupted in a manner that threatens its integrity or vital and healthy functioning;
 - j. the right to full and prompt restoration when human beings have violated the rights of Mother Earth recognized in this Declaration.
- (2) Each being has the right to a place and to play its role in Mother Earth for her harmonious functioning.
- (3) Every being has the right to well-being and to live free from torture or cruel treatment by human beings.

Based on the Cochabamba Declaration, Bolivian social movements prepared a Law for the Rights of Mother Earth. *Pacto de la Unidad*, which is a social organization that is constitutive of the most important indigenous and peasant organizations in Bolivia,¹⁰⁸ prepared this law in consultation with thousands of peoples from grassroots organizations during the twenty workshops that were organized between April and October 2010. The bill was also drafted in collaboration with the Plurinational Legislative Assembly and the Vice-Minister of Environment. *Pacto de la Unidad* presented the draft bill of the Mother Earth Law on October 12, 2010 and demanded its immediate approval by the legislature (Comunicaciones CAOI 2011). The 071, “Law of Rights of the Mother Earth” was passed on 21 December 2010 through a presidential decree (Gaceta Oficial del Estado Plurinacional de Bolivia 2010).

The formation of a global movement for the rights of nature continued in Patate, Ecuador, where the *Pachamama Foundation* (the organization that had been involved in the construction of the rights-of-nature frame), with the support of the Pachamama Alliance in California, hosted a conference in September 2010 in order to discuss the implementation of the rights of nature,

¹⁰⁸ Pacto de la Unidad consists in the Confederación Sindical Única de Trabajadores Campesinos de Bolivia (CSUTCB), Consejo Nacional de Ayllus y Marcas del Qullasuyu (CONAMAQ), Confederación de Mujeres Campeinas Indígenas Originarias de Bolivia “Bartolina Sisa,” Confederación de Pueblos Indígenas de Bolivia (CIDOB), and Confederación Sindical de Comunidades Interculturales de Bolivia (CSCIB) (Comunicaciones CAOI 2011).

and which resulted in the establishment of the Global Alliance for the Rights of Nature. Organizations from Latin America,¹⁰⁹ North America,¹¹⁰ Australia,¹¹¹ Africa,¹¹² Europe,¹¹³ and Asia¹¹⁴ are members of this global network, whose goal is to share expertise among the members in order to achieve the implementation of the rights of nature in Ecuador, Bolivia, and elsewhere that these rights become ratified. The global alliance is structured around working groups that cover different topics: (i) the legislative group provides legal support for organizations that seek to implement rights of nature at sub-national and national levels of government; (ii) the international advocacy group works toward getting the U.N. to ratify a *Universal Declaration of the Rights of Mother Earth*; (iii) the communication and learning group seeks to educate civil society about the rights of nature; finally, and (iv) the ancestral knowledge group works with indigenous peoples to get their opinions about the best way to implement the rights of nature. In addition, this group advises indigenous organizations around the world that are affected by extractive projects of corporations (Global Alliance for the Rights of Nature).

This emergent global movement for the rights of nature has concentrated its efforts, thus far, in promoting these rights in academic settings¹¹⁵ (which is not a surprise considering that some members of the movement are well-known academics),¹¹⁶ and with international

¹⁰⁹ Fundación Pachamama; Centro para el Desarrollo del Indígena Amazónico; Shinai; Fundación Herencia; Comité Permanente de la Defensa de los Derechos Humanos; Frente de Defensa de la Amazonia; Comité de Solidaridad con Bolivia; Corporación de Gestión y Derecho Ambiental (ECOLEX); Fundación Ambiente y Sociedad.

¹¹⁰ Community Environmental Legal Defense Fund (CELDF); Global Exchange; the Pachamama Alliance; Council of Canadians.

¹¹¹ Australian Wild Law Alliance.

¹¹² EnAct International.

¹¹³ The Gaia Foundation; WildLaw UK.

¹¹⁴ Navdanya International.

¹¹⁵ An example of efforts within academia to promote the rights of nature is the Third Wild Law Conference, organized by Griffith University in Brisbane, Australia and the Australian Wild Law Alliance during September 2011 (Griffith University).

¹¹⁶ Cormac Cullinan, for example, a South African attorney, is the author of the seminal book, titled *Wild Law: A Manifesto for Earth Justice* (2003); Vandana Shiva, is a philosopher, environmental activist, and eco-feminist from India; Christopher Stone, of University of Southern California School of Law, is the author of *Should Trees Have Standing?* (1973), a work that established some of the philosophical and legal bases for recognizing rights to nature;

organizations, such as the United Nations. In fact, the most visible initiative of this movement has been its campaign to convince the United Nations to recognize its proposed “Universal Declaration of the Rights of Mother Earth,” which is highly unlikely to occur in the near future (Thalif 2011). U.N. Secretary General did, however, receive a delegation led by Bolivian President Evo Morales, and in May 2010 allowed the delegation to present to the United Nations the aforementioned declaration agreed to during the *World People’s Conference of Cochabamba*, where the rights of Mother Earth were first proposed (Thalif 2011). Moreover, an important gain for the global movement for the rights of nature was the adoption of Resolution 65/164, “Harmony with Nature,” by the United Nations General Assembly on 20 December 2010. This Resolution ordered the Secretary General to convene a conference with member states, U.N. organizations, independent experts, and other stakeholders in preparation of the 2012 United Nations Conference on Sustainable Development (Rio+20) in Brazil (United Nations General Assembly 2011). This “Harmony With Nature” conference was held in April 2011 and was organized in two panels. The first discussed ways to achieve a holistic approach to sustainable development that did not sacrifice nature’s welfare. The second panel addressed national experiences with sustainable development, where indicators to measure development efforts in harmony with the interests of the natural world had been developed (IBTimes 2011).

III. Concluding Thoughts

Ecuador’s 2008 ratification of the rights of nature had at least two tangible consequences. First, was the judicial decision in favor of the constitutional rights of the Vilcabamba River in southern Ecuador. While some consider this ruling merely as an isolated event, it also

and Alberto Acosta is an Ecuadorian academic, the former president of the Constituent Assembly , and a proponent of the rights-of-nature frame.

demonstrates that the rights of nature are starting to be taken seriously in Ecuador. Though, again, the significance of this decision should not be overstated, considering the Correa administration's resistance of the rights of nature and its hostility toward Ecuador's environmental movement (Chapter 5). Second, as this chapter has demonstrated, there is some reason to believe that Ecuador's environmental reforms have helped to spark a growing international interest in and concern for the safeguard of the rights of nature.

Chapter 7: Conclusions

This dissertation has explored the decision of environmental movement intellectuals in Ecuador to promote the rights-of-nature frame, and the decision of environmental movement participants to endorse this framing option. The previous discussion has explained that this framing decision is quite puzzling because of the ideological divisions within the movement, the absence of debate over the plausibility of the frame, and the multiple understandings of the meaning and implications of the rights-of-nature frame. Contemporary social movement literature would suggest that under these circumstances, we should observe the failure of any framing decision since it is argued that “alignment” between the ideas, values, and expectations of movement leaders who author a given frame, and of movement participants who accept the proposed frame, is a necessary condition of any framing decision.

However, this dissertation demonstrates that this concept of “alignment” is problematic and proposes a novel alternative explanation of how framing decisions can be made. The concept of “alignment” is flawed because it assumes that social movement participants understand a frame as it is proposed by the intellectuals who author the frame, when in reality the possible meanings, intentions, and implications of a frame are commonly interpreted differently by diverse audiences. Even if one assumes that the discourses employed in the construction of a frame are complementary and not contradictory, it is clear that the understandings of the frame among social movement participants will inevitably vary. This makes it unlikely that alignment can generally be achieved. Further, if we accept that alignment occurs between the authors of a frame and the audiences of such frame, we also assume that all participants within a social movement have uniform interests and goals. However, social movements are often fractured,

with different groups driven by different motivations and, thus, striving to achieve their own (and sometimes competing) interests (Bob 2005, Hertel 2006, Goodale and Merry 2007).

We can glean from the lessons of the Ecuadorian case study that there is an alternative explanation for how framing decisions are made, which I term as “agreement without alignment.” Given the various actors involved, their unique motivations and interests, and invariable differences in the understanding of a frame, this dissertation has argued that groups within a social movement need only agree, if only tacitly, with a framing option when (a) the frame does not contradict their interests, (b) the groups are constrained by a common identity, and (c) the political opportunity is volatile. Differentiating between agreement and tacit agreement is important because there are occasions when movement participants may disagree with the frame but yet do not attempt to block it, implying that they tacitly or passively agree with the frame.

Also, contrary to what negotiation scholars have commonly propounded, this study has also illustrated that clashes and disputes are not always inherent to the process of frame decision-making. In the Ecuadorian case, agreement and/or tacit agreement with the frame occurred in the absence of this internal conflict over alternative framing options or the substance of the rights of nature frame. This absence of internal conflict can be explained by the same causal factors that explain how Ecuadorian environmental movement leaders and participants could successfully settle on a framing decision despite the lack of alignment: (1) the rights-of-nature frame did not contradict the interests of social movement participants, (2) participants generally felt constrained by their shared identity as pro-environment, and (3) the volatile nature of the political opportunity created extraordinary pressure for movement leaders and participants to coalesce – even if reluctantly – around a single frame. In this way, *agreement without alignment*

does not assume the congruence of interests, values, beliefs, and expectations among leaders and participants – offering a unique alternative explanation of how social movements can come to adopt the frames that they do.

This alternative causal explanation may also help to explain other framing decisions. Consider the example of the Ecuadorian indigenous movement. Formed in the 1990s, this movement presses for the recognition of ethnic and cultural rights, the construction of a multi-national state, political representation, material compensations, and gradually incorporating a formal opposition to neoliberalism. Members of the indigenous movement engaged in contentious forms of activism, ranging from marches, to strikes, to the occupation of public spaces, and to the closing of highways (in order to disrupt commerce). Further, in 1996 indigenous peoples formed their own political party, which enhanced their capacity to mobilize their constituents. Their disagreement with the neoliberal policies of the Bucaram (1996) and Mahuad (2000) administrations prompted movement leaders and participants, along with other political actors, to overthrow these presidents. During the 2008 constitutional reform, the indigenous movement, represented by CONAIE (the national umbrella organization of indigenous peoples), demanded the recognition of Ecuador as a “plurinational” state. The meaning of “plurinationalism,” however, was widely contested among indigenous activists (Becker 2011, 143). For ECUARUNARI, an indigenous organization affiliated with CONAIE, “plurinationalism means building a strong and sovereign state that recognizes and makes possible the full exercise of collective and individual rights and promotes equal development for all Ecuador and not only for certain regions or sectors” (143). For indigenous leader, Delfin Tenezaca (2010), plurinationality is the recognition of diversity in Ecuador – a country formed by diverse peoples and nationalities – where the state is obliged to respect the different

economic, political, and administrative proposals of these groups. Some indigenous organizations, such as FENOCIN, disagreed with the rhetoric of plurinationalism, insisting that “interculturality” (or respect and unity among diverse peoples) better embraced the demands of indigenous peoples (Becker 2011, 143-144). Yet, despite its critical attitude toward plurinationalism, factions like FENOCIN did not attempt to block this rhetoric that the indigenous movement adopted. Ultimately, coupled with their shared indigenous identity, the desire of indigenous activists to have their interests reflected in the new Constitution overshadowed the differences that otherwise would have undermined the cohesion of the movement. Consequently, while there was no formal alignment regarding the “plurinationalism” frame, the different factions within the movement nevertheless tacitly agreed with this framing decision.

Another instance of agreement without alignment concerns the European Union and its establishment of a system of “risk regulation for the approval, planting, and marketing of GM (genetically modified) foods and crops” (Vogel 2012, 75). Since the 1990s, the EU’s approach toward regulating GMOs has been grounded by what is commonly known as the precautionary principle. Consequently, European policy-makers have insisted that in the absence of conclusive scientific evidence of the safety of GMOs to public health and welfare, their introduction, sale, and consumption in the EU should be banned (Vogel 2012, 75). This precautionary risk regulation was the result of the coordinated efforts of a broad array of actors, who were able to agree on a policy alternative despite deep-rooted problems with European integration and widespread contestation over food safety policies (Ansell and Vogel 2006, 7). France, for example, had been a leader in scientific research on GMOs and was a proponent of their mass production. As Vogel maintains, there was a general trend in Europe toward “business-friendly

biotechnology” (Vogel 2012, 75). Thus, the EU’s embrace of the precautionary principle, like Ecuador’s promotion of the rights of nature, is rather puzzling. Scholars like Vogel suggest that the EU’s initial ban of GMOs can be attributed, in part, to memories of the discovery of mad cow disease (known also as BSE crisis) that affected Great Britain and spread to Europe in the late 1980s: whereby, worries of another BSE-like public health crisis created a window of political opportunity that incited swift policy responses to the growing prevalence of GMO production (especially in the United States, a major trading partner of the EU). Despite the lack of alignment over the precautionary principle frame, and despite the absence of causal links between GMOs and the mad cow disease (2012, 75), the European community coalesced around the prevailing uncertainty of and concern about the actual risks that GMOs poses to public health and welfare - cementing the EU’s commitment to the precautionary ban of genetically modified foods.

In addition to confirming the causal mechanisms for framing decisions where only agreement rather than alignment is present, future research could also explore what impact agreement without alignment has on the sustainability of such frames and the ability of a social movements to successfully translate these frames into substantive policy reform. The viability of these prospects for future research is validated by social movement scholars as Polleta and Kai Ho, who claim that there surprisingly is little current understanding of the impact of frames (2006, 197).

With regard to the implementation of the rights of nature, initial evidence demonstrates mix results in the influence that this frame has had on environmental policy reform in Ecuador. Besides the case of the Vilcabamba River analyzed in Chapter 6, where the courts ruled in favor of the rights of the river, by 2013 there have only been three other cases in which the rights of nature were invoked by plaintiffs. In Santa Cruz, Galápagos, the courts ruled in favor of nature

and prohibited the construction of a highway on the island. In Tabacundo, Pichincha, plaintiffs appealed to the rights of nature to stop mining activity that was contaminating the White River, and a temporary injunction of the mining activity was issued until the company obtained an environmental permit. And in El Pangui, Zamora, indigenous groups demanded a stop to the extraction activities of the Ecuacorriente mining company, but in this case the courts ruled against nature and in favor of the mining company. The plaintiffs are still appealing the decision (El Comercio, 15 May 2013). Overall, however, it has become clear that the courts currently lack the legal precedent and experience to effectively decide these novel cases (Suárez, 2013).

What is even more evident, however, is that the ratification of the rights of nature has amplified the conflict between environmental conservation and a model of development and system of economy that are based on the extraction of natural resources. Since late 2008, President Correa's administration, the same government that promoted a constitutional reform in 2007-2008, has been strongly sponsoring mining operations in Ecuador, and welcoming foreign investment in that sector to obtain the resources necessary to finance Ecuador's social spending programs. What is markedly different between the earlier cocoa, banana, and oil booms and the current emphasis on mining minerals is that the fear of large mining extraction has generated the widespread mobilization and opposition of grassroots movements that insist that the rights of nature cannot be violated. Activists who defend nature are not silent anymore, and are definitely more aware of their environmental rights and the rights of nature than during the cocoa, banana, and oil booms of the past. The rights-of-nature frame, the proposed model of economic development sponsored by Correa's administration (labeled "well-being" or *buen vivir*), and mining extraction are simply not compatible. The mobilization against large-scale mining operations in Ecuador has no precedents and a mobilization of this size has not been seen in the

past. Grassroots movements have even been organizing local elections, where the people who are going to be most affected by this extraction can decide whether or not they agree that mining activities should take place on their lands. In the Azuay province, in the Ecuadorian highlands, the parishes of *Tarqui* and *Victoria del Portete*, where the national government has granted approval to the Canadian company, Iam Gold, to extract gold, silver, and copper reserves, the population overwhelmingly voted against these plans in a popular referendum in October 2011 (El Comercio October 3, 2011; El Comercio, 22 April 2012). The grassroots initiative of these parishes has been copied by other parishes in Ecuador. There is disagreement, however, about whether or not these local elections have the power to force the national government to stop promoting mining operations in those areas – especially since the Correa’s administration insists that mining Ecuador’s mineral reserves is of “national interest.”

Another example of this tension between the implementation of the rights of nature and Ecuador’s economic policies is the formation of the “Yasunidos” movement, which has resisted the Correa administration’s August 2013 decision to exploit the oil reserves of Yasuní National Park, and similarly opposes the administration’s May 2014 issuance of permits to drill for oil in the Park. An active local citizenry has been gathering the signatures necessary to hold a referendum where citizens may decide whether the oil in Yasuní should be exploited. This grassroots effort of the Yasunidos movement, however, has been met with resistance, as the National Electoral Institution has questioned the validity of the signatures that have been submitted with the petition for a referendum. Consequently, the fate of Yasuní National Park remains uncertain.

Despite these continued struggles, the rights-of-nature frame has given environmental movement activists legal means to fight for the conservation of natural resources and indigenous

environmental activists a newfound capacity to protect their cultural heritage and ancestral ways of life. While laws protecting the rights of nature have empowered and invigorated various grassroots efforts throughout the country, these laws are proving to be inadequate without the willingness of government institutions to take them seriously. And activists are currently facing an administration in which they have no ally, and which has made its commitment to economic development quite clear. Any genuine implementation of the rights of nature will require, then, continuous vigilance and mobilization of environmental movement activists, and inevitably the Ecuadorian citizenry more generally.

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