Rights of Nature and Social Movements: Exploring Complementary Strengths Across Divergent Paradigms

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Abstract

Rights of nature was articulated in the 2008 Ecuadorian constitution, based on the indigenous concept of *sumak kawsay*, which puts humans in harmony with ecological systems. We review two recent rights of nature cases, the Monjas and Machángara Rivers, to explore how social movement groups are finding complementary strengths by linking the legal/rationalist paradigm with the cultural (constructivist) approaches in a hybrid rights of nature of approach. We illustrate how these primarily women-led civil society groups use strategic litigation to focus on the city as the responsible party and request the court to appoint them as nature's guardians. However, these civil society groups are caught in the middle of competing paradigms with responsibility (as guardians) without resources. To achieve complementary strengths between two divergent paradigms (constructivist rights of nature and positivistic legal), requires giving more attention to economic actors who have the resources for environmental restoration. *Sumak kawsay*, centers harmony and wellbeing, but sidelines the economy, and in so doing, leaves out powerful economic actors. The Monjas and Machángara River cases are successes in implementing rights of nature in case law and in opening new imaginative possibilities for river restoration.

Key Words: Rights of nature, Rivers, Civil Society, Women, Constructivist and Positivist Paradigms, Complementary Strengths

Key Policy Highlights
Rights of nature links culture, science and legal strategies to promote environmental protection.
Civil society groups explore complementary strengths between the traditional legal paradigm and rights of nature paradigms.
Strategic litigation by civil society groups needs to include demands for resources to support their role as guardians of nature.

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Introduction

Around the world, especially in the Global South, a new legal regime based on recognizing rights of nature is emerging. This is partially in response to the failure of traditional environmental protection approaches especially in Ecuador and the Global South (Murcott, 2022; Borras, 2016). Rights of nature gives new force, and a new voice for protecting nature. It is based on reappropriation of the Western concept of rights, which draws from some indigenous cosmovisions that have place-based, relational, pluralistic, interdependent links with nature (Hanschel, Mehlhorn, & Ruales, 2025). Indigenous cosmovisions integrate culture, ecology and community from a broader ecosystem perspective. Humans are not centered: rather, mother earth (Pachamama) is centered in an eco-centric approach (Gilbert et al, 2023).

For jurisprudence, rights of nature regimes represent a shift from an anthropocentric towards a more ecocentric approach (Martínez Moscoso and Warner 2025a; Putzer et al, 2025). This shift in paradigm has radical implications for how legal rights are conceived and who gets a voice. Rights of nature use a hybrid approach which broadens the legal paradigm from a rationalist approach to include a constructivist approach as well. Culture becomes a rationale and justification, as well as a mechanism to pursue environmental protection – within the context of legal structures. Because nature cannot speak in a court of law, community groups, typically led by indigenous people, peasant communities and women, become the guardians. This has happened in a number of emerging rights of rivers cases around the world (Bittencourt & Florit, 2025, Quizhpe Parra 2026, Suárez Bohórquez 2026).

In this paper we review this phenomenon using two urban cases from Ecuador, the Monjas and Machángara rivers, in the capital, Quito, a city of 3 million inhabitants. We explore the legal process, the response of the Court, and the role of community groups both in bringing cases before the courts and in being selected by the judge as the responsible guardians. We also discuss the strategic legal approach where the court assigned responsibility solely to the city, and the plaintiffs did not initiate legal proceedings against private industry, which also shares responsibility for the pollution.

Rights of nature opens new avenues for protection of rivers, but it also exposes a fundamental challenge of integrating constructivist approaches with the positivist/rationalist approach of standard legal paradigms. The two approaches are fundamentally different. Integration is not straightforward, and the strategic legal approach by the courts and the claimants (women and indigenous groups) has resulted in increased responsibility for the claimants, but limited authority and resources. We explore how the courts and civil society groups seek complementary strengths from these two differing paradigms. We review two recent legal cases in Ecuador, the Monjas and Machángara Rivers, and present analysis from a workshop with women environmental leaders to explore these themes. We caution that these cases may shift responsibility to those with the least resources to protect the environment because insufficient attention is given to economic factors.

Literature Review: Rights of Nature: A Challenge to Legal Rationalism

In recent years, countries in the Global South have employed various democratic mechanisms and judicial actions to demand change from their governments (Freidenberg, et al, 2019). The crisis of political parties has opened space for activism and social movements to expand throughout these territories, advocating for rights, improved working conditions, sustainability, and the demands of Indigenous peoples (Balderacchi, 2017). Ecuador is no exception. This context has given rise to several popular consultations, including initiatives against mining, efforts to protect the Yasuní National Park by keeping oil underground (Martínez Moscoso, & Burdette 2023), and judicial actions aimed at advancing the interpretation and enforcement of rights of nature, as recognized in the Ecuadorian Constitution since 2008 (Murray & Martínez Moscoso 2025). Women have played a central role in these initiatives—both as leaders of specific movements and as individual activists (Sempértegui 2021, Martínez Moscoso & Warner 2026).

Latin America has developed a new constitutionalist approach (*ius constitutionale commune)*, which is grounded in the Inter-American Human Rights System, which assumes a kind of common law of human rights exists (Von Bogdandy and Urueña, 2020). The interpretative evolution of treaties and the adaptation of doctrine into the new constitutions is most actively developed in Latin America. Specifically, the constitutions of Bolivia and Ecuador, illustrate the adaptation of the doctrine and the interaction of different social actors at the national and regional levels resulting in this new, transformative constitutionalism (Von Bogdandy 2015).

Rights of nature approaches are being advanced in a number of countries around the world (https://ecojurisprudence.org/). While the idea was first forwarded in the US (Stone 2010), it has had limited take up there. It has found more resonance in countries in the Global South where rights of nature have developed in a coherent and well-established manner, whereas, in other Western legal traditions, similar outcomes have been achieved through traditional legal instruments (Jędrzejowska-Schiffauer & Schiffauer 2023).

In the Andean region, the ‘pink tide” of eco-socialism resulted in new constitutions in Venezuela (1999), Ecuador (2008) and Bolivia (2009). This is understood as a response to the fact that environmental jurisprudence has proven to be largely ineffective in Latin America, due to vested interests, the power of influential actors, and institutional weaknesses in protecting the

environment (Laitos & Wolongevicz, 2014, Kauffman & Martin 2021; Murcott, 2022). This new constitutionalism reflected the fusion of socialism and ecology, which challenged development models that privileged economics, and instead promoted a more comprehensive approach that emphasized well-being (*buen vivir* or *sumak kawsay* in Kichwa) which integrated culture, participation and environment (Fernandes, 2020; Richter, 2025). In Ecuador, the concept of *sumak kawsay* was incorporated into the 2008 Constitution as a result of the country's recognition as a plurinational state and the pressure exerted by Indigenous movements (Confederación de Nacionalidades Indígenas del Ecuador, CONAIE, and Confederación de Pueblos de la Nacionalidad Kichwa del Ecuador, ECUARUNARI), that pushed for ecosystem conservation and a new view of development (Tănăsescu et al. 2024). The effectiveness of Rights of nature cases is shaped not only by ecocentric or plurinational perspectives, but also by political dynamics and the influence of citizen mobilization (Kauffman & Martin 2017).

The principal problem, however, is that governments often conflate the concept of *sumak kawsay* with sustainable development; the former emphasizes harmony between humans and nature (ecocentric), while the latter focuses on balancing economic, social, and environmental development (anthropocentric) (Llasag, 2017). The balancing in sustainable development recognizes dynamic interaction among economic, social, and environmental activities (Agyeman, Bullard and Evans, 2002). But the concept of harmony in *sumak kawsay*, goes a step further. It seeks proportion and correspondence among different elements, understood as an interconnected whole. Human activities are harmonious with the cycles of nature, neither seeking to interfere with them nor to disrupt their course, but rather unfolding in parallel. Harmony represents a fundamental challenge to the privileging of economy within capitalist society, whereas sustainable development more typically attempts to accommodate to the capitalist paradigm (Vanhulst, & Beling, 2014).

Within *sumak kawsay*, the economy does not hold the same centrality as in the dominant development model, where market economy logics are hegemonic, however, it nonetheless plays a fundamental role. Multiple economic frameworks, such as the social and solidarity economy and ecological economics, grounded in principles such as degrowth, provide conceptual foundations for this view (Demaria, Kallis & Bakker 2019). "Buen Vivir" can be understood as a translation of the Andean worldview *sumak kawsay* or its Bolivian counterpart, *suma qamaña*. However, its interpretation as an alternative to development—grounded in the autonomy of territorial processes—has gained increasing prominence. It is not limited to a simple society–nature dualism. Rather, *sumak kawsay* reclaims the idea of well-being in harmony with nature, while also emphasizing the recovery of traditional forms of knowledge (Unceta, 2014). The articulation of community well-being (*buen vivir* or *sumak kawsay*) has opened space for these alternative views of development. It also has promoted more active citizenship, as citizens themselves become key actors in creating a better environment (*buen lugar*) (Warner 2018).

Traditional western legal theory is based on a positivistic/rationalist view. But rights of nature arguments take it toward a more constructivist view, drawing from pluri-national and intercultural indigenous cosmovisions that link Pachamama (mother earth) with Yaku (water) in a more integrated system where nature has rights alongside humans. The 2008 Ecuadorian Constitution refers to the rights of nature and the concept of Pachamama and the responsibility of the State to guarantee the well-being of its citizens. Articles 71 to 74 of the Constitution develop

the concept of the rights of nature. Pachamama has the right to integral respect for its existence, as well as the maintenance and regeneration of its life cycles, structure, functions, evolutionary processes, and the right to be restored.

Rights of nature approaches have appeared in court cases in Colombia (Atrato River), Peru (Marañon river) and Ecuador (Monjas River and Machángara River) (Suárez Bohórquez 2026, Quizhpe Parra 2026, Martínez Moscoso & Warner, 2025a). Rights of nature arguments are also appearing in Brasil (Cavedon-Capdeville et al, 2024), México (Macpherson, 2020), India and New Zealand. In New Zealand, it is the cultural significance of the Whanganui River in Māori cosmology that motivates the new legal claims for its protection (Charpleix, 2018).

Rivers are hydrosocial territories which are both material (water, river banks, pollution), cultural (*yaku*), political/economic (dams, illegal mining), as well as legal (Quizhpe Parra 2026**)**. Hydrosocial territories are "dynamic assemblages in which flows of water, capital, technology and meaning co-produce uneven geographies of power" (Boelens et al., 2023). They are contested networks where competing actors represent divergent knowledge systems and territorial imaginaries and these lead to dynamics of both inclusion and exclusion. Turbino De Souza et al. (2025) note that hydrosocial territories are contested networks that embed divergent knowledge systems and territorial imaginaries, such that inclusion–exclusion dynamics become literally inscribed in the riverbed.

One critically important group in these hydrosocial territiories is the guardian. Defenders of nature come from multiple sectors of society. A substantial body of scholarship emphasizes women's pivotal role in processes of defending Nature, particularly in terms of "putting their bodies on the line" (Moreano Venegas, & van Teijlingen, 2021). There is also extensive literature from Latin America in general, and Ecuador in particular, documenting diverse dynamics of persecution and exploitation affecting those who defend Nature (Andrade et al. 2025). This underscores the need for analyses grounded in intersectionality, patriarchy, and the ways racism produces differentiated impacts.

One challenge with rights of nature approaches is who speaks for nature (Cano-Pecharroman & O'Donnell 2024). The figure of guardians has been employed by authorities and judges in river-related cases around the world to oversee restoration processes. In the case of the Whanganui River (New Zealand), a governance system was established between the Crown and the Māori people to jointly manage resources and make decisions concerning the basin (Charpleix, 2018). The Atrato River (Colombia) is governed through a biocultural model led by Afro-Colombian communities in collaboration with environmental institutions (Suárez Bohórquez 2026, Mosquera-Guerrero, & Krueger 2024). Meanwhile, in Ecuador, indigenous peoples, local residents, and social movements have played an active role, first as claimants and later as guardians (Laastad 2019, Madera & Pasquel 2026, Quizhpe Parra 2026). These rights of nature cases preserve the spirit of an anthropocentric perspective by invoking the guardian. The essence of rights of nature is to recognize nature as a subject of rights, rather than as an object to be manipulated or used. The revival of the concept of the guardian reflects the understanding that nature needs a spokesperson. Ecuadorian regulations establish that the ombudsman may represent nature (Martin & Kauffman 2019).

Paradigmatic Shifts and Complementary Strengths

This shift in legal paradigms to incorporate rights of nature approaches requires a broader paradigmatic shift which acknowledges a much greater range of understanding about what is knowledge, how it can be known and what values are represented. While the positivist/rational legal paradigm is based in law, facts as proof and due process, a constructivist paradigm emphasizes subjective and multiple realities stemming from cultural values (Guba and Lincoln 1994). There are some scholars who argue incommensurability between paradigms (as described in Lincoln et al. 2011), but others suggest there can be complementary strengths from engaging multiple paradigms (Tashakkori, et al. 2020). We argue the tensions and diversity of perspectives can lead to a more comprehensive approach through which new insights can be gathered.

The potential for complementary strengths through a hybrid approach is what we explore in this paper. Table 1 shows the differences in ontology, epistemology, axiology, method and rhetoric for the traditional rationalist legal theory approach as compared to a more constructivist paradigm. The middle row shows how complementary strengths can be built between the two paradigms when rights of nature are incorporated into the constitution.

Table 1 Finding Complementary Strengths between Traditional Legal Theory and Rights of Nature Paradigms

	Paradigm	Ontology	Epistemology	Axiology	Method	Rhetoric
	World View	What is Reality?	How is it Known? Relationship between knowledge and knower	Is it value laden or value free?	How determined?	Style of Communication
Traditional Legal Theory	Positivist/ Rational	Single, objective reality	Causation and generalization are possible. Determined through due process in courts, petition by claimants, decisions by judge	Value is based in law, fairness - due process	Facts, science, proof, legal norms	Claims and decisions of the court
Rights of Nature in the Constitution	Complementary Strengths	Multiple realities, dialectical pluralism (cultural and scientific)	Conscientization (culture), science and legal approaches	Values both law and harmony	Science, culture, civil mobilization, courts	Cultural and legal and scientific
Indigenous Views Rights of Nature	Constructivist	Subjective and multiple realities – human, nature, cosmovision	Oral tradition, communitarian, shaman	Value is based in harmony, *sumak kawsay*	Cultural practices and "science"	Cultural, religious and political

Constructivist and transformative paradigms emerge from groups unheard or silenced in traditional positivistic research. Indigenous and feminists scholars use these paradigmatic approaches to articulate new understandings of what is knowledge, how we know it and what values it represents (Elmhirst 2015, Haraway 2013). This both broadens and challenges scholarship. It also draws attention to the ways in which knowledge is exploitative and the need for structural change. Participatory action research is used to raise awareness and conscientization. Transformative change is the goal, and reflexive, situated knowledge, where nature and humans are bound together in a larger ecological whole, are emphasized. Care for the environment is centered and pluriversal perspectives enable new imagination about possibilities (Andrade et al. 2025; Leitao 2023; Escobar 2018). Rights of nature approaches can lead to a broader ecosystem view (Martínez Moscoso & Warner, 2025b).

Table 2 shows the challenges of combining different paradigms. While both use science as a source of knowledge, jurisprudence and cosmovision are two very different ontological frames. Epistemologically we see important differences in the constructivist vs legal/rational paradigms in terms of: connections (ecology and culture vs rights), power (horizontal vs. hierarchical), relations (nature acts or is acted upon) and obligations (honorific vs. sanctions/fines). These different ways of understanding and action (epistemology) reflect differences in values (axiology). Culture is primary in the constructivist paradigm and the economy is secondary to a vision of development based on harmony. For the legal/rational paradigm, the law is the value system and economy is primary. At best, environmental law seeks balance in sustainable development, while *sumak kawsay* seeks harmony.

Table 2 Paradigm Shifts with the Rights of Nature Framework – Incommensurate or Complementary?

	Constructivist – Rights of Nature	**Positivist – Legal/Rational**
Ontology		
Legal Concept	Ecocentric – Nature as subject	Anthropocentric – Nature as object
Knowledge Base	Culture/Cosmovision and Science	The Law/Legal Precedents/ Jurisprudence and Science
Epistemology		
Connections	Ecological and Cultural	Rights and obligations (Law)
Power	Horizontal – community	Hierarchical – courts/government
Relations	Nature speaks and acts	Nature is acted upon
Obligation Tools	Honorific	Sanctions/Fines
Axiology		
Value System	Culture/Community	Legal/Governmental
Role of Economy	Secondary, non-market, unpaid	Primary, market, paid
Vision of Development	Harmony/ Wellbeing	Balance/ Sustainable Development

We argue that social movement groups are finding complementary strengths by linking the legal/rationalist paradigm with the cultural (constructivist) approaches in a hybrid rights of nature of approach which has led to success in court cases. We see this in the strategic way in which litigation is brought under rights of nature cases and used to achieve broader societal

awareness. However, we caution that the strategic litigation approach, which de-emphasizes the role of industry as a polluter and gives guardianship responsibility to civil society groups without resources, challenges the sustainability of the approach, as funds will be needed for the guardians to maintain their role.

Methodology

Consistent with our view that complementary approaches are possible, we employ a mixed methods approach. First we provide the context for the cases using positivistic legal/rational analysis of recent court cases on rights of rivers in Ecuador – the Monjas and Machángara Rivers. We use case analysis as a method to explore how the law—in this case, rights of nature—was applied in cases of river pollution in Ecuador. Next, we use qualitative narrative analysis to explore values, strategies and ways of knowing of four civil society groups active in these cases. These groups - Women for Water, River Spirit, San Pedro River Collective, Ravines Collective - were engaged in a workshop, RIOS25, in May 2025 to discuss their visions, strategies, challenges and dreams.[1] Such mixed methods approaches are becoming increasingly common in academic research, and these partnerships – between legal experts (lawyers, judges) and civil society groups are becoming more common in rights of nature litigation in Ecuador. Each brings complementary strengths to the process. However, there are hints of incompatibility, as world views collide, and authority, rights and responsibility fall differently on the different actors.

Analysis

Context: Legal Cases (positivist)

The River Monjas case, decided in 2021 (Decision No. 2167-21-EP/22) was the first case to articulate a rights of nature approach in Ecuador with respect to rivers. It brings together anthropocentric claims (of historic preservation for a heritage house, the right to enjoy clean water and the riverside by urban residents), with ecocentric claims that emphasize the right of the river to flow and to be free from pollution. The constitutional court drew from rights to city arguments (Lefebvre 1978, Harvey 2013) along with human rights (Hennebel & Tigroudja, 2025) to articulate the claims in the case. The judge linked these to ecocentric rights for the river itself; but the human right to the city concept helped to motivate the argument, including rights to a healthy environment, water, cultural heritage, and sustainability.

The court recognized the diverse ecosystem functions of the Monjas River and determined that it had lost its ecological equilibrium, necessitating restoration (Tănăsescu et al, 2024). The judge employed two types of restorative measures: grey solutions and green/blue infrastructure. However, the court placed the burden of reparation solely on the city (Kauffman & Martin, 2022). This ruling is particularly significant as it sets a jurisprudential precedent and can be applied to similar cases in the future. Notably, the decision reflects a degree of judicial activism, as the judges invoked the principle *iura novit curia* ("the judge knows the law") to include elements in the ruling that were

[1] Each participant granted consent for the workshop to be taped, transcribed and quoted in subsequent academic analysis. The host university reviewed the research design and determined that talking with leaders about their work falls outside the definition of human subjects.

not explicitly requested in the original claim (*ultra petita* or "beyond the petition"). These included the collective dimension, which is why the Court referred to the right to water, the right to sustainable development, and the right to the city (Constitutional Court, 2022, parr. 74).

Although the court did not assign formal guardianship of the river to any specific social movement, citizens played an active role both during the proceedings and in the implementation phase. Their *amicus curiae* submissions introduced scientific evidence that informed the court's reasoning. Following the decision, these groups mobilized participatory mechanisms (empty chair,[2] citizen council, etc.) to engage in the formulation of the Blue and Green Ordinance issued by the municipality, which operationalized the restoration measures ordered by the court.

The River Machángara case, decided in 2024 (Tribunal de Garantías Penales, 2024), is notable for explicitly designating women-led civil society groups as the legal guardians of the river. Unlike the Monjas River, the Machángara is the most important river in the basin. One of the most compelling aspects of this case is how the claim was constructed—through the active participation of interdisciplinary actors, including social movements, scholars, scientists, and Indigenous communities. The petition was supported not only by legal arguments and factual evidence but also by scientific data demonstrating the river's polluted state.

The petition linked the pollution of the river to the violation of four constitutional rights: a) the rights of the river itself—the rights of nature—to exist, to have its vital cycles respected, and to maintain its ecological functions; b) the human right to water; c) the right to a healthy environment; and d) the right to the city. As part of a strategic litigation approach, the claim was presented by the Kitu Kara People and the Civic Council of Quito, both social and environmental movements (Tribunal de Garantías Penales, 2024). The plaintiffs requested that one of the restoration measures ordered by the court be the designation of social movements as "Machángara River Guardians." However, this request emphasized the symbolic value of guardianship rather than the provision of material resources to support their role.

The case was decided in August 2024, with 27 measures approved to protect the Machángara River as a subject of rights (Tribunal de Garantías Penales 2024). The Municipality of Quito appealed 13 of the measures but the Provincial Court dismissed the Municipality of Quito's appeal (Sala Especializada de lo Civil y Mercántil de la Corte Provincial de Justicia de Pichincha (2025). In December 2025, the Ecuadorian Constitutional Court declined to admit an Extraordinary Protection Action and upheld the initial ruling (Corte Constitucional del Ecuador, 2025). The Municipality of Quito is currently required to implement these measures, as no further judicial remedy is available to challenge the decision. These measures include: studies and monitoring of the effluent pollutants contaminating the river; the progressive restoration of public infrastructure and protection zones near the river; and environmental education to raise citizen awareness of the process of restoring the Machángara River (Guardianas del Río 2025).

[2] Empty Chair is a new form of civil participation in which members of civil society, from any group, may take part in the city or regional council, not only with the right to speak but also with the right to vote on the council's agenda when the topic is important to their interests.

Civil Society Strategies

Strategic Legal Approach (rational/positivist)

In both cases the civil society groups employed a strategic legal strategy that focused solely on the City of Quito as the responsible polluting party. Even though industry also bears responsibility for the contamination of both the Monjas and Machángara Rivers, in Ecuador there is a lower standard of proof for municipal actors than for industry. In Ecuadorean law the municipality must show it is *not* responsible for the pollution (reversal of the burden of proof), but the claimants bear the burden of proof if the claim is against industry. Thus, by focusing soley on the City of Quito, the courts were able to adjudicate these cases more quickly. This was especially important in the Monjas case, so the case could be decided before the end of the term of a pro-environmental sitting constitutional court judge. In both cases, the courts made the municipality responsible for implementing all restoration measures to decontaminate the rivers.

The rationalist legal paradigm places emphasis on rights (of rivers) and obligations (of polluters – especially the city due to inadequate sewer infrastructure). The legal emphasis is based on authority of the courts and responsibility of the city to comply. These actors are official and government based. In both the Monjas and Machángara case, the court decision did not sanction industry or the national level environmental ministries - the two groups with the most power to solve the environmental contamination problems. The strategic litigation approach chose not to challenge them, in part because that would have delayed the decision, possibly beyond the tenure of a sympathetic judge.

In the Machángara case, the women-led civil society groups, who brought the case to the courts, were appointed as guardians (Madera & Pasquel 2026). This was at their request, for both symbolic and strategic reasons. These groups have been given the responsibility for monitoring the river's protection without the resources to play that role. While this was a strategic litigation choice, it also illustrates the limits of combining distinct paradigms. Normally authority would come with resources under the legal rationalist paradigm; but this is not true in the Machángara case. By vesting responsibility with civil society groups rather than a broader set of responsible actors, the Courts may be limiting the ability of the guardian to actually protect the river. However, this strategic litigation approach had a broader goal – to vest civil society groups with the authority to engage in broader conscientization and mobilization strategies as we demonstrate in the next section.

Constructivist Cultural Strategies: Consciousness Raising and Education

Four groups have been central in the protection campaigns for rivers in the Quito region. These groups: Women for Water, River Spirit, San Pedro River Collective and Ravines Collective are all led by women and include community members, ecologists, lawyers and social scientists. Their strategies embody the elements in *sumak kawsay*, as they use culture and arts and community activities as a means of consciousness raising and education. This facilitates new understandings and promotes community mobilization. They combine this community-based work with legal strategies in the courts. Their approaches demonstrate the complementary strengths thesis in action.

The petitioners in both cases relied on legal and factual descriptions, but also included cultural and cosmovision identities. They described how the Quito Valley was crossed by the ancestral *Qhapaq Ñan* (Inca trail) and emphasized the relationship between the Kitu Kara people and the river and water. In support of their position, they cited anthropologists who noted that the Kitu Kara regarded the river as a divinity and offered snakes to it as a tribute. During the conquest, the Indigenous people maintained these traditions, using certain areas along the Machángara River as rest stops ("*tampos*" in *Kichwa*). In the republican period, however, the city designated various zones near the river as landfills and used the ravines as dumping sites. At the same time, industry, such as the National Beer Company and large grain mills, used the river water for production (Tribunal de Garantías, 2024).

We held a workshop with these civil society groups in May 2025 where we asked them to share their dreams and their strategies. They used words that showed: 1) their personal connection to the river: *listen, dream, history, reconnection*; 2) the ecological challenges the rivers face: *flow, life, ravines aren't garbage dumps*; and 3) strategies for protection: *transcend, consciousness raising, resistance*. They expressed hope for transformative change, "*I'm not the only crazy one to have this dream*." They shared their strategies and notably, each started with culture, but then combined it with more positivistic/rationalistic science and legal strategies.

River Spirit described lack of information, and the lost history of the Machángara river, which literally had been buried by the city. City residents had lost connection to the river, so the River Spirit group sponsored a photography project to show pictures of the river from historical times. Next, they involved community members in a 2.5 km weaving of recyclable materials to signify the meandering river. These community projects raised awareness (conscientization). One of the leaders of this movement described how she began to connect with the river.

> *My project began in 2017 as a result of a series of dreams—almost nightmares—about the rivers of the city. Like many residents of Quito, I was largely unaware of the existence of these rivers, as well as of waterfalls located surprisingly close to the city. These were unusual and highly vivid dreams, which ultimately prompted a deeper engagement with the urban waterways and their socio-environmental significance.* (RIOS-25, 2025)

She realized that several rivers in Quito had been covered over with squares, roads, and other urban infrastructure, while the water continued to flow beneath. To overcome her fear and trauma, she began an artistic project involving photography and weaving that sought to recreate the paths of rivers that once flowed through the city but are now concealed, making art the only way to see them.

San Pedro River Collective described the extreme pollution of the river and the disconnection of neighboring residents from the river. Their dream was to "*swim in the river again.*" Their strategies included social media, a Facebook "*call to care*," a documentary film, clean up days with a shared meal to build community, art and poetry.

> *Affective bonds have been important for us in this struggle. For example, poetry was integrated into the process, and we consider that the judgment is highly poetic and that*

> *the judge seems to have listened to the river's voice. We consider that the judgment is a cultural expression*. (RÍOS 25, 2025)

These activities raised awareness and rebuilt residents' connection to the river. San Pedro River Collective also developed academic collaborations for water monitoring to build the scientific basis for the case, and pressured the City of Quito to meet the requirements of its Green and Blue ordinances. Their first action to establish a connection with the river was cleaning it through *mingas* (collective work). Afterwards, they held a special ritual to connect with the river, explaining that they needed to obtain the *'river's authorization'* to interact with it and to create a genuine community around this fluvial ecosystem.

The Ravines Collective sought to unify residents to promote education and community clean up days across more than 130 ravines in the Quito metropolitan area. They recognized that people are both perpetrators (polluters) and victims of the degradation of the ravines. They sought to break the *polluter-victim cycle* by converting victims into activists. In additional to technical assistance from environmental scientists and legal experts (and even some judges), they used public participation to pressure municipalities to comply with the court cases. "*I live at the municipal office*," said one leader, describing how much time she had to spend pressuring the city to respond. The goal was to break the polluter-victim cycle by engaging the community as well as the city and the courts to restore equilibrium in the river.

> *We support the protection of ravines and streams, because many people still believe they are dumping grounds. For this reason, we also work alongside community leaders to raise awareness of what uses are permitted and how to care for them properly. In addition, we offer practical workshops to guide them on what to do in the event of a landslide and how to protect the ecosystem more broadly. The goal is to create a training-of-trainers school that will allow us to replicate this work with more leaders and activists who are increasingly well informed. (RÍOS 25, 2025)*

Women for Water was the most expressly legalistic in its approach. Beginning with early discussions of rights of nature heard at a conference back in 1997, they made friends with a leading environmental legal expert, who later became a chief judge of the constitutional court. Judge Ávila provided advice and worked with them on the legal strategy, and together they helped articulate components of rights of nature. Their goal was to change public policy with litigation. "*Our focus is on how to secure financial resources to protect nature, and in particular, how to ensure sufficient funding to conserve the ecosystems that provide us with water."* (RÍOS 25, 2025). They would meet with the relevant ministries but could never get all ministries (Water, Sanitation, Environment, etc.) in the room at the same time. They recognized that the City of Quito lacks capacity for water treatment (sewer and stormwater), and this is a core piece of the problem.

All of these civil society groups combined cultural, mobilization, scientific and legal strategies. In this type of environmental and rights of nature dispute, the petitioners seek to combine different elements in their claims. The Ecuadorian press reported that the Machángara River has become Quito's "uncomfortable mirror" as a result of the severe pollution crisis it is facing, and this reality was made visible by the sustained work of citizen-led collectives (Notimercio, 2025).

These groups ensure their legitimacy through the involvement of Indigenous peoples, collective movements, and vulnerable actors. They craft compelling narratives in their petitions, moving beyond the format of a traditional legal claim. Cultural, artistic, and historical elements are incorporated to frame the discussion and to underscore the importance of an ecocentric perspective.

Finally, they present scientific evidence, which explains their strong connections with scholars and academia. The inclusion of scientific evidence in the lawsuit was made possible through the mechanism of 'informed opinions.' These are notarized statements in which scientific experts provide rigorous information and later appear as witnesses during the proceedings. This helped clarify key questions regarding urban ecology and the restoration measures needed (Tribunal de Garantías Penales, 2024). Collecting and interpreting scientific data on their own would be either impossible or highly prone to error. Mobilization, activating neighborhoods, communities, the media, and other actors is one of their most powerful tools. These dynamics can be observed in both the Monjas River and the Machángara River cases.

Discussion

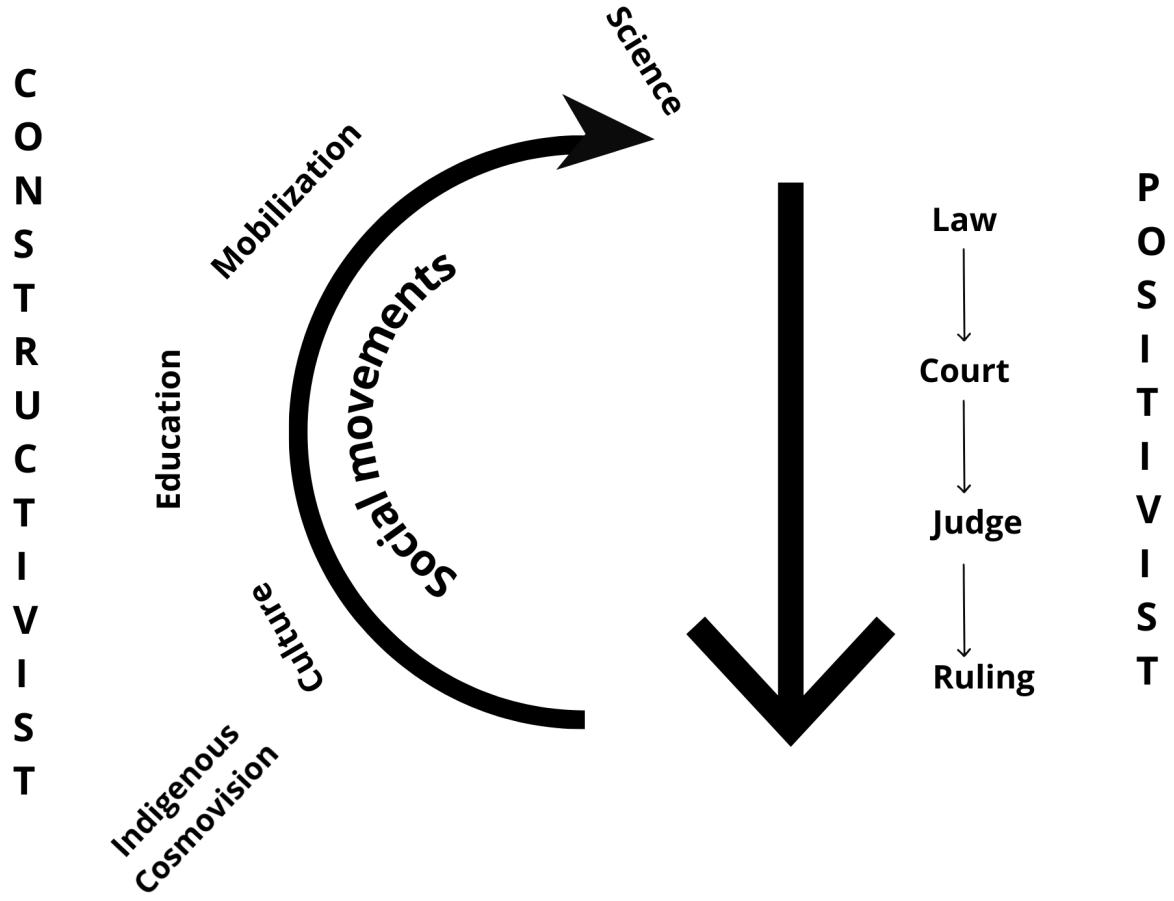
These cases show how constructivist and positivistic approaches can work in tandem. But it also shows their tensions, and leads to two regrets: the failure to hold industry accountable, and the burden on civil society groups, as guardians without resources. From a constructivist perspective, the environment speaks and acts on its own – through floods, landslides and fish die-offs. But this environmental voice is not heard in a court of law; for that, the courts need a guardian in rights of nature cases. In a positivist/rationalist paradigm – a designated party must bear responsibility and have voice. But the civil society groups' strategies are broader. Allowing residents to see and hear the river, was part of the civil society activists' strategies. Building cultural connections with the river was key to motivating further action. This is why the civil society groups gave so much attention to art, poetry, music and community engagement. All this work was unpaid and community-based, even as they collaborated with university scientists and legal experts.

As part of their legal strategy, the civil society groups decided it was better not to bring claims against industry or the private sector. This approach can be interpreted in two ways: first, it is easier to identify a single polluter (in this case, the city) as the principal liable party; and it is simpler for a judge to order reparation from a state entity with sufficient resources to implement restoration measures. Second, the petitioners' analysis focused on well-being or *sumak kawsay*, concentrating on social and environmental parameters, thereby overlooking economic actors, their responsibility, and the importance of resources in ensuring compliance with judicial decisions.

While the women-led civil society groups have effectively used both constructivist and legal positivistic strategies to raise attention to river protection and obtain a legal response, the courts sit on the legal positivistic side where cases are limited by the claims in the petition. Implementation of rights of nature, in practice, is affected by organizational structure, norms and processes – and none are more elaborate and rigid than those of the courts. The courts also wield the power. The legal/positivist paradigm addresses the problem using hierarchical power: Law

-> Judge -> Ruling -> City. By contrast, the women-led civil society groups use culture and science to mobilize citizens, building relationships to nature that lead to a willingness to exert pressure on elected leaders (at the city and national ministry levels) and legal demands through the courts (Madera and Pasquel 2026). The women-led civil society groups use the complementary strengths of both paradigms, while the courts primarily stay within with a positivist hierarchical approach. See Figure 1.

Figure 1 Paradigms and Strategies of Civil Society Groups and the Courts



Rights of nature approaches face both an articulation and an implementation challenge. The ontological basis of rights of nature, emanating from indigenous cosmology, is not based on rights. It is based on harmony. Legal rights are designed to narrow and exclude (Marshall, 1950), but the indigenous conception of *sumak kawsay* is meant to expand and center nature.

By invoking the concept of the right to the city in the Monjas River case, Judge Ramiro Ávila was forwarding an organic conception of rights as something experienced communally in lived space—the right to the city (Harvey 2013, Lefebvre 1978). The right to the city linked the river to human experience and was used to help motivate human interest in protecting the river. Judge Ávila's view was similar to that of the civil society petitioners, who also saw the need to rebuild a connection between humans and the river.

Ecocentric notions of rights of nature are centered in the environment itself, not as a legal entity, but as something fundamental to life and world view. Nonwestern and indigenous conceptions of citizenship recognize a broader basis for rights – centered in the environment and in community (Holston and Appadurai 1999). Right to the city is just one approach, and one focused not so much on the state, as on humans as actors (Purcell 2013, Lefebvre 1978). But indigenous cosmovisions are demanding more than that. Nature speaks together with humans – in harmony. However, in attempting to insert rights of nature approaches into a rational legal framework, the privileging of human voice and hierarchical power is a natural outcome.

Cano-Pecharroman and O'Donnell (2024) question the mechanisms used to represent nature, noting the difference between speaking about, for or with nature. They question whether those who represent nature truly know whether their work benefits nature. They argue the Constitutional Court maintains an anthropocentric approach. Citizens may speak on behalf of the river, but when the fluvial ecosystem is not viewed in a holistic manner this limits recognition of the river's rights, functions, and evolutionary processes.

This contributes to the challenge of implementation. Who speaks for nature? Beyond the judge handing down court decisions from the bench, is the role of the plaintiff, in this case nature. In both cases, civil society groups were the claimants who brought the case. The leader who said "I live at the municipality," is not being paid for this work. In other cases, the court would appoint a guardian and give them the resources to do their job. But in this case, the claimants did not ask for compensation. Speaking for the river and ensuring its protection is viewed as part of their cultural obligation. By employing indigenous concept of *sumak kawsay*, which is fundamentally non-market, the courts and the claimants fail to emphasize the need for resources which are essential for environmental protection. These women-led civil society groups have gained responsibility without resources.

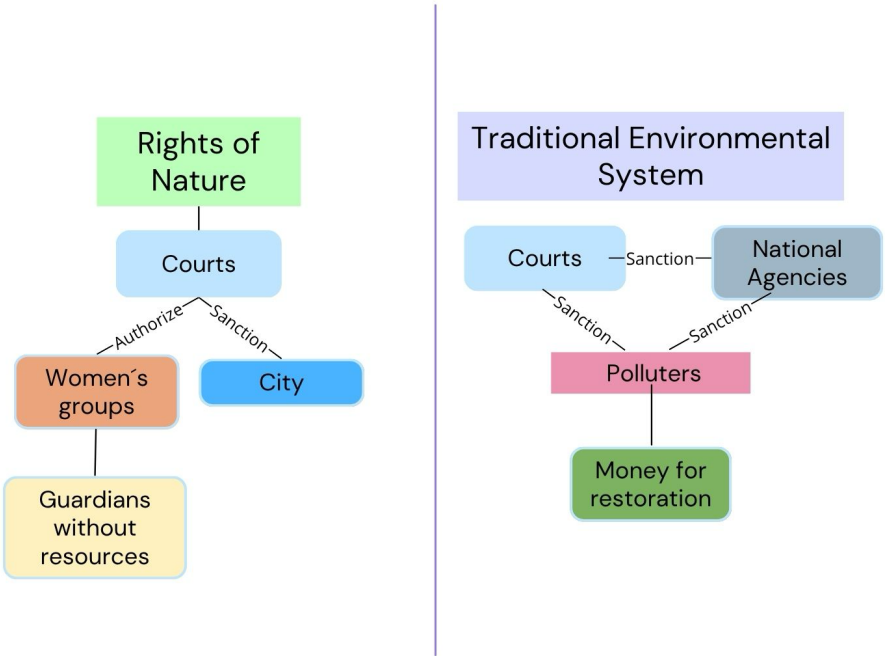
Sumak kawsay forwards the concept of harmony, which balances society and nature, but where is economy? It is not centered in the cosmovision, but it is a very powerful actor in reality. Especially in Ecuador, where the extractive economy is predominant, economic actors hold strong political, legal and economic power (Cisneros, 2021). This may be why the rights of nature cases to date do not challenge their power. For rights of nature to be effective, market economic forces need to be included. By sidelining economy, the *sumak kawsay* cosmovision loses an important and powerful actor in the system. Chirwa and Amodu (2021) argue corporations can be encouraged to recognize social, cultural and environmental rights.

By using both paradigms, the women-led civil society groups are achieving some legal success, but they can't fully bridge the two paradigms. The courts operate on just one side of the cycle in Figure 1, the hierarchical side, and use their power to confer responsibility to the city and to the women-led groups. But these cases do not challenge other more powerful societal actors – national environmental actors, industry. Doing so would take more time and might threaten the court's own power.

In the traditional legal environmental system, the courts and national agencies have the authority to sanction polluters and this, in turn, provides the funds for environmental restoration. As of now, rights of nature sits as a separate legal approach alongside the positivist legal paradigm.

See figure 2. When employed by the Ecuadorean courts, it has limited its sanctioning power to the city (to address green and blue infrastructure). To date, no rights of nature case has addressed the failure of national environmental agencies to do their job, or other polluters – such as industry. Scholars note this is common in cases across the Andean region where plaintiffs are reluctant to use rights of nature to challenge powerful actors in extractavist economies (Cisnernos 2021).

Figure 2 Two Distinct Legal Approaches: Rights of Nature and Traditional Environmental Law



The challenge is to bring these two systems together. That is what the complementary strengths approach is all about. Responsibility needs to be broadened to all the relevant actors – national agencies, the city, industrial polluters; and the guardians must have some resources and some sanctioning authority.

Some scholars argue that rights of nature is merely performative – a "law for show" (Quizhpe Parra, 2026), but they also recognize that rights of nature approaches, through inclusion of guardians in the new governance structure, are creating the possibilities for more comprehensive social change (Suárez Bohórquez 2026, Martínez Moscoso & Warner 2026). Civil society groups are now partners with scientists, universities and indigenous groups (Madera & Pasquel 2026). They have moved up Arnstein's (1969) ladder of participation from consultation to partnership. But this stops short of real delegated power sharing - including sanctioning power and financial support for the women and indigenous groups. In Colombia, the River Atrato has created a governance framework which has given voice to Afro-Colombian groups (Suárez Bohórquez 2026). The constructivist paradigm enables new imaginations which lead to new possibilities for action by these civil society groups (Andrade et al. 2025, Quizhpe Parra 2026, Suárez Bohórquez 2026). This gives hope for transformative change.

Conclusion

In this paper we have explored how rights of nature cases in Ecuador rely heavily on the leadership and resources of women-led civil society groups. These women-led groups combine constructivist (cultural) and positivist (legal) strategies to promote protection and restoration of rivers. Some environmental successes have been achieved. This shows the possibility of complementary strengths, as activists combine different paradigmatic strategies.

We also show the pitfalls. To the extent that rights of nature is based on indigenous cosmovisions, it sits in a different paradigm than the traditional legal approach. This requires a shift in thinking from the individual to the community, from anthropocentric to ecocentric, from hierarchical to horizontal, from rights-based to cosmology-based. Ontologically these are incommensurate with the positivist rational/legal paradigm. In the current court cases, the two paradigms sit uncomfortably together, leading to cognitive dissonance between two world views, and strategic legal approaches which give insufficient attention to economic resources and actors.

Can the two paradigms be brought together in a pragmatic middle ground? Yes, the messy middle between the two paradigms is where the complementary strengths emerge. *Sumak kawsay,* and its concept of harmony, has been inserted into the Ecuadorean constitution, which has identified indigenous cosmovision as another basis for Ecuadorean law. Rights of nature has been brought into the courts with attendant impacts on how cases play out. Right to the city has been identified by the Constitutional Court in the Monjas Case as part of rights of nature – bringing an anthropocentric and ecocentric view together. Civil society groups have been designated as guardians in the Machángara River case, which has expanded their authority. By building on the complementary strengths of the two distinct paradigms, these civil society groups demonstrate the potential for transformative change to reach the collective aspiration to "*swim in the river*" once again.

The next challenge is how to find the resources to support both the work of civil society groups and ecological restoration. This requires a broadening of the strategic legal framework to incorporate economic actors both as contributors to river pollution and as resources for restoration efforts. We need more specialized environmental justice, with judges who have substantive expertise and do not merely reproduce the claims advanced by plaintiffs. We also need a more responsible private sector that is genuinely committed to accountability and to the communities and ecosystems in which it operates.

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