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**COLLECTIVE RIGHTS OF INDIGENOUS  
PEOPLES AND COMMUNITIES: SHUAR  
COMMUNITY OF MAIKIUANTS**

Project prior to obtaining a Bachelor's Degree in  
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I wholeheartedly dedicate this work to my mother,  
Verónica Loor, for her unconditional love,  
for being my greatest inspiration, and for tirelessly  
striving to give me a better future. Thank  
you for your unwavering support and for teaching me  
never to give up. I have always said  
that I hope to become like you: a strong, courageous,  
beautiful woman with a kind heart.  
Words are not enough to describe the person I admire  
the most.

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# **COLLECTIVE RIGHTS OF INDIGENOUS PEOPLES AND COMMUNITIES: SHUAR COMMUNITY OF MAIKIUANTS**

## **ABSTRACT**

This research analyzes the violations of the collective rights of the Shuar indigenous community of Maikiuants, located in Morona Santiago, Ecuador, in the face of the advance of the Warintza mining project, operated by Solaris Resources Inc. From a legal and empirical approach, it examines the tensions between state law and customary indigenous law, highlighting the lack of free, prior and informed consultation, as well as the socio-cultural and environmental impacts faced by the community. The applicable national and international regulatory frameworks are addressed, including ILO Convention 169 and precedents such as the Tagaeri and Taromenane v. Ecuador case of the Inter-American Court. The research incorporates interviews with members of the community and environmental and legal professionals, making visible the strategies of resistance and territorial defense adopted by the community. Finally, recommendations are made to strengthen the effective protection of collective rights, emphasizing the need to harmonize legal pluralism in Ecuador and to guarantee sustainable development that respects the self-determination of indigenous peoples.

### **Keywords:**

Collective rights, Maikiuants, mining, Warintza, prior consultation, legal pluralism, Ecuador.

# **DERECHOS COLECTIVOS DE LOS PUEBLOS Y COMUNIDADES INDÍGENAS: COMUNIDAD SHUAR DE MAIKIUANTS**

## **RESUMEN**

Esta investigación analiza las violaciones de los derechos colectivos de la comunidad indígena Shuar de Maikiuants, ubicada en Morona Santiago, Ecuador, frente al avance del proyecto minero Warintza, operado por Solaris Resources Inc. A partir de un enfoque jurídico y empírico, se examinan las tensiones entre el derecho estatal y el derecho indígena consuetudinario, evidenciando la falta de consulta previa, libre e informada, así como los impactos socioculturales y ambientales que enfrenta la comunidad. Se abordan los marcos normativos nacionales e internacionales aplicables, incluidos el Convenio 169 de la OIT y precedentes como el caso Tagaeri y Taromenane vs. Ecuador de la Corte Interamericana. La investigación incorpora entrevistas a miembros de la comunidad y a profesionales del ámbito ambiental y jurídico, lo que permite visibilizar las estrategias de resistencia y defensa territorial adoptadas por la comunidad. Finalmente, se plantean recomendaciones orientadas a fortalecer la protección efectiva de los derechos colectivos, subrayando la necesidad de armonizar el pluralismo jurídico en Ecuador y de garantizar un desarrollo sostenible que respete la autodeterminación de los pueblos indígenas.

### **Palabras clave:**

Derechos colectivos, Maikiuants, minería, Warintza, consulta previa, pluralismo jurídico, Ecuador.

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# **COLLECTIVE RIGHTS OF INDIGENOUS PEOPLES AND COMMUNITIES: SHUAR COMMUNITY OF MAIKIUANTS**

## **INTRODUCTION**

In recent years, the expansion of mining concessions has led to an increase in tensions among the indigenous communities of the Shuar Arutam people, specifically in Maikiuants. These indigenous peoples are often affected by the environmental, social and cultural impacts of mining; given the controversies surrounding the proper implementation of Convention 169 in the mining sector, as well as the lack of exhaustive research on this issue.

Despite the efforts of this community to implement autonomous education and manage its territory in accordance with its traditions and rights, there has been a persistent violation of its collective rights recognized in ILO Convention 169, which creates an alarming contradiction between formal rights recognized in national and international legal frameworks and actual practice.

Therefore, the relevance of this study is reinforced, which seeks to provide a social analysis that serves as a reference for future projects and public policies. The ancestral indigenous territories previously have been affected by the negative environmental impact of the exploitation of non-renewable natural resources, both oil and mining (Massa-Sánchez et al., 2018).

The Maikiuants community located in the Limón Indanza Canton, province of Morona Santiago has also been a victim of mining activity, this because, despite the validity of ILO Convention 169, historical patterns of territorial dispossession are maintained, cultural marginalization and the lack of real participation of indigenous communities in decision-making, which highlights a gap between what is established by international standards and the reality faced by the indigenous peoples of Ecuador.

The question then arises as to whether there is effective respect for the collective rights of the Shuar Arutam people, specifically in their right to prior free and informed consultation (CPLI), which must be guaranteed before implementing extractive projects. The absence of clear and adequate processes for consultation, together with an institutionalism that acts on a discretionary basis and does not adapt public policies to the cultural realities of communities, reflects the vulnerability of their rights.

In this context, it is imperative to know the consequences of violating the right to prior free and informed consultation (CPLI) and not obtaining the consent of indigenous

communities, in this case Maikiuants. These violations not only generate territorial dispossession and environmental degradation, but also affect social cohesion, deepen cultural marginalization and weaken traditional forms of self-government.

They also perpetuate a climate of conflict between the State, extractive companies and communities, increasing institutional mistrust and leaving indigenous peoples vulnerable to the loss of their territories and resources essential for their livelihood and culture.

This information will be collected through the methodological application of data triangulation, where the first phase will focus on a literature review, the second in the case study of the community of Maikiuants.

Finally, semi-structured interviews will be conducted so that an understanding can be given not only of the community but of the whole framework involved with mining affecting it.



## METHODOLOGY

For the development of this thesis, we sought to perform a qualitative triangulation that contributes to increase the objectivity of the data, generating greater credibility of the findings and developing knowledge (Feria et al., 2019). Therefore, three main approaches were implemented: literature review, case study analysis and semi-structured interviews.

**Literature Review:** the review provided a contextual theoretical framework to understand the current situation and dynamics of the subject, with the purpose of doing an investigation of the subject of interest while contextualizing about the literature analyzed, either the similarities and inconsistencies of this (Silamani and Guirao, 2015). For this purpose, a review of papers, scientific articles, book chapters, international treaties, Ecuadorian constitutions, sentences and official pages was generated, with the aim of understanding the different theories and realities regarding the topic.

In this sense, it was possible to discern not only the different collective rights of indigenous peoples and communities in the covenant of legal pluralism, but also those contained in ILO Convention 169, also considered the ILO resolution in favor of the Shuar community of Arutam and Maikiuants, the rights of nature and finally, social movements in defense of nature, that is, the resistance and mobilization of indigenous communities against extractive projects.

**Case Study:** The case study is an empirical investigation that examines a current phenomenon within its real context, where the boundaries between the phenomenon and the context are not precisely shown, and in which various sources of evidence are used for its analysis (Yin, 1989) cited in (Jiménez, 2012). This research was carried out in the Maikiuants community and studied the effects and consequences of mining on the Warintza Project, addressing the vulnerability of the lack of free and informed prior consultation and community consent.

**Semi-structured interviews;** the interview is a tool which helps to develop qualitative research, whose main function is to collect data that can be used in studies.

This technique consists of a conversation, more or less structured depending on the type of interview, between the researcher and the subject of study; its purpose is oriented to achieve the objectives and answer the questions raised in the research (Lopezosa, 2020).

In this case, the investigation was complemented by non-probabilistic interviews with members of the Maikiuants community, as determined by the investigator, including

community leaders to obtain perspectives on the failure of prior consultation and the defense of collective rights.

In addition, interviews were carried out with professionals from the area to know their opinion in relation to their area of expertise, this was done to identify what strategies are being taken or have been activated to deal with this mining case.

In this context it was necessary to determine the idea, the approach of the problem, the initial immersion in and access to the field of study (Maikiuants community), the collection of data, the analysis of data, the interpretation of results and preparation of the report on results (Hernández et al., 2014).

# **CHAPTER 1**

## **IDENTIFYING THE RIGHTS RECOGNIZED BY ILO CONVENTION 169 FOR INDIGENOUS PEOPLES AND COMMUNITIES WITHIN THE FRAMEWORK OF ECUADOR'S 2008 CONSTITUTION**

### **1.1 International Normative Theoretical Framework**

The International Labour Organization (ILO, 1989, p.1) "was created in 1919 as part of the Treaty of Versailles that ended World War I, and reflected the conviction that social justice is essential to universal and lasting peace." Therefore, one of the ideas reflected in its preamble is that universal and lasting peace can only be based on social justice—an idea closely linked to the purpose of this study. Within this framework, it is necessary to mention that one of the key international treaties on human rights is the ILO Convention 169 on Indigenous and Tribal Peoples in Independent Countries. According to the National Institute for Human Rights (INDH, 2014), ILO Convention 169 was adopted on June 27, 1989, by the General Conference of the International Labour Organization at its seventy-sixth session and came into force on September 5, 1991.

Firstly, it is important to define the word "convention." Etymologically, from the assimilated form of com (with, together) and venire (to come), it results in "coming together," agreeing, or being suitable (Online Etymology Dictionary, n.d.). Likewise, the Royal Spanish Academy (RAE, n.d.) defines a convention as a pact, agreement, or contract established between two or more entities with the purpose of regulating a particular situation or settling a dispute.

ILO Convention 169, ratified by Ecuador in 1998, establishes a framework for the protection of the rights of indigenous peoples. This treaty includes rights such as prior consultation, respect for ancestral territories, and self-determination (FLACSO Ecuador & OXFAM América, 2007). However, it is important to understand that Ecuador is a centralized state and, according to Vela-Almeida y Torres (2021), "the centralized state minimizes people's ability to influence decisions through exclusionary bureaucratic processes and the identification of actors and practices that weaken social organization" (p.2). In other words, despite Ecuador's ratification of ILO Convention 169, the centralized and formalist structures of the State limit the real participation of indigenous peoples and communities, rendering the Free, Prior, and Informed Consultation (FPIC) an institutional process with little effective impact on decisions concerning their territories and resources.

### 1.1.1 Legal Pluralism and Collective Rights under Convention 169

Article 8 of ILO Convention 169 introduces the principle of legal pluralism by recognizing both the rights and the jurisdiction of indigenous peoples, provided that their practices do not infringe upon human rights.

Article 8:

*1. In applying national laws to the peoples concerned, due regard shall be had to their customs or customary laws.*

*2. These peoples shall have the right to retain their own customs and institutions, where these are not incompatible with fundamental rights defined by the national legal system and with internationally recognized human rights. Appropriate procedures shall be established, where necessary, to resolve conflicts that may arise in the application of this principle.*

*3. The application of paragraphs 1 and 2 of this Article shall not prevent members of these peoples from exercising the rights granted to all citizens of the country and from assuming the corresponding duties (OIT, 1989).*

Thus, formal mechanisms for participation do not always allow for effective challenges to access and control over natural resources, to the right of self-determination of indigenous peoples and communities, or to decisions on resource distribution. These mechanisms tend to rely on restrictive administrative language focused on procedural improvements and technical expertise rather than on a formal discussion of the broader community reality.

In this regard, it is appropriate to mention legal pluralism. According to the Royal Spanish Academy (RAE, n.d.), pluralism is the concept that recognizes the coexistence of multiple perspectives, values, and systems within a society, promoting inclusion and respect for diversity. In the legal domain, pluralism implies the coexistence of different legal systems within the same state, including the normative systems of indigenous peoples (DPEJ, 2024).

In Ecuador, legal pluralism is recognized in the 2008 Constitution, which defines the country as a plurinational state. This approach seeks to ensure that ancestral and communal norms can coexist with and complement the national legal system (Álvarez, 2020). However, in practice, there are tensions and limitations in its application—particularly when it comes to enforcing the collective rights of indigenous peoples (Díaz & Antúnez, 2018). This highlights that constitutional recognition of legal pluralism does not guarantee its effective

implementation, as structural obstacles hinder the full exercise of indigenous legal systems, even when they are formally acknowledged within the constitutional framework.

Moreover, there is a marked disconnect between the theory and practice of legal pluralism in Ecuador, as seen in the cases of the Kichwa community of Sarayaku and the Canton of Guamote. These cases demonstrate violations of indigenous rights by both state and community actors, due to conflicts stemming from a lack of effective coordination between state legislation and customary indigenous law (Díaz & Antúnez, 2018). As a result, state and corporate interests are often prioritized over the self-determination and autonomy of indigenous communities, calling into question the effectiveness of legal pluralism in the country (Díaz & Antúnez, 2018).

Convention 169 recognizes a series of fundamental collective rights for indigenous peoples, which are enshrined in its articles. For instance, Article 1 states that the Convention applies to tribal peoples whose social, cultural, and economic conditions distinguish them from other sectors of the national population and who are governed by their own customs or traditions. Article 2 refers to the responsibility of governments to develop policies that do not discriminate against indigenous peoples and communities (ILO, 1989).

While all articles in Convention 169 are important, certain provisions are particularly relevant to this academic investigation, though not in a hierarchical sense:

**Table 1**

*Articles Related to the Collective Rights of Indigenous Peoples and Communities in ILO Convention 169*

|                   |                                                                                                                                                                                                                                                                  |
|-------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Article 13</b> | Referred to as "Lands," it recognizes ancestral territories as the foundation for indigenous culture and survival.                                                                                                                                               |
| <b>Article 7</b>  | Right to define their own development priorities and governance—essentially, the right to self-determination, including cultural, economic, and social autonomy.                                                                                                 |
| <b>Article 6</b>  | Right to free, prior, and informed consultation and participation of the affected peoples, where such consultation must be carried out in good faith and in a culturally appropriate manner with the aim of achieving agreement or consent on proposed measures. |

*Note:* Adapted from ILO Convention 169, 1989.

It is worth emphasizing that the recognition of the constitutional right to prior consultation is a fundamental guarantee for communities and peoples. Accordingly, the State is obligated to include them in the benefits arising from their consent (Herrera, 2016). In other words, it is an ethnic group's right to influence legislative and administrative measures of the State, aiming to protect their cultural, social, and economic integrity and to ensure their participation in public policy.

## 1.2 International Normative Framework

In addition to ILO Convention 169, there are other international instruments that complement the protection of the rights of indigenous peoples. One example is the American Convention on Human Rights, signed at the Inter-American Specialized Conference on Human Rights held in San José, Costa Rica, from November 7 to 22, 1969. Through the jurisprudence of the Inter-American Court of Human Rights, this convention has recognized the importance of protecting the territorial and cultural rights of indigenous peoples (Organización de los Estados Americanos, 1969).

Similarly, the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, known as the Protocol of San Salvador, was signed in San Salvador, El Salvador, on November 17, 1988, during the eighteenth regular session of the General Assembly. The purpose of the protocol is to reaffirm, develop, and protect fundamental economic, social, and cultural rights with the objective of consolidating full respect for individual rights, representative democratic government, the right of peoples to progress and self-determination, and their right to freely control their natural resources and wealth (OEA, 1988).

The American Declaration on the Rights of Indigenous Peoples, issued by the OAS (2016), emphasizes the need to establish a robust legal framework that guarantees two fundamental aspects: first, the fully informed consent of indigenous communities, and second, their active participation in development initiatives that affect their ancestral territories and natural resources. This regional instrument is considered "soft law"—non-binding—but it sets universal standards for the protection of indigenous peoples' rights, including the rights to self-determination and to free, prior, and informed consent.

Additionally, indigenous peoples regard Free, Prior, and Informed Consultation (FPIC) as the right to make decisions about matters that affect them, including extractive activities on their lands and territories. In contrast, state authorities and private companies often view this mechanism as a tool for identifying how to prevent or resolve issues, such as environmental or social harm (Figuera & Ortiz, 2019). In other words, decision-making is seen as residing solely with legitimately constituted state institutions. This viewpoint reinforces the conception of the state as the only sovereign entity responsible for public policy and national development. As a result, there is ongoing disagreement over whether FPIC grants indigenous peoples the power to decide, or whether it merely serves to inform and listen to their concerns—while the government ultimately retains the final say.

### **1.3 International Protection of Collective Rights: Analysis of the Case Tagaeri and Taromenane v. Ecuador (2024)**

The ruling by the Inter-American Court of Human Rights (IACtHR) in the case *Indigenous Peoples Tagaeri and Taromenane v. Ecuador* (2024) constitutes a landmark precedent for the protection of the collective rights of indigenous peoples in voluntary isolation (PIAVs) in the Ecuadorian Amazon. In its decision, the Court emphasized that the guiding principle for the protection of these peoples is full respect for their decision not to be contacted, reaffirming that self-determination must be the core of all state policies. Furthermore, the Court ruled that territorial protection must be tailored to the specific dynamics of these peoples, taking into account their cultural particularities and cyclical mobility. It ordered the application of the precautionary principle, even in the absence of scientific certainty regarding the potential harm caused by extractive activities (Inter-American Court of Human Rights, 2024).

The Court acknowledged that the creation of the Tagaeri-Taromenane Intangible Zone (ZITT) and its buffer zone were positive steps toward protecting the collective property rights and self-determination of PIAVs. However, it also found the Ecuadorian State in violation for several reasons, including delays in the effective delimitation of the ZITT and the improper application of the precautionary principle during the approval and implementation of oil projects. The ruling emphasized that the State's responsibility is not limited to refraining from actions that may affect indigenous territories—it must also take active steps to prevent third parties, such as companies or illegal loggers, from violating these rights. The Court reiterated that collective ownership of indigenous peoples is intrinsically tied to their physical and cultural survival (IACtHR, 2024).

Additionally, the Court stressed that the protection of territorial rights is closely linked to other fundamental rights, such as the rights to health, food, housing, cultural identity, and a healthy environment. The violation of indigenous territories thus has a direct impact on these rights. The ruling also criticized the lack of effective judicial remedies in Ecuador for the protection of PIAV territorial rights. It demanded that the State establish well-defined legal mechanisms tailored to the unique characteristics of these peoples, who typically cannot participate directly in legal proceedings due to their isolated condition (IACtHR, 2024).

Specifically, the IACtHR ordered Ecuador to implement a series of structural reparations, including: the creation of technical commissions to assess the potential expansion of the ZITT, the implementation of environmental impact studies (EIS)

specifically designed for PIAVs, the adoption of new regulations to strengthen judicial protection mechanisms, and intercultural training for public officials. The Court emphasized that protecting these peoples is a permanent and dynamic obligation (IACtHR, 2024).

### 1.4 National Legal Framework

Ecuador is considered a favorable state for large-scale mining exploitation, which has led to weak enforcement of existing legislation at every phase of large-scale mining projects (Massa-Sánchez et al., 2018). Within this context, the right to Free, Prior, and Informed Consultation (FPIC) in Ecuador is a relatively recent development, first introduced with the 1998 Constitution. This document recognized the right of indigenous peoples and nationalities to be consulted, as established in Article 84, paragraph 5, which allowed them to be consulted on plans that could affect them environmentally or culturally and to either share in the benefits or be compensated for any resulting damage (Political Constitution of the Republic of Ecuador, 1998).

It is important to highlight that the 1998 Constitution was the first to formally recognize the collective rights of indigenous peoples and communities, including the right to a healthy environment. This recognition implied that Ecuador was becoming a plurinational, multicultural, and multiethnic state, which carried the obligation to promote the strengthening of ancestral identity and support educational, health, and other practices in accordance with the customs and traditions of these communities (Ruiz et al., 2024).

The 2008 Constitution of the Republic of Ecuador established a more robust legal framework for the protection of the collective rights of indigenous communities, peoples, and nationalities. Article 57 is particularly relevant, as it recognizes and guarantees a set of collective rights essential for their preservation and development. These rights include:

**Table 2**  
*Collective Rights of Indigenous Communities, Peoples, and Nationalities under Article 57 of the 2008 Constitution*

|                                                                                                                                                                                            |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| To maintain and develop their identity, sense of belonging, ancestral traditions, and forms of social organization.                                                                        |
| To retain possession of their ancestral lands and receive them free of charge.                                                                                                             |
| To participate in the use, usufruct, administration, and conservation of renewable natural resources located on their lands.                                                               |
| To be consulted before the adoption of legislative measures that may affect them—particularly those related to the exploration and exploitation of non-renewable resources on their lands. |
| To retain inalienable, unseizable, and indivisible ownership of their community lands.                                                                                                     |
| To have such lands exempt from fees and taxes.                                                                                                                                             |

*Note:* Adapted from the 2008 Constitution of the Republic of Ecuador.



## 1.5 Social Movements in Ecuador

In Ecuador, social movements advocating for nature have been closely tied to indigenous communities, who have assumed a leading role in the defense of their territories and natural resources. These mobilizations have emerged as a reaction to the increase in extractive activities—such as mining and oil operations—which threaten not only natural resources but also the traditional ways of life of indigenous communities. Since the 1990s, there have been numerous demonstrations that have significantly influenced national politics, including the recognition of the country as plurinational. A notable example is the Confederation of Indigenous Nationalities of Ecuador (CONAIE), which has led many of these struggles, facing both historical marginalization and threats stemming from extractive activities (Julian, 2024).

The Ecuadorian Indigenous Movement (MIE) emerged during a time of crisis characterized by the collapse of the “bureaucratic-oligarchic state” model and the rise of a neoliberal state in Ecuador. During this transitional period, indigenous sectors underwent profound transformations. The crisis and retreat of the oligarchic state had decisive implications for their social and political status. This process not only fueled the rise of the movement but also played a key role in the redefinition of indigenous identity in the new national context (Gámez, 2007).

Another significant actor is the Great Movement for the Defense of Nature (GMDN), a collective initiative that challenges dominant power structures by bringing together a wide array of social actors with common goals. The term “great” refers to its broad composition, which includes individuals, civil society organizations, and four key social movements: the indigenous, peasant, environmentalist, and animal rights movements (Morales Naranjo, 2023).

Among the key environmental organizations are Acción Ecológica and the Ecuadorian Coordinating Committee of Organizations for the Defense of Nature and the Environment (CEDENMA), founded in 1987 and 1988 respectively. These groups have sought to raise public awareness about the importance of environmental protection. Their eco-centric proposals have even influenced the Constituent Assembly that drafted the 2008 Constitution (Morales, 2018). An example of their impact is Ecuador’s declaration as a GMO-free country, a policy grounded in an institutional alliance led by EcoCiencia-REGAL. Their report analyzed the country's capacity to advance biodiversity conservation and sustainable

management, particularly through the proper implementation of the Convention on Biological Diversity (CEDA, 2004).

The indigenous movement has also been instrumental in the incorporation of concepts such as Sumak Kawsay (Buen Vivir or "Good Living") into Ecuador's constitutional framework. This concept presents an alternative to conventional development by proposing an economy that does not subordinate nature to markets but instead reverses that relationship. It emphasizes sufficiency over accumulation and excessive consumption (Cevallos, 2015). The concept of Sumak Kawsay first appeared in a 2003 publication by a local Amazonian organization that articulated it as part of their resistance to oil exploitation in their territory (Altmann, 2013).

Sumak Kawsay represents the ideal of an indigenous social project based on epistemic proposals rooted in Andean-Amazonian institutions and ways of life (Lalander & Cuestas, 2018). It is also an ancestral worldview still fundamental to contemporary indigenous communities. Sumak means the ideal, the beautiful, the good, the realization of life; and kawsay means life itself—referring to a life of dignity, in harmony and balance with the universe and human beings (Kowii, 2018).

## **1.6 Rights of Nature**

The Rights of Nature (RoN) promote a new understanding of the human–environment relationship, in which natural entities are conceived as subjects with intrinsic value, independent of human interests. The implementation of these rights began gaining momentum in the United States in 2006. Since then, 409 initiatives have been identified across 39 countries, with 65.3% of these initiatives already approved and 15.9% still in progress to date (Putzer et al., 2022).

In Whetten's taxonomy of the Rights of Nature, the main objective is to locate the RoN movement within existing legal systems. This framework includes various legal structures such as: Earth jurisprudence, habeas corpus for nature, harmony with nature, legal entity, legal personality, legal capacity, living entity, multiple rights, and subject of rights (Whetten, 1989).

In Ecuador, the 2008 Constitution marked the first time an ecological mandate was enshrined in a constitutional framework. The drafting debates held in Montecristi established obligations derived from the Rights of Nature, including biodiversity conservation, environmental impact assessments, land use planning, and more (Gudynas, 2011b). Through

this, nature was constitutionally recognized as a subject of rights, extending the concept of legal personhood to include non-human entities (Achury et al., 2019).

The Rights of Nature or Pachamama, as they are referred to in the Constitution are reflected in the following articles:

**Table 3**  
*Articles of the Rights of Nature in the 2008 Constitution*

|            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Article 71 | Nature, or Pachamama, where life is reproduced and realized, has the right to full respect for its existence and the maintenance and regeneration of its life cycles, structure, functions, and evolutionary processes                                                                                                                                                                                                                                                                                                                                                                              |
| Article 72 | <ul style="list-style-type: none"> <li>- Nature has the right to restoration. This right is independent of the obligation of the State and individuals (natural or legal) to compensate persons or communities that depend on the affected natural systems.</li> <li>- In cases of severe or permanent environmental impact—including those caused by the exploitation of non-renewable natural resources—the State shall implement the most effective mechanisms to achieve restoration and shall take appropriate measures to eliminate or mitigate harmful environmental consequences</li> </ul> |
| Article 73 | The State shall apply precautionary and restrictive measures for activities that may lead to species extinction, the destruction of ecosystems, or the permanent alteration of natural cycles. The introduction of organisms or organic and inorganic materials that may permanently alter the national genetic heritage is prohibited                                                                                                                                                                                                                                                              |
| Article 74 | Individuals, communities, peoples, and nationalities have the right to benefit from the environment and the natural wealth that enable them to live well (Buen Vivir).                                                                                                                                                                                                                                                                                                                                                                                                                              |

*Note:* Adapted from the Constitution of the Republic of Ecuador, 2008, p. 33

Additionally, Article 83 of the Constitution outlines the duties and responsibilities of Ecuadorian citizens. Paragraph 6 specifically relates to the Rights of Nature: it obliges citizens to respect the rights of nature, preserve a healthy environment, and use natural resources in a rational, sustainable, and responsible manner (Constitution of the Republic of Ecuador, 2008).

Similarly, Article 396 states that the State shall take preventive measures to avoid environmental contamination and, in cases of environmental harm, shall guarantee restoration. The State is required to adopt precautionary measures to prevent contamination, environmental damage, and threats to human health, and to sanction those responsible for such damage (Constitution of the Republic of Ecuador, 2008).

## 1.7 Mining Expansion

In practice, the socio-environmental impacts resulting from extractive activities often mean that indigenous populations receive insufficient legal protection against transnational companies (Radhuber & Radcliffe, 2023). Supported by the government, extractive companies have polluted indigenous territories while employing intimidation tactics against communities. Despite constitutional protections mandating prior consultation for extractive projects, effective systems to ensure respect for the consent of indigenous peoples are still

lacking(Moore, 2021). Moreover, indigenous women often face heightened vulnerability, including violence and sexual assault, with inadequate legal protections and a lack of trained public officials who follow appropriate response protocols (Lozano, 2020 as cited in Zahidi, 2022).

According to Bebbington (et al.,2008), the expansion of mining investment in Latin America has greatly influenced social mobilization among communities with significant indigenous populations. These groups have developed strong anti-mining sentiments due to concerns over environmental risks, organizing protests that directly challenge mining operations.

One illustrative case is Cotacachi in Ecuador, known for the Junín copper deposit discovered in the 1980s, later inspected by Japanese and Canadian companies. Cotacachi has been the epicenter of conflicts between communities and mining companies over the impacts on agricultural lands and the environment. These mobilizations have even extended to international environmental advocacy networks. While mining in Cajamarca (Peru) drastically transformed the regional economy, the Cotacachi project remains a proposal—highlighting differences in investment levels, social resistance, and territorial transformations (Bebbington et al., 2008).

Thus, even though the Constitution and international agreements clearly state that indigenous peoples have the right to their ancestral lands without needing to meet any special requirements, in practice, this is not the case (Galindo, 2020). In reality, bureaucratic procedures and paperwork are required to gain official recognition of ancestral ownership. Regarding the effectiveness of collective rights, there are notable gaps in both implementation and legal reasoning. One of the most prominent examples of these conflicts involves mining activities in indigenous communities in Ecuador.

It is important to understand that states granting mining concessions to transnational companies in indigenous territories often argue that such activities bring immediate economic benefits and foster development for both the country and local populations. However, indigenous peoples are acutely aware that mining does not resolve poverty. Instead, it causes misery, spreads disease, and forces them to abandon their lands and communities (Tuaza, 2020).

It is also worth noting that Ecuador and Bolivia have some of the most progressive constitutions in the world in terms of recognizing human rights and collective rights of indigenous peoples. Nevertheless, these constitutions have been widely criticized for their lack of implementation and enforcement (Casado, 2021). In many countries that are

signatories to ILO Convention 169—including Ecuador—the implementation of this international instrument is hindered by various factors, such as lack of political will and restrictive interpretations by government authorities, which severely limit its scope and effectiveness.

Although Ecuador has ratified ILO Convention 169, it has not yet incorporated this treaty as a legal basis for mining legislation reforms. A telling example is the 2018 Río Blanco case, where communities in Molleturo, Azuay Province, filed a complaint claiming they were not consulted before a mining project was authorized. The Provincial Court of Azuay ruled in favor of the community, ordering the suspension of the project and emphasizing the violation of the right to Free, Prior, and Informed Consultation (FPIC) (Castro & Vázquez, 2020).

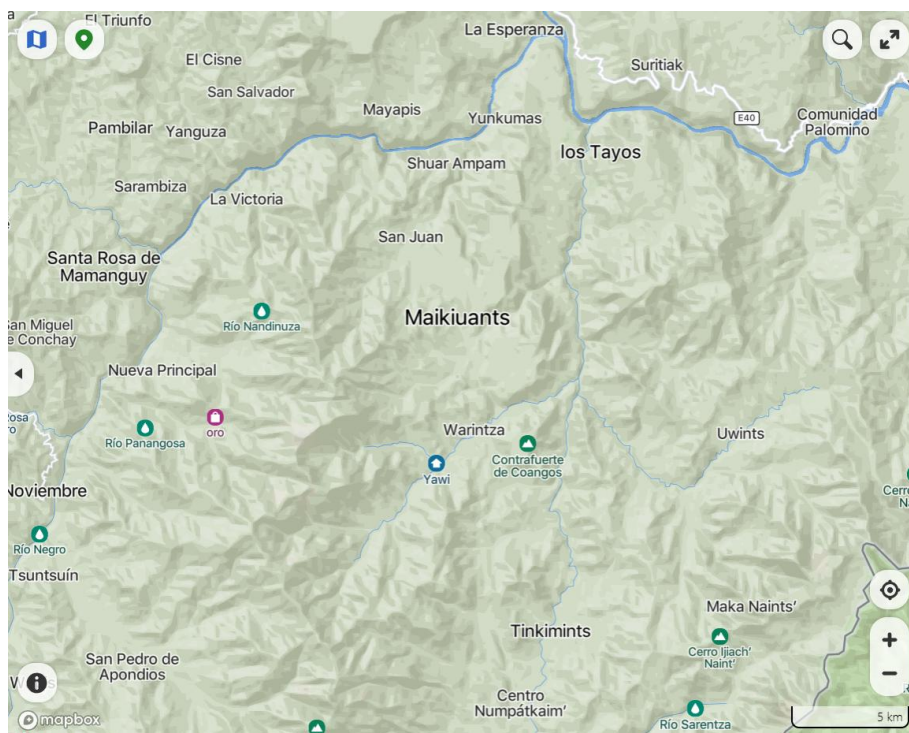
## CHAPTER 2

# IDENTIFICATION OF VIOLATIONS OF THE RIGHTS AND GUARANTEES OF THE MAIKIUANTS COMMUNITY IN THE CONTEXT OF THE MINING EXTRACTIVE PROJECT

### 2.1 Maikiuants Community

The Maikiuants community is located in the Limón Indanza canton, Morona Santiago province, in the Cordillera del Cóndor of the Amazon region. It is the headquarters of the Pueblo Shuar Arutam (PSHA), which has become the first indigenous self-government experience in Ecuador, based on its own Life Plan and comprising 50 communities. The Maikiuants community is estimated to include 47 families, most of whom still maintain the traditional Shuar lifestyle, characterized by gathering and hunting. Their food and health largely depend on subsistence farming (Mushuk Away, 2018).

**Figure 1**  
*Geographical location of on Mapcarta: Referential Cartographic Representation*



Adapted from MapCarta, 2025. <https://mapcarta.com/es/N249600036>

To further explore the cultural, organizational dynamics and challenges faced by the Maikiuants community, an interview was conducted with Edwin Javier Zárate Hugo, M.A.

in Environmental Management, who has worked directly with this community. Regarding organizational characteristics, the expert noted:

Traditionally, the Shuar people lived in family clans. With the arrival of religious missions and the evangelization process, several groups were reorganized into what are now known as Shuar center (Zárate, personal communication, 2025).

Within this structure, the PSHA holds a territory of approximately 233,169.73 hectares (International Certification of Indigenous Communities, 2024). Each family manages a productive unit called "aja shuar", which serves as a type of farm where over one hundred plant species are cultivated for construction, food, medicine, among other uses. Their lifestyle is also sustained by a direct relationship with the forest through fishing and hunting. The Shuar perceive themselves as part of the forest, with their existence intrinsically tied to it (Zárate, personal communication, 2025).

**Figure 2**

*Aja Shuar: Traditional Cultivation System*



Despite sociocultural changes resulting from migration to cities, the pursuit of formal education and employment, Maikiuants continues to strive to preserve its customs and traditions.

The expert mentions that “community members are aware of this relationship with their environment. Maikiuants has a clear intention to preserve traditional practices through

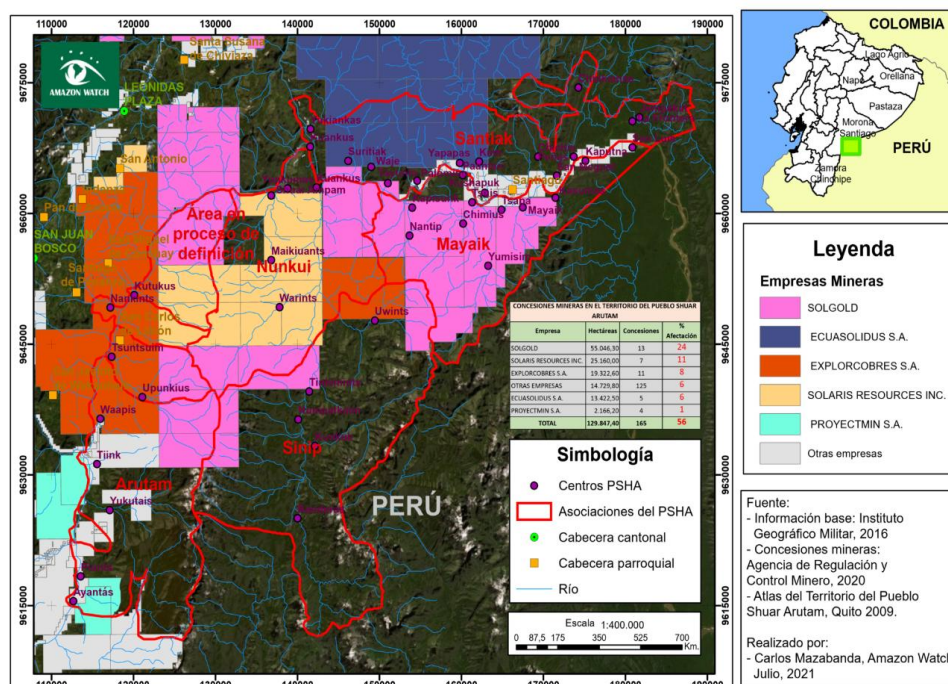


initiatives such as community tourism and agroforestry projects, which generate income without resorting to deforestation or mining” (Zárate, personal communication, 2025).

Thus, one of the main challenges for the Maikiuants community is maintaining their customs, particularly their bond with the forest, under the constant threat of mining activities in the area, specifically the "Warintza Mining Project" developed by the Canadian company Solaris Resources, supported by the Warintza and Yawi communities (Zárate, personal communication, 2025).

As previously mentioned, the extractive project of the mining company Solaris Resources is based in Maikiuants. The company owns 100% of the “Warintza” mining project, which aims to extract copper and molybdenum deposits and is currently in the advanced exploration stage. For over 20 years, the Maikiuants population has resisted the advancement of such projects and created an Indigenous Guard to defend their territory and their rights as the Shuar nationality (Tuqueres, 2022).

**Figure 3**  
*Mining concessions in the PSHA territory*



## 2.2 Warintza Mining Project

One of the mining companies involved in extraction in Morona Santiago province is Solaris Resources Inc., through its local subsidiary Lowell Mineral Exploration Ecuador S.A. Solaris Resources has submitted an Environmental Impact Assessment (EIA) to the



Ministry of Environment, Water and Ecological Transition of Ecuador for the construction of the Warintza Project, located in the southeast of the country. To date, Solaris has invested over USD 170 million in the project, with approximately 100% of purchases made through Ecuadorian supply chains, 55% of which are from local cantons (Rowlinson, 2024).

The EIA (a document of more than 3,000 pages) was prepared by ESSAM Cía. Ltda., an accredited Ecuadorian environmental consulting firm, with technical input from internationally recognized companies such as Knight Piésold Consulting and Ausenco. With the submission of this report, the company expects technical approval of the EIA in the first half of 2025. They also claim the project employs over 500 people, making it the main source of formal employment in the area (Rowlinson, 2024).

**Figure 4**  
*Exploratory drilling sites of Solaris Resources' project*



*Note:* Adapted from “A Canadian Mining Giant vs. the Guardians of the Amazon” by Willms, 2021.  
<https://www.culturalsurvival.org/es/news/un-gigante-minero-canadiense-contra-los-guardianes-de-la-amazonia>

Solaris Resources has managed to gain the support of a considerable sector of Pueblo Shuar Arutam residents due to the direct economic benefits offered to local families. Periodic cash transfers have been made to some members, creating economic dependency among certain groups. This dynamic has been justified by the company and some local actors, arguing that Warintza and its surrounding areas part of PSHA have historically been neglected by local, provincial, and national governments, leaving these communities in a state of abandonment and structural vulnerability (Cárdenas, 2022).

However, such support has not been without controversy. Various reports and human rights organizations have pointed out that this type of financial support may be considered a corporate strategy to obtain a so-called “social license” without genuinely meeting the standards of free, prior and informed consultation (FPIC). Moreover, it is noted that the creation of economic dependency dynamics fractures the community fabric and weakens PSHA’s organizational capacity, intensifying internal divisions and conflicts between communities that reject mining and those that view it as an opportunity for development (Amazon Watch, 2024; MiningWatch Canadá, 2023).

### **2.2.1 Fifth Supplementary Report: ILO 2024**

The fifth report issued by the ILO in 2024 analyzes complaints submitted by Indigenous organizations regarding the San Carlos–Panantza and Warintza mining projects, both located in the Morona Santiago province of Ecuador, within the territory of the Pueblo Shuar Arutam (PSHA). The report determined that the mining concessions were granted without complying with Free, Prior and Informed Consultation (FPIC), a right recognized under Articles 6, 7, and 15 of ILO Convention 169. Furthermore, it confirmed the exclusion of Indigenous communities from the formulation of public mining policies, as well as territorial dispossession and militarization in the communities of Maikiuants, Warintza, Yawi, and Tinkimints—events that have triggered serious social and environmental conflicts (ILO, 2024).

During the COVID-19 pandemic in 2020, mining activities continued without any sanitary protection measures for the communities, thereby deepening their vulnerability. This occurred because the mining projects in question encompass large areas intended for the exploration and extraction of copper: San Carlos–Panantza with 41,760 hectares, and Warintza with 26,777 hectares currently in the early exploration stage (ILO, 2024).

The ILO Committee’s report concludes that the Ecuadorian State has failed to fulfill its international obligations by not guaranteeing the collective rights of the PSHA. Although the resolution is not legally binding, it highlights the urgent need for structural reforms to comply with Convention 169 and to effectively protect the rights of Indigenous peoples. Thus, the report proceeds to issue key recommendations, such as the implementation of a regulatory framework that defines clear processes for FPIC, the suspension of mining activities in Indigenous territories until proper consultations are conducted, and the inclusion of communities in mining policymaking (ILO, 2024).

## 2.3 Violations of Rights against the Community

Members of the Shuar community of Maikiuants have repeatedly expressed their concern regarding the social and environmental impacts resulting from mining extraction. They argue that the Ecuadorian State has prioritized economic interests linked to strategic sectors, thereby neglecting its duty to ensure the effective application of ILO Convention 169, an international instrument that protects the collective rights of Indigenous peoples. Within this context, the community's main demand is the revocation of mining concessions granted in their ancestral territory (Pueblo Shuar Arutam, 2021).

In 2021, an incident occurred in which machinery intended for road construction toward the communities of Warintza and Yawi—areas under advanced exploration for large-scale open-pit mining in the Cordillera del Cóndor—was set on fire. This happened despite opposition from local residents, who have historically defended their ancestral lands. Following the incident, the PSHA Governing Council (the legitimate authority in the territory) requested the presence of a humanitarian verification mission to assess the situation on the ground, as Maikiuants claimed to have been falsely accused of setting the machinery on fire. They expressed concern that this may have been a staged act used as a pretext to justify subsequent militarization of the area (PSHA, 2021).

In response to these events, Maikiuants formally invited state authorities and human rights organizations to verify the situation and listen to direct complaints about the alleged rights violations. Among these complaints, cases of harassment and threats by representatives of the mining company were particularly highlighted (PSHA, 2021).

Maikiuants declared that until the existing territorial conflict is resolved, they will not allow any machinery to enter their territory. They oppose the deductions they have suffered under the Socio Bosque program, of which they are part. The primary reason is that for several years they have not received the corresponding resources from the program, denouncing that the construction of the Victoria–Warintza road resulted in a deduction of \$815,000 from the program's funds (PSHA, 2021). Currently, the road to Warintza and Yawi has been financed by the Lowell mining company, which, according to the community, lacks the necessary authority and environmental permits to carry out such works (PSHA, 2021).

After two decades of resistance to mining expansion, women from the Maikiuants community have taken an active role in territorial control, blocking the entry of machinery intended for mining activities. In this context, some community members working for the mining company attempted to force machinery into the area, sparking a new episode of

tension. Nancy Antún, leader of the Maikiuants women, recounted that during these events, they were intimidated, insulted with obscene language, and verbally threatened, including threats against their personal safety and that of their families. These situations have fueled internal conflicts between the sister communities of Warintza and Maikiuants, deepening social fragmentation as a direct result of mining presence in the area (PSHA, 2021).

Maikiuants has faced multiple violations of its collective rights and of the rights of nature, with infringements occurring both in legal terms and through the region's social and ecological dynamics. Domingo Wakan, trustee and community representative, emphasized the lack of application of the right to free, prior and informed consultation, describing the mechanism as an "institutional trap": "We were never consulted, ever... consultation is a trap" (personal communication, 2025).

The criticism not only addresses the absence of consultation but also its manipulated and formalistic nature, which, rather than guaranteeing self-determination, has been used as a tool for post hoc legitimization. The community has also received observations from international organizations. Wakan recalls: "Yes, there is an observation from the ILO stating to the State and the company that we were never consulted, ever... at the time when Josefina Tunqui was president of the Pueblo Shuar Arutam, she declared she was not consulted. The consultation is a trap because [...] they ask questions on our behalf and use terms we don't even understand" (personal communication, 2025).

From a legal perspective, David Fajardo, an attorney from the defense team, explains that the State interprets the results of consultation as non-binding, which empties the right of any real substance and reveals the institutional strategy to prioritize extractive interests over Indigenous rights. He notes: "Constitutional protection actions have become the most appropriate legal recourse to address violations of the Rights of Nature" (personal communication, 2025).

The impact of these violations is not only legal—it also affects the spiritual and cultural dimensions of the Shuar people. Domingo Wakan described how the contamination of the Warintza River profoundly affects the community: "The Warintza River is completely contaminated, 100% contaminated. People used to bathe in it, drink from it. Today, no one drinks it, no one bathes... if you go there, you get rashes, infections" (personal communication, 2025). For them, this pollution is not only environmental—it represents a spiritual rupture, as their worldview sees nature as a living and sacred subject. In Wakan's words: "Our energy, our strength is rooted in nature. [...] Our God resides in the waterfall" (personal communication, 2025).

Claudio Ankuash supports a complementary view, emphasizing the existential threat posed by the loss of the forest: “Territorial threat causes us to disconnect from this nature... if the Shuar loses the forest, the Shuar becomes extinct” (personal communication, 2025). This disconnection is not only physical but also cultural and spiritual. Claudio explains the ontological dimension of the forest: “For us, the forest is an ally... historically, the forest was made up of human beings [...] who, due to some disobedience, were transformed into a species” (personal communication, 2025).

The social impact of mining has also directly affected the local economy. Fanny Kaekat states: “Before, we used to sell to people in Warintza, but now, because we don’t support mining... they no longer want to buy from us, and we have to share our products only among ourselves” (personal communication, 2025).

The criticism of the extractivist model is also a rejection of economic reductionism. Numi, a member of Maikiuants and part of the paraecologist team, expresses this strongly: “They tell us that by extracting all the minerals, we’ll boost the economy [...] but if I destroy this, what do I have left?” (personal communication, 2025). Similarly, Pinchu (Claudio Ankuash) describes the extractive project as an attempt at cultural and physical genocide: “The Shuar without the forest means nothing” (personal communication, 2025).

Maikiuants claims that their struggle is motivated by the defense of life and their territory for future generations. They also allege that their natural resources are being looted, destroying the life of nature. Moreover, they have been accused of being influenced by foreign non-governmental organizations, under the assumption that the Indigenous Shuar people lack autonomy in their decision-making processes. As such, their rights are violated by the failure to respect their organizational structure as the Pueblo Shuar Arutam (PSHA, 2021).

Additionally, the community has been targeted with economic incentives, yet its members have stated that their resistance does not stem from a desire for monetary compensation, but from a commitment to ensure dignified and sustainable living conditions (PSHA, 2021).

## **CHAPTER 3**

# **ANALYSIS OF THE STRATEGIES IMPLEMENTED BY THE SHUAR COMMUNITY OF MAIKIUANTS TO SAFEGUARD RIGHTS IN LIGHT OF ILO RESOLUTION GB.350/INS/17/5 OF 2024**

### **3.1 Results**

This chapter presents an analysis of the results concerning the collective rights of Indigenous peoples and communities, focusing specifically on the Shuar community of Maikiuants. Through interviews with key stakeholders, the main strategies employed by the community to protect their territory and culture were identified and systematized. The study explores how these actions have been organized around external alliances, the use of legal defense mechanisms, and the pursuit of sustainable economic alternatives in response to the threats posed by the Warintza mining project. This resulted in three key approaches:

#### **3.1.1 Alliances with Strategic Actors for Territorial Defense: Universidad del Azuay and Ecoforensic Foundation – International Cooperation**

The formation of alliances between society and nature is evident in the active resistance of communities, particularly Indigenous peoples, who defend their territory as a space of life and spirituality based on ancestral worldviews. These alliances manifest not only at the local level but also internationally, as evidenced by foreign organizations' support for the PSHA cause.

One of the most significant findings concerns the role of inter-institutional alliances in the territorial defense process of the Pueblo Shuar Arutam, particularly in the community of Maikiuants. These alliances enhance local capabilities, develop resistance strategies, and position biodiversity as a central element in the spiritual, ecological, and legal defense of the territory. This reflects international cooperation—defined as a set of internationally oriented actions and tools aimed at mobilizing resources and exchanging experiences to achieve common goals based on solidarity, equity, effectiveness, sustainability, shared responsibility, and mutual interest (Castro, 2008).

A notable case is the involvement of the international NGO Ecoforensic, based in the UK and directed by Mika Peck. This organization combines environmental science and law to protect ecosystems and biodiversity. It currently leads the Ecoforensic project in



Maikiuants, aiming to strengthen the community's environmental defense through technical monitoring and documentation of the territory (Ecoforensic, 2024).

The alliance between Universidad del Azuay (UDA) and the Maikiuants community exemplifies cooperation based on reciprocity and mutual respect. This partnership has enabled faculty and students from various academic programs to work directly in the field, contributing their technical knowledge to bolster the community's environmental and legal defense. In return, Maikiuants has opened its territory, facilitating access and sharing ancestral knowledge and key information for academic research projects.

Through this partnership with the UDA and the Ecoforensic project, community members have been trained as paraecologists, responsible for environmental monitoring of their ancestral territory. Training, provided by the university, includes specialized biodiversity sampling techniques (such as aquatic ecosystems, amphibians, and reptiles), mammal studies using camera traps, water quality analysis, and drone operation. This enables Shuar paraecologists to participate actively in documenting and defending their land (Zárate, personal communication, 2025).

**Figure 5**

*Practical drone handling training for Maikiuants community paraecologists*



Claudio Ankuash, also known as "Pinchu," coordinates this team and states: "Science helps us show the world who we are and what it means to live in contact with nature"

(personal communication, 2025). He promotes a vision in which technical knowledge and ancestral wisdom complement and strengthen each other.

Former PSHA leader and community advisor Ángel Nantip Wanit summarizes: "We signed a document stating no illegal entry into the territory... If there is no consultation, you have no access" (personal communication, 2025). In Maikiuants, defense is not merely physical—it is legal, spiritual, educational, and symbolic.

This relationship has opened space for an even broader initiative: the creation of a Scientific-Cultural Center in Maikiuants—a place for students, researchers, professors, and Indigenous peoples to come together, learn, and resist collaboratively. Domingo Wakan adds: "We continue forging alliances... we believe this could be a strength in our defense" (personal communication, 2025).

Despite internal tensions with Warintza and Yawi communities and limited institutional support, Maikiuants' resistance is grounded in its beliefs, self-organization, and collective conviction. The signed agreements, inter-institutional partnerships, and concrete actions are not merely documents—they are tools of legitimacy and care; living maps of resistance, narratives still unfolding from the territory.

This is how the Ecoforensic project has impacted community life on three clear levels: it has strengthened cultural identity, developed technical capabilities in ecological monitoring, and opened paths for political articulation with the academic world. Beyond defense, this experience offers a vision of development based on respect, knowledge and reciprocity.

The findings allow us to affirm that the Ecoforensic project has generated positive impacts in the Shuar Maikiuants community on three levels:

- Cultural: strengthening identity and worldview.
- Technical: development of ecological monitoring skills.
- Political: collaboration with academic actors for territorial defense.

According to Magister Edwin Zárate: "The Cordillera del Condor is a biodiversity hotspot that deserves all these studies and, above all, protection, conservation, and respect for the customs, traditions, and ways of life of these communities that fundamentally depend on natural ecosystems" (personal communication, 2025). The core goal of the Ecoforensic and UDA project is to collect scientific data that supports the Maikiuants community in defending their land from the mining threat, which they firmly oppose. The university maintains an institutionally neutral stance—neither supporting nor opposing the conflict—although individual positions among participants may vary.



In Maikuanas, the struggle against extractivism is also an affirmation of life—a reminder to the world that there are other ways to inhabit the planet. The community clearly opposes extractive models and instead promotes their own development pathways, where ancestral knowledge and science converge to sustain life and territory.

### **3.1.2 Defense of Nature through Legal Mechanisms such as the Protection Action**

From a theoretical standpoint, the development model promoted by free trade agreements directly conflicts with Ecuador's legal framework, which recognizes nature as a subject of rights. According to current regulations and relevant literature, nature is not merely a resource but possesses the right to exist, regenerate, and maintain its vital cycles. This framework places intensive mining activities—which often result in deforestation, water pollution, and biodiversity loss—in direct contradiction with the legal and ethical principles Ecuador has adopted to protect its environment (Mining Watch Canadá, 2025).

This legal perspective is grounded in the premise that nature holds fundamental rights, such as the right to exist, persist, and regenerate. A key reference in this area is the Declaration of the Rights of Mother Earth in Bolivia (Legislative Assembly, 2010), which highlights the rights of nature as a means of countering rampant exploitation and promoting harmony between humanity and the natural world.

One of the most significant findings relates to Ecuador's constitutional recognition of nature as a subject of rights, established in Article 71 of the Constitution of the Republic of Ecuador (2008). Interviewee and environmental attorney David Fajardo Torres emphasized the radical and profound nature of this constitutional recognition. The 2008 Constitution introduced an ontological and epistemological shift by declaring “Pachamama”—an ancestral worldview encompassing spatial, temporal, symbolic, and ecological dimensions—a subject of rights (personal communication, 2025). This recognition implies not only the right to exist and regenerate life cycles but also to evolve and be restored ecologically.

From a normative perspective, this rupture with the liberal legal tradition—which granted rights solely to human beings—marks an unprecedented global advancement. It introduces an integrated, interdependent notion of ecological justice. As Fajardo states: “Nature is not limited to our planet; it depends on what lies beyond... Pachamama refers to the space and time in which everything happens.” However, there remains a deep inconsistency between the Constitution and the rest of Ecuador's legal framework (personal communication, 2025).

Fajardo argues that the Organic Environmental Code and other sectoral environmental regulations are not properly aligned with the constitutional paradigm that recognizes nature as a rights-bearing entity. This discrepancy manifests in practices like “environmental regularization,” which, rather than protecting nature, facilitates extractive activities through deficient environmental impact assessments, as observed in the Cónдор Mirador mining project.

Despite the constitutional recognition of the precautionary and prevention principles (Articles 73–396), the State fails to ensure their effective implementation. This constitutes a structural violation of the Rights of Nature, as highlighted by Ángel Nantip Wanit:

“Our elders taught us to live with nature; we remember and defend her with love. Now, the Ecuadorian State has enshrined the rights of nature in the Constitution, but it continues destroying—this makes no sense. That’s why we always raise this issue, but they turn a deaf ear” (personal communication, 2025).

One of the main contemporary challenges to the full implementation of nature’s and Indigenous peoples’ rights lies in ongoing negotiations of free trade agreements (FTAs)—notably the current agreement between Ecuador and Canada. Numerous social, environmental, and research organizations warn that such agreements could significantly impact human rights, collective rights, and nature’s rights—cornerstones of Ecuador’s state model (Acción Ecológica, 2024).

The legal defense strategy in Maikiuants is particularly noteworthy. Rather than focusing solely on Indigenous collective rights, the community has chosen to center its legal struggle on nature’s rights. Domingo Wakan explains: “We are always connected to nature, because nature protects us, and we protect her... everything we need is here: our market, our pharmacy, everything” (personal communication, 2025). To him and the community, defending nature is not just a legal obligation—it is an act of reciprocity and love for what they consider their spiritual home.

From a legal standpoint, David Fajardo explains that the legal strategy primarily relies on Articles 71, 72, 73, and 74 of Ecuador’s Constitution, which enshrine nature as a rights-bearing subject. He emphasizes that this approach seeks to transcend the limitations of prior consultation, stating: “Unfortunately, today the State and corporations interpret that, even if the consultation result is negative, they still have the final say” (personal communication, 2025). Hence, the community is pursuing protection actions, a constitutional remedy to safeguard violated rights, supported by evidence of endangered endemic species: “We’ve

found endemic species in danger of extinction... with this evidence, we file a legal claim under nature's rights” (Ancoash, personal communication, 2025).

An additional challenge arises from Maikiuants’ status as part of the Pueblo Shuar Arutam (PSHA). According to Fajardo, although the Constitution recognizes prior consultation as a fundamental right, the PSHA’s internal statutes mandate that any consultation must involve the entire collective—not just a single community. This creates a legal dilemma:

“It would be incoherent, and even counterproductive, to file a lawsuit solely with Maikiuants, without the full endorsement of the PSHA,” especially since the current PSHA leadership is aligned with the mining company (Fajardo, personal communication, 2025).

Domingo Wakan also notes that the community has not undertaken this effort alone; they’ve worked alongside Ecoforensic and Universidad del Azuay to gather scientific evidence supporting their legal claims. This includes biodiversity studies, environmental monitoring, and paraecologist training. Domingo explains: “We want authorities and judges to see that it’s not just people here—there’s life, there’s forest that must be protected” (personal communication, 2025).

This strategy is also grounded in the Shuar worldview, in which waterfalls, mountains, and forests are considered sacred temples. As Domingo puts it: “Our gods are not in churches—they’re in the waterfall, in the mountain. That’s why we respect nature—she gives us everything” (personal communication, 2025).

Fajardo concludes by noting that the legal process is still under construction: “These are very complex cases that require equally strong evidence to withstand challenges in court” (personal communication, 2025). The community and its allies draw inspiration from precedents such as the Los Cedros Protected Forest case, where a mining concession was overturned due to a robust defense based on nature’s rights.

### **3.1.3 Economic Alternatives to Extractivism: Local Tourism and Sustainable Production**

From a political perspective, the testimonies gathered show how the Shuar community of Maikiuants has developed autonomous forms of resistance against the extractivist model. This political stance is expressed through a direct critique of both the State’s actions and the co-optation of community leaders by mining interests. In response to the constitutional guarantee of free, prior, and informed consultation, and the community’s right to reject extractive processes even without being formally consulted, Maikiuants has initiated internal

organizational processes aimed at territorial defense. These include the establishment of internal deliberative spaces such as community assemblies, where collective resistance strategies are crafted:

“We, as Maikiuants, are going to try to defend our territory... we began with an assembly to propose defense strategies” (Wakan, personal communication, 2025).

Gudynas (2011a) argues that in biodiverse territories, development cannot be based on the plundering of natural resources. Instead, it is necessary to promote models that incorporate community-based tourism, local production, and ethical biotrade. In this context, Maikiuants has developed concrete alternatives that blend traditional knowledge with contemporary tools. The Ecoforensic project coordinated by Edwin Zárate, Mika Peck, Claudio Ancoash, community members, and professionals from Universidad del Azuay, is an endogenous proposal for biodiversity monitoring and the consolidation of academic support networks.

The project's vision includes creating scientific and cultural infrastructure in Shuar territory, combining community laboratories with experiential tourism as sustainable forms of local development. One of the community's main economic alternatives to mining has been community-based and experiential tourism.

The goal is to offer visitors an authentic experience: to closely engage with Shuar culture, traditions, and the surrounding natural environment. Numi—a tour guide and musician—explains this vision with conviction: “Tourism will never end; it will continue indefinitely. Over time, my children or my nephews can get involved and value it... tourism won't end, but mining will one day” (personal communication, 2025).

For him, this type of development represents the truly sustainable alternative: it doesn't destroy the forest and provides ongoing opportunities for the community. In this way, the community seeks to align conservation of their territory with an economic model that respects their identity and safeguards their environment.

Another growing activity is community pottery, mainly led by the women of Maikiuants. Viviana Antún, who actively participates in these groups, proudly shares that this craft is not only a source of income but also a way to keep cultural memory alive:

“Pottery is communal, it's for everyone, and it's very important because many things are learned there... we remember our culture—our ancestors made clay plates, pots to preserve chicha... it's very natural, very important” (personal communication, 2025). Through this practice, Maikiuants' women offer their handicrafts to visitors while

strengthening their connection to their roots, passing their history from one generation to the next.

Agricultural production remains another essential pillar for the community. Fanny Kaekat explains that despite economic difficulties and the pressure from mining, they have decided to remain steadfast in producing clean, locally grown food:

“We have to sacrifice here in order to have something—because with our healthy lands, we eat the products we grow every day without contamination” (personal communication, 2025).

The community cultivates traditional crops like plantains, yuca, chonta palm, and hearts of palm, and raises chickens and ducks for daily sustenance. These practices not only ensure food security but also represent a quiet yet determined form of resistance: continuing to depend on the land rather than on mining compensation, in order to live with dignity.

Looking toward the future, Claudio Ancoash mentions that the idea is to expand opportunities through a model of scientific and ecological tourism. This project aims to attract researchers and students interested in studying the area's biodiversity. It will not only generate income but also establish Maikiuants as a model for conservation and community science. Claudio explains that these initiatives are possible thanks to partnerships with universities and NGOs that have recognized the community's potential to become a key hub for scientific tourism and the preservation of local knowledge.

These alternatives demonstrate that Maikiuants has built a life proposal that stands as an alternative to extractivism—one based on respect for nature and the preservation of its culture. As Numi reflects:

“Many say mining contributes more than tourism, but no, that's not true... the next generation is going to thrive with tourism, showing everything that exists in the forest” (personal communication, 2025). This vision shows that beyond resisting, the community is committed to transforming its future from a foundation of life rather than destruction.

## CONCLUSIONS

This research provided a comprehensive analysis of the resistance of the Shuar community of Maikiuants to the Warintza Mining Project, focusing on three fundamental pillars: strategic alliances with external actors, the implementation of legal mechanisms to protect nature's rights, and the development of sustainable economic alternatives.

The study found that the community has suffered multiple rights violations, particularly the omission and manipulation of the right to free, prior, and informed consultation, as guaranteed by Ecuador's 2008 Constitution and various international treaties. It also confirmed that the impacts are not only environmental but deeply affect the spiritual, cultural, and social dimensions of life in Maikiuants. Pollution of the Warintza River, threats of territorial dispossession, and social fragmentation are tangible examples of this issue, reinforcing the community's belief in defending its territory from a rights of nature perspective, not just through collective Indigenous rights.

A key finding was the organizational capacity and resilience of Maikiuants. Alliances with Universidad del Azuay and Ecoforensic Foundation have strengthened the community's scientific autonomy through the training of community paraecologists and the generation of technical evidence for legal defense. Furthermore, their commitment to community tourism, traditional pottery, and agricultural production proves that real and sustainable alternatives to extractivism exist, reaffirming the community's dedication to a development model that honors both nature and Shuar culture.

This case not only enhances understanding of a specific territorial resistance effort but also serves as a tool to foster new alliances, strengthen institutional support, and raise the visibility of Maikiuants' struggle across academic, social, and political platforms. Documenting this experience provides a foundation for future research and action aimed at ensuring effective respect for Indigenous and environmental rights, helping to prevent such conflicts from recurring or becoming entrenched over time.

Finally, it is emphasized that the situation of Maikiuants is representative of the wider tensions between development models based on the exploitation of natural resources and alternative proposals emerging from the original communities. The relevance of this case lies in its ability to inspire territorial defense processes and in the need to continue strengthening spaces for dialogue and cooperation that will make these territories and their inhabitants visible and protected.

## RECOMMENDATIONS

Based on the findings and the analysis developed in this research, the following recommendations are proposed to strengthen the defense of collective rights and the rights of nature in the community of Maikiuants and other communities in similar situations.

Firstly, it is essential that the Ecuadorian State extend the effective application of international protection standards beyond the formal cases of Indigenous Peoples in Voluntary Isolation (PIAV) to include communities like Maikiuants. Although they are not in complete isolation, they face conditions of high vulnerability and a direct dependence on their territory. The full guarantee of collective rights and the rights of nature must be a comprehensive State commitment, not limited to extreme situations, given that these communities also maintain a vital and spiritual connection with their ecosystems.

In this regard, it is advisable to review and strengthen subconstitutional legislation, which currently does not meet the levels of development and specificity required by the Ecuadorian Constitution. As noted by attorney David Fajardo, the lack of adequate regulations adapted to the country's ecological reality weakens the guarantees of nature's rights and exposes communities to highly vulnerable scenarios.

It is necessary to move towards a legal and political model that adopts an ecosystem-based approach, adjusting productive and social dynamics to the specific characteristics of the ecosystems in which these communities are embedded. This implies recognizing the inescapable interdependence between human beings and their environment, as is evident in regions such as Morona Santiago, where life itself depends on the preservation of natural resources.

Likewise, it is a priority that any extractive project, whether public or private, respects and fully enforces the precautionary principle established in the Constitution. This means that even in the absence of absolute scientific certainty regarding potential negative impacts, the State must act with the utmost caution and refrain from authorizing activities that may endanger the integrity of ecosystems and community ways of life. Prevention must take precedence over extractive interests in order to ensure sustainability and environmental justice.

Furthermore, it is recommended to strengthen territorial control and monitoring mechanisms. The creation or reinforcement of community-based environmental oversight bodies, in coordination with State entities, is fundamental to prevent the unauthorized entry of mining companies or other actors that may threaten the ecological and social stability of

the territory. These mechanisms must be accompanied by clear action protocols that allow for a swift and effective response to possible violations.

Similarly, the implementation of free, prior, and informed consultation processes must be carried out with full respect for the community's worldview, internal structures, and traditional practices. These processes must not be reduced to a mere formal procedure; rather, they should constitute genuine spaces for deliberation, in which the community can properly understand and assess the potential impacts of any proposed project.



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## APPENDICES

### *Appendix 1*

*Interviews conducted with the Maikiuants community and professionals*

| Participant              | Role                                                                  | Profile                | Central Theme                                            | Key Quote or Summary                                                                                                     | Main Conclusion                                                                                                                       |
|--------------------------|-----------------------------------------------------------------------|------------------------|----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|
| Ángel Nantip Wanit       | Former community leader.                                              | Community secretary.   | Cultural relationship and resistance to mining.          | “We know that our market is nature, our production is in nature, it is a balance of life for us.”                        | The community maintains an ancestral and harmonious relationship with nature, which underpins its resistance to extractive activities |
| Domingo Wakan Antun      | Community syndic.                                                     | Community leader.      | Territorial defense and Indigenous governance structure. | “Our energy and strength are rooted in nature. The sacred waterfalls are our temples, that is where our gods reside.”    | Territorial protection is viewed as a sacred and communal mandate, reinforcing Indigenous autonomy against external actors.           |
| Claudio Ankuash (Pinchu) | Coordinator of paraecologists and environmental leader.               | Community member.      | Cosmovision and spiritual bond with the forest.          | “For us, the forest is an ally; it is sacred because all the powers for war, our ancestors obtained from sacred plants.” | Spirituality and ancestral knowledge support territorial defense and reinforce Shuar identity.                                        |
| Numi                     | Tour guide, musician, artisan, and paraecologist.                     | Community member.      | Experiential tourism and spiritual connection            | “The jungle is our home; the water is our life; it is therapy to release bad energy.”                                    | Community-based tourism is a conservation strategy and a sustainable alternative for the local economy.                               |
| Viviana Antún            | Member of the women's organization and community potter.              | Community member.      | Territorial conservation and cultural transmission.      | “Not even with bundles of money have we accepted mining, because we preserve this territory for our children.”           | Territorial defense is linked to cultural preservation and the well-being of future generations.                                      |
| Fanny Kaekat             | Community leader and farmer.                                          | Community activist.    | Agricultural practices and spirituality.                 | “We coordinate activities according to our dreams... we ask permission from nature before harvesting.”                   | Shuar cosmovision fuses spirituality with agricultural practices, seeking continuous balance with nature.                             |
| Edwin Javier Zárate Hugo | Biologist, MSc in Environmental Management, professor and researcher. | Professional (Biology) | Technical support and environmental monitoring.          | “We train paraecologists to collect scientific data and strengthen territorial defense.”                                 | Science complements community strategies by providing technical tools to support legal and environmental defense.                     |
| David Fajardo Torres     | Lawyer, ecologist, political scientist, defender of nature's rights.  | Professional (Law)     | Litigation and legal defense.                            | “Our constitution is incredible in terms of nature's rights, but the struggle is asymmetrical against mining companies.” | Despite Ecuador's advanced legal framework, there are deep gaps between law and practice in protecting Indigenous peoples and nature. |



Universidad of Azuay

PROJECT PRIOR TO OBTAINING A BACHELOR'S DEGREE IN INTERNATIONAL  
STUDIES

**COLLECTIVE RIGHTS OF INDIGENOUS PEOPLES AND COMMUNITIES:  
SHUAR COMMUNITY OF MAIKIUANTS**

### **INFORMED CONSENT**

#### **Research Objective:**

The aim of my thesis is to analyze the violation of the rights and guarantees of ILO Convention 169 in the Shuar community of Maikiuants within the context of the “Warintza” mining project.

#### **Objetivo de la Entrevista:**

To collect data that allows understanding the historical, socioeconomic, and political context of natural resource exploitation in the province of Morona Santiago, Limón Indanza, in the Shuar Arutam territory, particularly in the Maikiuants community; as well as the territorial risks faced by its inhabitants and nature, and the formation of indigenous social movements and their strategies for territorial defense against mining in the region.

#### **Commitment**

All information obtained during the interview will be used exclusively for research purposes.

#### **Clause**

The interview will be recorded but will remain confidential and for academic use only

#### **Interview Acceptance:**

I, \_\_\_\_\_ as a member of the Maikiuants community, voluntarily agree to participate in the research titled: **“COLLECTIVE RIGHTS OF INDIGENOUS PEOPLES AND COMMUNITIES: SHUAR COMMUNITY OF MAIKIUANTS”**. I have been informed of the purpose of the research and the objective of the interview. I have

been told that the interview will consist of answering questions, will be recorded, and will last approximately 5 to 10 minutes.

Signature: .....

ID number: .....

I, \_\_\_\_\_ as an authority of the Maikiuants community, voluntarily agree to participate in the research titled: **“COLLECTIVE RIGHTS OF INDIGENOUS PEOPLES AND COMMUNITIES: SHUAR COMMUNITY OF MAIKIUANTS”**. I have been informed of the purpose of the research and the objective of the interview. I have been told that the interview will consist of answering questions, will be recorded, and will last approximately 5 to 10 minutes

Signature: .....

ID number: .....

### Appendix 3

Informed consent signed by Ángel Nantip

**Cláusula**

La entrevista será grabada, sin embargo, se quedará en confidencialidad para fines académicos.

**Aceptación de la Entrevista:**

Yo, \_\_\_\_\_ como miembro de la comunidad de Maikiuants acepto participar voluntariamente en la Investigación denominada **"DERECHOS COLECTIVOS DE LOS PUEBLOS Y COMUNIDADES INDÍGENAS: COMUNIDAD SHUAR DE MAIKIUANTS"**. He sido informado/a del propósito de la investigación y fines de la entrevista. Se me ha indicado que la entrevista consistirá en responder preguntas, que las mismas serán grabada y que tomará aproximadamente de 5 a 10 minutos.

**Firma:** .....

**Cédula:** .....

Yo, Ángel Nantip como autoridad de la comunidad de Maikiuants acepto participar voluntariamente en la Investigación denominada **"DERECHOS COLECTIVOS DE LOS PUEBLOS Y COMUNIDADES INDÍGENAS: COMUNIDAD SHUAR DE MAIKIUANTS"**. He sido informado/a del propósito de la investigación y fines de la entrevista. Se me ha indicado que la entrevista consistirá en responder preguntas, que las mismas serán grabada y que tomará aproximadamente de 5 a 10 minutos.

**Firma:** Ángel Nantip .....

**Cédula:** .....

#### Appendix 4

Informed consent signed by Wakan Antun

**Cláusula**

La entrevista será grabada, sin embargo, se quedará en confidencialidad para fines académicos.

**Aceptación de la Entrevista:**

Yo, \_\_\_\_\_ como miembro de la comunidad de Maikiuants acepto participar voluntariamente en la Investigación denominada **"DERECHOS COLECTIVOS DE LOS PUEBLOS Y COMUNIDADES INDÍGENAS: COMUNIDAD SHUAR DE MAIKIUANTS"**. He sido informado/a del propósito de la investigación y fines de la entrevista. Se me ha indicado que la entrevista consistirá en responder preguntas, que las mismas serán grabada y que tomará aproximadamente de 5 a 10 minutos.

**Firma:** .....

**Cédula:** .....

Yo, Wakan Antun como autoridad de la comunidad de Maikiuants acepto participar voluntariamente en la Investigación denominada **"DERECHOS COLECTIVOS DE LOS PUEBLOS Y COMUNIDADES INDÍGENAS: COMUNIDAD SHUAR DE MAIKIUANTS"**. He sido informado/a del propósito de la investigación y fines de la entrevista. Se me ha indicado que la entrevista consistirá en responder preguntas, que las mismas serán grabada y que tomará aproximadamente de 5 a 10 minutos.

**Firma:** [Firma]

**Cédula:** 140041225-8

**Appendix 5**

*Informed consent signed by Pinchu Ankuash*

**Cláusula**

La entrevista será grabada, sin embargo, se quedará en confidencialidad para fines académicos.

**Aceptación de la Entrevista:**

Yo, \_\_\_\_\_ como miembro de la comunidad de Maikiuants acepto participar voluntariamente en la Investigación denominada **"DERECHOS COLECTIVOS DE LOS PUEBLOS Y COMUNIDADES INDÍGENAS: COMUNIDAD SHUAR DE MAIKIUANTS"**. He sido informado/a del propósito de la investigación y fines de la entrevista. Se me ha indicado que la entrevista consistirá en responder preguntas, que las mismas serán grabada y que tomará aproximadamente de 5 a 10 minutos.

Firma: .....

Cédula: .....

Yo, Pinchu Ankuash como autoridad de la comunidad de Maikiuants acepto participar voluntariamente en la Investigación denominada **"DERECHOS COLECTIVOS DE LOS PUEBLOS Y COMUNIDADES INDÍGENAS: COMUNIDAD SHUAR DE MAIKIUANTS"**. He sido informado/a del propósito de la investigación y fines de la entrevista. Se me ha indicado que la entrevista consistirá en responder preguntas, que las mismas serán grabada y que tomará aproximadamente de 5 a 10 minutos.

Firma: [Firma]

Cédula: 100602148



**Appendix 6**

*Informed consent signed by Numi Antun*

**Cláusula**

La entrevista será grabada, sin embargo, se quedará en confidencialidad para fines académicos.

**Aceptación de la Entrevista:**

Yo, Numi Antun como miembro de la comunidad de Maikiuants acepto participar voluntariamente en la Investigación denominada **"DERECHOS COLECTIVOS DE LOS PUEBLOS Y COMUNIDADES INDÍGENAS: COMUNIDAD SHUAR DE MAIKIUANTS"**. He sido informado/a del propósito de la investigación y fines de la entrevista. Se me ha indicado que la entrevista consistirá en responder preguntas, que las mismas serán grabada y que tomará aproximadamente de 5 a 10 minutos.

Firma: [Firma]

Cédula: 14.01.07.01.54

Yo, \_\_\_\_\_ como autoridad de la comunidad de Maikiuants acepto participar voluntariamente en la Investigación denominada **"DERECHOS COLECTIVOS DE LOS PUEBLOS Y COMUNIDADES INDÍGENAS: COMUNIDAD SHUAR DE MAIKIUANTS"**. He sido informado/a del propósito de la investigación y fines de la entrevista. Se me ha indicado que la entrevista consistirá en responder preguntas, que las mismas serán grabada y que tomará aproximadamente de 5 a 10 minutos.

Firma: \_\_\_\_\_

Cédula: \_\_\_\_\_



## Appendix 7

Informed consent signed by Viviana Antun

### Cláusula

La entrevista será grabada, sin embargo, se quedará en confidencialidad para fines académicos.

Aceptación de la Entrevista:

Yo, Viviana Antun como miembro de la comunidad de Maikiuants acepto participar voluntariamente en la Investigación denominada **"DERECHOS COLECTIVOS DE LOS PUEBLOS Y COMUNIDADES INDÍGENAS: COMUNIDAD SHUAR DE MAIKIUANTS"**. He sido informado/a del propósito de la investigación y fines de la entrevista. Se me ha indicado que la entrevista consistirá en responder preguntas, que las mismas serán grabada y que tomará aproximadamente de 5 a 10 minutos.

Firma: VIVIANA A.

Cédula: 1401198716

Yo, \_\_\_\_\_ como autoridad de la comunidad de Maikiuants acepto participar voluntariamente en la Investigación denominada **"DERECHOS COLECTIVOS DE LOS PUEBLOS Y COMUNIDADES INDÍGENAS: COMUNIDAD SHUAR DE MAIKIUANTS"**. He sido informado/a del propósito de la investigación y fines de la entrevista. Se me ha indicado que la entrevista consistirá en responder preguntas, que las mismas serán grabada y que tomará aproximadamente de 5 a 10 minutos.

Firma: \_\_\_\_\_

Cédula: \_\_\_\_\_

## Appendix 8

Informed consent signed by Fanny Kaekat

### Cláusula

La entrevista será grabada, sin embargo, se quedará en confidencialidad para fines académicos.

### Aceptación de la Entrevista:

Yo, Fanny Kaekat como miembro de la comunidad de Maikiuants acepto participar voluntariamente en la Investigación denominada **"DERECHOS COLECTIVOS DE LOS PUEBLOS Y COMUNIDADES INDÍGENAS: COMUNIDAD SHUAR DE MAIKIUANTS"**. He sido informado/a del propósito de la investigación y fines de la entrevista. Se me ha indicado que la entrevista consistirá en responder preguntas, que las mismas serán grabada y que tomará aproximadamente de 5 a 10 minutos.

Firma: [Firma]

Cédula: 1900356468

Yo, \_\_\_\_\_ como autoridad de la comunidad de Maikiuants acepto participar voluntariamente en la Investigación denominada **"DERECHOS COLECTIVOS DE LOS PUEBLOS Y COMUNIDADES INDÍGENAS: COMUNIDAD SHUAR DE MAIKIUANTS"**. He sido informado/a del propósito de la investigación y fines de la entrevista. Se me ha indicado que la entrevista consistirá en responder preguntas, que las mismas serán grabada y que tomará aproximadamente de 5 a 10 minutos.

Firma: \_\_\_\_\_

Cédula: \_\_\_\_\_

## **Appendix 9**

### **INTERVIEW 1: Angel Nantip Wanit**

**I would like to understand how your relationship with nature works, considering it comes from many generations back. Do you still maintain that same worldview today?**

Yes, well, regarding your question, I must first tell you that we are oralists, not writers. We never devoted ourselves to writing stories, but we transmit all our knowledge orally. Our elders always shared their stories and teachings with us, and to this day, we still hold them in our memory. So, our behavior towards nature is based on care and respect because it is a part of our life. That is why we understand that our "market" is nature, our production comes from nature — it's all interconnected. For us, it is a life balance, it is part of our Shuar culture.

**You have a principle called Tarimán Pujustin. You don't use the term buen vivir (good living). Why is that?**

The term buen vivir is a Spanish-influenced concept. It's not the same as what is stated in the Constitution. Instead, we use a nearly opposite term: vivir bien (living well). Why? Because buen vivir, according to the Constitution, refers to a life based on wealth — if you have all the necessary tools and resources, that's considered a good life. But for us, vivir bien means something different: living in harmony, living well with people and with nature. That is our approach to life — vivir bien.

**Has your territory changed compared to how it was when you were younger?**

Yes, naturally, just as in many other communities, nature changes over time. It's no longer the same as before. I came to live here when I was very young, and back then this whole area was natural forest.

**Do you believe those changes have been positive or negative?**

They have definitely been negative. We have not been following our traditional culture or way of life. We've adopted Western ways — for instance, agriculture and livestock farming are very different from our own reality. So, we started cutting down trees to plant grass for cattle.

**Could you tell me a bit about Pesha? How did it come to be called Pesha? Is it still a strong community, or do you feel that Maikuanis is trying to assert its rights independently?**

About 22 years ago, the Pueblo Shuar Arutam's organization was formed. But it didn't start with that name; it began under the name CTI. Why CTI? Because the Constitution stated that Indigenous Territorial Districts (Circunscripciones Territoriales Indígenas) needed to be established. Based on that constitutional right to self-governance and self-determination, we began creating our structure. Over time, the name changed from CTI to CTSHA, then CGSHA, and finally we settled on the official name Pueblo Shuar Arutam (PASHA). That is how we registered with CODENPE — the Council for the Development of the Nationalities and Peoples of Ecuador — which functioned like a ministry back then. We registered with that name and still use it today. The objective of forming the Pueblo Shuar Arutam was to govern ourselves, to plan our own future, to define our way of life, and to manage all the resources within our territory. We created it to defend our land because it represents life for us and future generations.

**At what point did mining concessions start encroaching on your territory? Were there any signs or events prior to those 22 years you mentioned?**

Yes, before the year 2000 — before those 22 years — there was no awareness of mining concessions. However, after the war in 1995, many geologists, researchers, and NGOs entered the region. That's when the idea of mining concessions first became known. People asked us during the war, "What do you think about mining?" and there was confusion, because the word "mines" was associated with war — explosives planted by the military — not mineral extraction.

So, when we learned in the 2000s that they were talking about mining concessions, we realized that during the war, they had secretly conducted satellite studies. By the time we became aware, our territory had already been granted in concessions. This was an imposition. According to the Constitution, Indigenous peoples and nationalities have the right to prior consultation before any concession, legislation, or project in our territory. But that never happened — it was imposed. That's why we always say these projects are government-driven and forced upon us without respecting legal processes.

**Could you tell me the history before Solaris Resources arrived?**

Yes, it's a long history. Initially, the mining company EMSA came. Then they changed names — but it was always the same group. After EMSA came Billington, then Equacorrientes, then EXA. Historically, the first foreign miners who entered came under the name Río Amarillo, which later became EMSA. I investigated why they kept changing names. I found out it was a mining strategy: every two years, they would change the company name to avoid responsibility towards employees. It would appear to be a new company, but it was the same operation.

Currently, the studies in Warintza were done by Lowell, but Lowell sold shares — they deny it, but we know they did — to Solaris. Now Solaris is the main shareholder and wants to sell to a Chinese company, EXA. So, EXA will be the one exploiting the mine. They offer "reparations" or economic incentives, but I told them, "If money is all that matters to you, go ahead and eat your money." My people are not worth paper bills.

A human life is priceless. I have a long history of resistance. When I was president of the Pueblo Shuar Arutam, we expelled the company, there was little persecution because I preemptively submitted documents holding the authorities accountable. So, when the army came, they respected that and removed the miners peacefully. I continue to support the

movement today, advising Domingo so he doesn't end up persecuted or jailed. I assert my rights with all authorities. If Noboa becomes president, we already have an agenda to speak with him and express our position. Many governments talk about poverty, but I ask them: how much have you actually invested in the poor? We survive thanks to our land and production. If we had depended on money, we wouldn't exist. Nature is our ally and sustains our lives.

**Was there ever a time when the area was militarized to support you or the mining companies?**

Yes, they tried to set up a military camp in Warintza. During the administration of Raúl Pechen, I was working externally on projects and funding. There was an attempt to build a military outpost there. I went to the Ministry of National Security, presented our collective rights and ILO Convention 169, and the minister said, "You're right; we can't proceed without your consent." We stopped it because we are a living border. If there's a problem, we'll call on the military — but without any issue, they have no right to enter.

Currently, there are ongoing attempts to militarize. We once detained soldiers for six hours; the colonel was surprised. He said, "How can you detain my well-trained army?" Domingo responded, "They may be experts there, but not here. If you want, I'll train them myself," which made the colonel laugh. We stay alert. There's constant military and police presence, and we record and monitor everything.

**Have you received support from NGOs or professionals? What kind of help?**

We haven't received direct financial support. During the terms of Palomino and Josefina Tunqui, we got some strategic support: ceramic production, tourism initiatives, and the creation of paraecology as a defense strategy. With the current president, we have no collaboration — he's against us.

**So today, you provide support and consultancy to the current leadership?**

Yes, I assist those in leadership roles with my experience.

Regarding tourism and ecology, do you have future plans or strategies to continue the resistance?

Yes, we believe alliances will strengthen us. Paraecology is a way to study biodiversity — insects, fish, everything. We see this as a powerful tool for defense. We are also seeking more allies to continue working together.

**Why do you focus on the rights of nature rather than Indigenous peoples' rights?**

As a culture, we have always lived in forested areas. It's not because someone tells us to conserve it — it's because our elders taught us to love and live with nature. Now, although the Ecuadorian State has included the rights of nature in its Constitution, it continues to destroy it. That contradiction is what we question, though they often turn a deaf ear.

## **Appendix 10**

### **INTERVIEW 2: Domingo Wakan Antun**

Well, my name is Domingo Wakan Antun. I currently hold the position of syndic (community trustee) in the community of Maikiuants, and I also serve as president of an association representing several communities. In addition to being a syndic, I am also president of the Pueblo Shuar Arutam's Association.

#### **In your role as syndic, what does that entail? What responsibilities do you carry out in this position?**

As syndic, I represent the Maikiuants community, which is composed of individuals, families, children, men, and women — all the members of Maikiuants. In other terms, we syndics are territorial leaders who govern within our land, protecting the territory and safeguarding the families to maintain order.

#### **So any issue is addressed through you. You are the one who responds, correct?**

Yes, everything — needs, problems, administrative matters — falls under my responsibility. However, as syndic, I act according to the mandate given by the community. Decisions are not made unilaterally. While it's possible to make individual decisions, it is better not to do so unless the community is in danger or under threat. In such cases, I can act as an authority to protect it.

#### **Tell me more about your relationship with nature — how do you perceive your territory? I'd like to understand your perspective.**

We are always connected to nature because it protects us, and we, in turn, protect it. Nature provides everything necessary for human beings. Our energy, our strength, is rooted in nature. For example, we have sacred waterfalls that serve as our temples. That is where our deities reside. As Shuar people, our God is not found in a church — our temple is the waterfall.

That is why we respect nature deeply; it provides us with everything. Within our environment, we have markets, pharmacies, and natural resources to use responsibly based on our needs. That's why we show great respect for nature — without it, we cannot exist. There are many sacred places: the forest itself, the trees, the caves, and the rivers. Aquatic beings live in these waters, and we connect with and respect them. We acquire natural knowledge and enter into a pact with nature through respect. Without that respect, we would be destroying ourselves.

#### **Can you share more about these deities you mentioned — perhaps a story or how these beliefs originated?**

These stories are passed down through generations. I remember when my mother was alive and we were children, we had to obey our parents. At that time, it was told that certain animals were once humans who were transformed — for instance, monkeys or other species — because of disobedience or breaking parental rules. They would ignore prohibitions, touching or uncovering forbidden things. As a result, they were transformed into animals and separated from humans. We also have plants used as medicine — for example, Natim, a medicinal plant that purifies both physically and spiritually. When someone is physically or spiritually weakened, Natim helps them recover their energy and feel revitalized. Other plants like Maikua and Tzan are also used for energizing and purification.

#### **In the last 20 years, has the presence of external actors such as mining companies had a negative impact on the territory?**

Yes, absolutely. There has been significant environmental, social, and cultural damage. Environmentally, the mining company is already contaminating the area through its exploration activities. They use heavy machinery and chemicals to drill, and the chemical waste is carried into the rivers, especially during rainfall, which is frequent here. Even if the mining company has legal permits from the Ministry of Environment, those permits merely guarantee more secure and legalized contamination and destruction.

The government benefits financially from this — they receive millions in payments — but they do nothing to repair the damage. It is impossible to restore what is lost. Even with advanced technology, the ecosystem cannot be truly repaired; it could take centuries or even millions of years to regenerate a secondary forest. This is tragic because our communities are located near water sources, rivers with crystalline water that flow southward to other countries like Peru, Brazil, and possibly Chile.

I've personally seen people in Santiago River in Peru drinking from those waters, unaware that contamination from here flows down to them. One incident involved an aircraft that crashed into the Cuangus River, killing four people. The bodies were recovered, compensation was paid to the families, but the aircraft was left in the river and remains submerged, rusting. The company paid to cover it up, and no one has been held accountable. Waste from mining operations was dumped directly into the Warintza River, despite environmental laws requiring proper disposal. That's another form of contamination.

#### **Did the communities in that area respond or take any action?**

No, people there have accepted the situation because of the meager payments they receive. No one has spoken out. The only compensation they get is minimal wages or servitude contracts, and when the time comes to evict them, they will not receive further compensation because it's considered already paid. That's the sad reality.

The Warintza River, which is larger than our local rivers, is now 100% contaminated. People used to bathe and drink from it — not anymore. If you touch the water, you get skin infections. People from Warintza now come here to use our

river, even washing cars and dumping trash, which I've formally reported as environmental damage. I'm now organizing measures to restrict access to protect our side of the river.

Their syndic even signed over 10 streams to the mining company for exploration use. That means they gave up their water sources. How do they plan to cook or drink without water? I have documents proving that this was signed in writing. Warintza essentially has no water left, and their main river is completely unusable. The company is speeding up exploration, and once it's done, they plan to sell to a Chinese corporation with the capacity for large-scale exploitation.

But I understand the ILO issued a resolution last year stating that your people were not consulted.

Yes, the ILO observed that the State and the company failed to consult us. During Josefina Tunqui's leadership of the Pueblo Shuar Arutam, she declared that we refused consultation because it is a trap. The questions are formulated by the government in a way we don't even understand. Whether we vote "yes" or "no," it makes no difference.

Just recently, a consultation was held in San Juan Bosco, in the parish of Pananza, Quintza, and the result was "no" to mining. The response? The government bypassed the result with another law to continue mining operations. That's why the Shuar people decided to reject consultations altogether. We are now focused on defending our territory, even to the last consequence.

After the ruling, were there any professionals or organizations that stepped in to help mitigate the impact?

No. Local, municipal, and provincial governments have remained silent. We worked as a social organization, previously led by Jaime Palomino, who made progress in territorial defense. He filed complaints and lawsuits. But the current president, Marcelo, was elected with funding from the mining company Lowell, and now he does not know how to lead. He signed a letter of intent without authorization from the Shuar people.

We've made it clear — we will not rely on Marcelo. In a recent assembly held in Mayeck, I publicly stated that we, as the Maikiuants association, will defend our territory, regardless of Marcelo's cooperation with the mining company.

#### **And you can act independently in that sense?**

Yes. Maikiuants is the headquarters of the Pueblo Shuar Arutam. We are not entirely separate from the collective, but we have distanced ourselves from the current leadership. I have formally submitted observations and written requests to Marcelo, urging him to take legal action in defense of the territory.

He claims to defend the people but then signs deals with the mining company — that's hypocrisy. I told him, "If you lack the courage to defend the land, step aside and let me do it." Marcelo is a former military agent who once persecuted our leaders. Yet he was elected. Now we've left him aside — he can do what he wants. Here, on our territory, we will not allow or accept his decisions.

On March 7, we held a large assembly with legal allies and community leaders to develop defense strategies against the threats posed by the mining company. We must earn respect. If we let the central organization make all the decisions, nothing will be done.

Marcelo governs from his office in Sucúa — outside the territory. True governance means being present in the territory. It's like inviting someone to your home — you welcome them inside, not make them eat outside on the patio. This shows a lack of leadership. We elected an inept president. The assembly made a mistake believing a military man could lead territorial defense. That's the core issue.

#### **So the March 7 assembly was to declare: "We will defend our territory ourselves"?**

Yes. We held a large assembly with legal allies to define our goals and how we intend to achieve them. There are two forms of defense: peaceful legal defense — with lawyers and legal tools — and defense through force. Both are necessary and must go hand in hand. Some ask me, "If you reject mining, why do you use a cellphone?" A cellphone is a necessary tool for communication. I would be ashamed only if the materials used to make it came from here. Eighty percent of the extracted resources go abroad.

Only 20% remains in Ecuador. What are we left with? No basic services. Everything in this community is built through our own effort. This house, for example, was built entirely by my family. The municipal government hasn't executed a single project here. The current mayor, Tuco Castillo, only gave us internet. The sports court was built by former mayor Paco Bustamante.

He left another urbanization project pending. The new mayor promised to complete it directly — nothing has happened. Another project for potable water is still pending. In Warintza, where the mining company operates, there are no basic services — no water, no sanitation, no housing improvement, and poor education quality. Students even use drugs. These are all social impacts. I always speak out against this, and as a result, I'm seen in a bad light, even persecuted. But that doesn't matter — we will keep resisting. This fight must be won. Bueno, mi nombre es Domingo Wakan Antun tengo cargo como síndico de la comunidad de Maikiuants y también tengo otro cargo como presidente de la asociación donde represento algunas comunidades. Pues aparte de ser síndico, tengo otro cargo como presidente de la asociación del Pueblo Shuar Arutam.

## **Appendix 11**

### **INTERVIEW 3: Claudio Ancoash**

My name is Claudio Ancoash, but my Shuar name is Pinchu. I prefer to be called Pinchu, which means "eagle." I serve as the coordinator of the paraecologists, and we have a formal agreement with the University of Azuay, the Maikiuants community, the Pueblo Shuar Arutam (PSHA), and the Ecoforensic project. I am part of the coordinating body for that agreement.

#### **How do you perceive nature?**

The forest is territory. For us, the forest is an ally. Historically, the forest was made up of human beings, and due to simple acts of disobedience, they were transformed into the various species we now see. Depending on their disobedience, they were cursed and transformed into species named accordingly. So both the forest and the species—amphibians, mammals, and others—have a history. For us, Shuar means "nature," because we believe humans became part of nature.

Today, we maintain a physical and spiritual relationship with the forest. It is sacred to us, as is our territory. In the past, our ancestors used sacred plants to gain spiritual power for war or revenge. These include floripondio (brugmansia), tobacco, and ayahuasca. Through these plants, they received power to avenge enemies, among other purposes. To connect with nature and receive its energy, one must maintain purity and abstinence.

That is why the forest is sacred. The territory is also sacred. For the Shuar, nothing is inanimate—everything has life, even stones contain energy. This is the meaning we give to nature. A waterfall, for example, was once a person who was transformed. Everything in nature has a story—each species has its own history.

#### **Have you observed any harm to these natural resources? Even in a spiritual sense, have there been any negative effects?**

Yes. The threat to our territory causes a disconnection from nature and from our essence. All our knowledge comes from the forest. All ancestral wisdom is derived from the forest—whether directly, spiritually, or in dreams. If the Shuar lose the forest, the Shuar will also cease to exist. The Shuar without the forest is nothing—it's like an ordinary person without culture, isolated, alone, reduced to a beggar. The Shuar are always linked to the forest. What's happening now with these extractivist projects? They want to destroy the forest and sever our connection to it. For us, that amounts to a project of genocide.

#### **Could you tell me more about your role in the Ecoforensic project? What have you been doing as part of this initiative?**

We first made contact with our allies as suggested by the PSHA when I was the community leader. That's when Paola, who was working with the Ecoforensic project, arrived, along with Mika. We held our first dialogue and proposed working on ecological monitoring. We signed a one-year agreement to begin training 10 paraecologists from Maikiuants. In the first year, we trained these 10 paraecologists and obtained results.

So, we decided, "This year we will start monitoring within the territorial jurisdiction of Maikiuants." That's what we're doing now, and we have two months left to complete it. What have we observed? We've identified endemic species, endangered species, indicator species, and even new species that have not yet been documented. We also assess water quality—measuring flow, width, pH, and whether the water is safe for consumption. We can interpret the purity of the water.

Additionally, we monitor amphibians and mammals using camera traps. We also conduct acoustic monitoring of birds, using a program that identifies bird species by their calls and names. All of this is done within our territory to provide evidence of these species' existence, so they can be respected, protected, and legally defended under the rights of nature. This has been an enriching process for me. I truly enjoy this field of biology. I hold a degree in biology—I'm a biologist and a chemical biologist—and we now aim to expand the study further.

#### **How did you connect with the professionals who are currently supporting the project?**

The university provided the space and gained our trust, just as we gained theirs through Edwin. He said, "I have young people, students who want to engage in exchange." So we said, "Let's take this opportunity not only for exchange, but also to strategize on how to defend our territory." If students come here—whether they're studying environmental sciences, environmental engineering, biology, or related fields—they can help us build a network of defenders of nature.

This strengthens us because these students bring technical expertise. Thanks to this, we are expanding our network and our coverage through the university. More professionals are joining, which is very important to us. In the future, we want to create a scientific and cultural center here in Maikiuants. We plan to build a dedicated infrastructure where students and scientists can stay comfortably, hold workshops, sleep, and work in specialized laboratories—for biology, botany, archaeology, and more. That's what we aim to achieve, and we hope to finalize this new agreement within a year.

Was this project already planned before the ILO resolution, or did the resolution motivate you to take action independently. The resolution has been in place for years, but we've seen that it's not being upheld. Successive governments violate it. So we were inspired to act, and in doing so, we can show young people and the world who we are and what it means to be connected to nature—not just for the Shuar, but for all humans. That's what we want to raise awareness about, and we want to share this message broadly so that humanity understands our environment and what we depend on. Human beings depend on the forest and on nature, just as nature depends on humans.

That's the ultimate truth. For this reason, we have also proposed developing social coexistence tourism—immersive tourism. Every year, visitors from outside come to live with us, cook, participate, and share experiences. They bring new perspectives, and we share our knowledge and way of life. They have always been very grateful. Mi nombre es Claudio Ancoash, pero mi nombre shuar es Pinchu, me gusta que me llamen como Pincho que significa águila; yo cumplo un rol de ser coordinador de paraecólogos, tenemos suscrito un convenio con la universidad de Azuay, la comunidad Maikiuants, Pueblo Shuar Arutam y el proyecto ecoforensic, soy parte de la coordinación de ese convenio.



## **Appendix 12**

### **INTERVIEW 4: Numi Antun**

#### **What is your role in the community?**

The main role I take on is in tourism. I have enjoyed being a guide, both within and outside the province. I am also involved in music and handicrafts, and I work with a group of paraecologists. I am contributing to the community in matters related to environmental defense.

#### **What does the forest mean to you, and how do you relate and apply your worldview to your profession?**

For us, the forest is connected to everything—its biodiversity. When you enter the jungle, it is a complete experience. When you hear a chant in the forest, you feel that energy, that peace that comes from the waterfall. When you go to the waterfall, it gives you total energy; you release everything—your problems, stress, and depression. It's a deep connection with everything: the forest, the water, the waterfall.

Our worldview, as ancient native Shuar people from this land, is that everything around us is a home. The jungle is our home, water is our life, and the animals contribute greatly. They help us discharge negative energy. That entire biodiversity supports and heals us, and we are responsible for caring for it. It's a kind of therapy to release bad energy, and the animals—the snakes, ocelots—contribute to that. We must protect them. It is a profound connection with Mother Earth. When you walk in the forest, you feel peace.

#### **From your experience, how has this confrontation with mining and even military presence affected you spiritually or socially?**

Speaking about mining—it is destructive. Most people from the city tell us we're backward. First, they claim, "By extracting all the minerals underground, we'll generate economic growth, we'll achieve material wealth." Maybe so. I watched a documentary from Canada about the Cree culture, and it said something that really resonated with me and reflects what's happening here. I have no hope in artificial things like technology, cars, or other devices made by humans. If I decide to exploit all the biodiversity, the watersheds in the forest—if we take that path—everything will be destroyed.

That's why I feel responsible for protecting nature. If I don't take responsibility, everything will vanish. We're doing this so future generations can protect it—though we don't know what they will choose. Many people come here and bring different ideologies, thinking material things will improve their lives. But that's not the case. Our creator gave each of us our role in life—not talking about economics. My uncle used to say, "I can't eat money, I can't eat gold." You could have millions, but if you don't have what's here, you'll have nothing to eat.

If I destroy this, what do I have left? If I go into the forest, I'll find everything: medicine, meat, unpolluted water I can drink directly. But if I destroy all this biodiversity that I need all the time, I'll get sick because I'll be forced to consume processed things. I've told my family we should live this way because this is our wealth.

Our true wealth is the green gold we have—it could generate more income than material gold, silver, or anything extracted from underground. That's what I've always said. Now, my father has decided to focus on farming and restoration—working in a healthy way without exploiting or disturbing the land. That's what I can say: the forest provides more than anything else.

#### **How has tourism indirectly benefited your community?**

Tourism is also very important. At first, I wasn't really interested in it, but now I realize how valuable it is, especially in relation to our culture. That's where tourism comes in. I started working as a guide and came to enjoy it. Now, I'm aware that tourism will never end—it will continue. Over time, my children or nephews can become involved and learn to value it. That's the key: tourism will continue, while mining will eventually run out.

Many people claim mining generates more than tourism, but that's not true. Let's begin with tourism—it also generates economic benefits, and considerable ones. As I've said, future generations will work by developing tourism and showcasing what the forest has to offer. That's what tourism is: we share, people come to learn. Maybe you'll recommend us to your families.

As I told you before, I encouraged you to come with full confidence. We're not here to charge money—that's not our intention. We want people to come, meet the community, and share the experience. Everyone has a responsibility to care for the environment. That's what attracted me to tourism. Some people say, "Tourism isn't important, it's just a hobby." Even my own family has said, "It's just a hobby, let's work on something that brings faster income." Sometimes we look for the easiest path instead of the one that requires effort. Sometimes your family will understand you, and sometimes they won't. But you need to have faith and keep fighting to achieve your goals.

## **Appendix 13**

### **INTERVIEW 5: Viviana Antún**

**Could you tell me about the role you play here in the community? I was told that you are a member of the women's organization here.**

We work here at Nunkui Pottery. It is a communal pottery space—it belongs to everyone and is very important because we learn many things there. Sometimes, when tourists arrive, we give them gifts, sometimes we sell pieces, and they are always welcome when they visit. I would like to receive more invitations from outside. One of our fellow members, who is the coordinator, just returned from Bolivia. This work is important because it allows us to reconnect with our culture. Our ancestors used to make clay plates and pots to preserve chicha (a traditional fermented beverage). It's a natural and very meaningful tradition.

**What is your relationship with your territory?**

We preserve the forest without cutting down the trees, and we protect the water so that no one contaminates it. We do this to prevent harm from the mining company that has settled in Warintza. We've been conserving the territory and observing the situation for a long time, and we do not allow them to enter.

**Since the arrival of mining operations, how do you feel life has changed in the community?**

From the very beginning, we have not wanted mining here—not even if they come offering bundles of money. We've said no to mining because we are preserving this territory for our children, for their future generations. That is why we protect it. Although people in other communities may not think the same way, in Maikiuants we do not choose the easy path. We know we have to make sacrifices in order to have something lasting. Thanks to our healthy land, we eat the products we grow each day, untainted by contamination. I wish the company would stop coming here.

**Has there been any form of organization within the community to confront these mining companies?**

Yes, every time we have a problem with the mining company, we stand up and defend our land by saying, "No to mining." They've tried to conduct interviews with women who work for the company, but they haven't succeeded. They're afraid. They say we're too strong-willed, that we won't let them convince us. Many people have come, trying to recruit us to work for the company, telling us we'll earn money. But when you really think about it, it's not worth it. Money is temporary—it doesn't last like our land does. It goes away.

**How have you defended your territory?**

We've defended it using documents that Ecoforensic has helped us prepare. In the past, the PSHA organization was very firm, but not anymore. PSHA is now receiving funding from the company, and since Maikiuants wants to distance itself from that, we're the only ones still resisting. The president of PSHA chose the easy way, and now he keeps bringing in his people with money from the company. They don't listen to us, they say we don't think, that we waste time, that we have no money and that we're poor. That's what they say to us. But they are not like you—they are not connected to nature or their territory like we are.

**Do you have any plans to confront this situation?**

Yes, resistance—through legal means. We all stand together. Here, the women have a strategy: men can fight among themselves, but when it comes to facing both women and men together, they can't.

## **Appendix 14**

### **INTERVIEW 6: Fanny Kaekat**

#### **What does the territory mean to you, and how does your community relate to the forest?**

Well, my name is Fanny Kaekat. I'm from the Maikuiants community and have lived here for over 30 years, even though I come from another canton. I live here because of my partner. I have six children—three are married, and three are still under my care. For us, the territory is deeply connected to our lives. We coordinate our activities based on our dreams.

When we need to work, we pay attention to what we dream, because our dreams guide our daily tasks, especially when it comes to planting. We can work at any time—whether it's during the new moon or a tender moon—but planting must be done during the full moon. Otherwise, the crops won't bear fruit; they grow weak or rot quickly, our relationship with the forest is so deep that we understand our wealth by observing it. We know the right time for harvest by observing the full moon.

For instance, to harvest palm hearts, it must be a full moon, or they won't form properly—only a thick husk will remain. Our work is also guided by dreams. If you have a bad dream, you must not go into the forest or the mountains. If, due to an emergency, you must go despite a bad dream, you have to "kick the silk plant"—a kind of banana plant—and say, "I give you my bad luck." If the plant dies, that means the negative energy from the dream has transferred to it. That's how we do things: always asking permission before harvesting fruit, fishing, or hunting.

The forest is a place of connection where children feel happy, surrounded by vines, trees, and wild fruits. It's like a natural market. We come back with baskets full of fruits and natural sweets for the children, we also go to collect clay to make pottery—plates, small pots, chicha vessels. All of this shows how connected we are to the forest. When we or our children have nightmares or feel unwell, we take ayahuasca in the mountains or inhale tobacco.

These sacred places have powerful energy, we build a small shelter near the waterfalls, inhale tobacco, drink ayahuasca, and bathe in the waterfall in the morning to purify ourselves. If you don't do this—if you don't inhale tobacco or take purgatives with ayahuasca—your body remains unwell. After the ceremony and the bath, it feels as if all the negativity is gone.

This is why we conserve our territory. We only farm in specific areas, with short-cycle crops nearby, and the hills are protected zones. As women, we understand this life deeply and often motivate the men, if a woman needs a garden, she says, "I need a garden, I need to plant," and it must be done. This is the connection we have with our land.

Without territory, where would we live? The products we grow are a blessing—we don't need to buy cassava. In the city, you must buy everything, even the air is different; here in Maikuiants, we already feel some pollution from passing cars, but in the deep forest, the air is purer. That's why I prefer to plant near my house, to help purify the air and not live as if in a desert.

This connection gives us life, strength, and keeps the children healthy, free from many illnesses, thanks to the air and water we have here. The forest's energy is dense and powerful. We're used to this connection, so nothing really affects us. That's why, even when we speak or resist, we feel strong—even when threatened.

#### **Could you share when the mining company began affecting your community and how life started to change?**

The mining company first entered around the year 2000. At that time, we had no roads or external contact. Only one community member saw them arrive, saying they were working with sluices and prospecting. People were curious and thought, "Maybe this could be good." We had very few resources back then and no idea of the consequences.

They began saying we'd earn daily wages, and since there was no other work, some people agreed, we didn't know how far it would go. Later, they came to "socialize" their project under the company name GEMSA, promising education, roads, and more. But we refused because we realized it was all a lie, then they moved their operations to Warintza when we rejected them.

In 2005, tensions rose, and by 2006, there was an eviction; my husband had worked briefly for the mining company and saw how mestizos earned more than Indigenous people. He organized a strike, which led to the company's expulsion. From September 1 to 7, 2006, we marched from Warintza to San Carlos, Rosa de Oro, Plan de Milagro, and the substation. Eventually, the company restarted operations by offering to pay off legal issues for locals, such as one man who had to pay \$5,000 in alimony due to a rape conviction.

Since 2016 or 2017, the mining resumed more strongly. When Vicente stepped down as leader, Josefina Tunqui began to file international lawsuits against the company. But the current president of the Pueblo Shuar Arutam is the worst; he does what he wants and supports the mining company. The PSHA includes six associations and 47 centers, of which only Acción Unkuy is still resisting. Communities like Uncumas and Cuangus are not as aligned with the company, but Maikuiants remains strong. The company has divided our families, centers, and organizations. So we've decided to resist as a community, even if we are few, we won't give in. Since we border Warintza, we must stay vigilant.

#### **What is the education situation like in your community?**

We have many high school graduates—maybe over 30. But when it comes to university, it's very difficult to support our children financially. We can grow crops, raise chickens and ducks, but it's hard to sell anything. I have a whole block

of plantains, almost two blocks of cassava, and more, but we can't sell within families. Before, we used to sell to people from Warintza, but now that we don't support the mining company, they won't buy from us.

So we survive selling chickens and ducks. Supporting our children's education is tough. Many youths want to study and work, but lack of income holds them back. The same happens with healthcare—the Ministry of Health is now linked to the mining company. Every medical attention requires full registration, and I ask myself, "Why should I give my name if Lowell is behind it?" The company claims to be the one funding support programs, and people believe it.

But I always say: even if they offer us gold, we have our land to grow food. I compare our territory to a house—would you let strangers live in your home without permission? Sometimes I ask, "Are these men really men?" because even we women don't sell ourselves so easily. But many men give in for a case of beer or a woman. And what legacy are we leaving our children? To live well, we must be free of these problems and find real alternatives. I can say firmly: I am resisting.

None of my children, sons-in-law, or daughters work at the mine. I have forbidden it. I tell them, "You have your land—plant, do what you must, but don't beg for work there." We can survive—other countries don't even have food or water. City people have money; we don't. If we sell our land, what will be left for our children? Shuar families are large—where will we go? We worry about illness and education, but we won't sell our land.

We're exploring economic alternatives. Our resistance as Maikiuants will last until the end. We cannot give up our way of life. Who would want their home destroyed? That's how we see our land. Resistance starts with the family. I can't talk about defending our territory if my daughter works for Lowell and brings food home from there. That's why I told my children and sons-in-law: if you decide to work there, don't come back. I've also tried to raise my voice nationally and internationally. I've traveled to different countries—to Toronto, to COP summits. Some trips felt fruitless, but Toronto was important. I raised my voice in various forums, and we were well received. That's why the company is no longer based in Vancouver—they moved to Switzerland. Indigenous people there supported us and marched with us.

#### **How did you become an activist and take on that role of raising your voice?**

At first, I was a schoolteacher. But as a teacher, you're not allowed to attend important meetings unless you request permission three days in advance. So, in 2009, I resigned. They used to say, "Let the women speak," but the women here didn't like to speak publicly or be interviewed. So I said, "If no one else will raise their voice, I'll do it." My first trip was to Bolivia with Acción Ecológica. I wasn't a leader then, just invited to share.

That's how I made connections and was later invited to more places. This time I went to Toronto as an external relations leader of the Pueblo Shuar Arutam. I was invited by the international minister and traveled to Montreal, Ottawa, and Vancouver—a long journey. Recently, as a leader, I also went to Colombia to attend COP in Bogotá and discuss land and territory. I was invited by allies who already knew me. I speak with no fear, because I live here—I know what's happening. I don't hesitate to tell the truth. This is my struggle.

## **Appendix 15**

### **INTERVIEW 7 – Professional: Master in Environmental Management Edwin Javier Zarate Hugo**

#### **Tell me about your position here at Azuay University**

Yes, well, I am from the first generation of biologists who graduated here at Azuay University and there were subjects that still had no teachers, so I went to Canada to study a subject called environmental impact assessment.

And as there was no teacher I stayed here working on that subject and then I started to work on aquatic ecosystems especially giving the chair of technology. But I was always linked between projects of aquatic ecology and what are environmental impacts, for the issue of environmental impacts I always had to put together interdisciplinary groups, but above all within the group of biologists always put together teams with specialists to make studies in mammals, in fetuses, in plants, what is required according to the study that had to be done, before we had agreements with institutions, I think it also has now. So that has given me a little bit of a wider vision, let's say, right?

And in that research vein, let's say, I have been at the university for 27 years. Before graduating I did an expedition with Mika Pec, who is the professor we are now working with on the project of Maikiuants, we did an expedition just studying aquatic ecosystems riachuelos, We saw the quality of water from streams and we traveled practically all over the country. It is an expedition that we made about two months, in the year 95. Then we lost contact, once I saw an article of him who was working on monkeys, from the north of the country here in Ecuador, and then he sends me a message because he started working in this new branch of environmental and legal science called forensic ecology.

That basically what it intends is to investigate crimes against the natural ecosystems or the environment, so it is said crimes are attacks that through human activities habitat is destroyed, endangered species, species are dying out. Then you start trying to collect scientific information to defend nature, there is a connection between everything that are environmental sciences, ecology with the legal part, we could say or legal. It is really something that is needed now, all human activities, that economic need we have, especially here in the country like Ecuador, which still depends on extractivism, but it is done extractivism in areas that are super biodiverse.

So they have been working on Ecoforensic, which is the foundation that I created Mika Peck, they were already working in the North, they were involved in the case of the Cedars, that protective forest where they managed to reverse the concession of the mining company that was going to exploit and the same is now intended to do here in Maikiuants, which is a community that does not accept mining as an alternative to life and has a territory.

Because Maikiuants is a Shuar community that is within this larger community called Pueblo Shuar Arutam, which I believe are 50 communities and in turn the Pueblo Shuar Arutam seem to me to be part of this fis, which is that it brings together all the Shuar communities of the country. Maikiuants is against this, it is assumed that the people are Arutam, the majority is against mining activities.

But unfortunately the company is already working there in the community of Warintza, which is a community that is next to Maikiuants and they have already accepted the project, in some way; so what are we doing now? It is precisely gathering scientific information to enter into a process of defense of nature, which is an alternative we could say peaceful to defend the territory.

We started the project first, obviously with conversations with Mika Peck and other colleagues working with him and we installed the project here at the university through the creation of a training course for para-ecologists, Ecologists are the technical assistants of biologists or other professionals who go into the field and obviously need help, right?

And better if they are from the community, then we train ten paraecologists, nine paraecologists and one paraecologist in the community of Maikiuants, we train them in sampling aquatic ecosystems, in sampling amphibians and reptiles and studying mammals through the installation of traps, those courses were given here at the university and then the project was implemented there in their community.

What is the objective? It is to collect scientific information that can be used so they can defend their territory, because they do not agree with the mining, the university obviously has a neutral position, we are not for or against, Although one can personally have a position.

But what we've done is first be aligned with science, it's a super diverse place, because it is in the Cordillera del Condor we are gathering information from the diversity of there and obviously linked with the community because the community has asked us for help. And the Ecoforensic Foundation with the community approached us to ask us to help them with this course and that's why we installed the program here at the University of Azuay through IERSE which is part of the research dean.

And of course, I am connected to the school of biology and we could say that the school of biology is also linked to this project through me and my laboratory, then the project is set in that way, The interesting thing about this is that we keep the link with the paraecologists, they continue to work, they continue to collect information and we are receiving that information and we are systematizing in databases for then write what can be done about it, to make known the biodiversity of the area and if something new is found that it looks like we will find, let's describe it.

The Cordillera del Condor is a biodiversity hotspot and I think it's worth all these studies, especially to defend it, that this area is preserved and that the customs and traditions and the ways of life of these communities which depend basically

on natural ecosystems are respected, because they as well mention if the Shuar does not live in the forest, if it is not in the forest it is not Shuar, so this is basically what we are doing as Azuay University.

And it is being expanded because the faculty of international studies is already involved, is involved in the project, other studies that are linked to the community and how they manage their natural resources will be done.

In addition, I do not know this legal issue well, but when you are going to make a mining project there must be an informed free consultation. Within the project there is communication strategy too, so paraecologists were also trained in communication issues, how to make a good photo, how to make a video, how to handle a drone, for the foundation directly hired Gustavo Quiros, he is a filmmaker already gave them a course. Now he went to see how the material they have collected was.

#### **Where is the foundation established?**

In England, with Mika as director of the foundation, he is also a professor at Sussex University, so he's always writing to get funding for projects. We even want to see if we can open up some forensic ecology course here at UDA for a training program. We are working in different areas, also over time we want to not only stay in protect, but give alternatives to them so that they can improve their income.

## Appendix 16

### INTERVIEW 8 – Professional: David Fajardo Torres, lawyer, ecologist, and political scientist

I began getting involved in litigation processes due to the need for both nature and indigenous peoples and nationalities to have legal representation—lawyers who can defend them against traditional corporations and the State. These groups face countless challenges. For example, when you look at cases related to the rights of nature or conflicts involving mining or oil companies, these corporations arrive with full support from the State—even the President of the Republic may intervene in court hearings in favor of the mining companies.

Moreover, these companies hire the largest and most expensive law firms from Quito, which charge enormous fees, while local lawyers are left to defend their communities. It is, quite literally, an absolutely asymmetrical struggle.

#### **How do you assess the Ecuadorian legal framework regarding the protection of the rights of nature and the rights of indigenous peoples and communities?**

I would divide my response into two parts: the first concerning what the Constitution establishes, and the second addressing laws and sub-constitutional regulations. Why do I respond in this way? Because our Constitution is truly extraordinary—particularly the content related to the rights of nature. It is, I would say, decades—if not more than a century—ahead of the global ethical standard under capitalist modernity.

This needs to be understood in relation to human rights. Human rights saw their greatest development after World War II, with the adoption of the Universal Declaration of Human Rights. So, from 1948 to 2008—when Ecuador's current Constitution was enacted—60 years passed. During those six decades, human rights developed significantly. However, they had not yet evolved to the point where they were a defining element of global civilizational models.

That is, in many countries, human rights were not yet the foundation of societal and governmental development. Ecuador's Constitution did something groundbreaking. First, it positioned human rights at the center of everything, and it established the State's primary duty as guaranteeing, safeguarding, and defending the full range of human rights. And this catalog of rights is not closed or exhaustive—it is open-ended and can be expanded to include more human rights as they are recognized.

But beyond that, our Constitution, incredibly, managed to provoke an ontological and epistemological rupture by recognizing as a rights-bearing subject something that is not human—and not just a specific entity, but a general one. If I were to ask you, "What is nature?"—a way to answer or find a synonym for nature might be "the planet," because, after all, our nature is contained within Earth.

But even that would limit the concept of nature. From a systems theory perspective, the Earth is a complex, semi-open system—receiving, for instance, solar radiation. That solar energy enables many dynamics and processes essential for the sustenance and reproduction of life. Therefore, nature is not limited to our planet alone; it also depends on external cosmic factors.

This is complex—but it's something we understand, and something that the Andean peoples already knew. Much of the knowledge that enabled the recognition of nature as a rights-bearing subject comes from these ancestral cultures. That's why, if you read Article 71 of the Constitution, it says, "Nature or Pachamama has the right to..." Why does it use the term Pachamama? Because Pachamama means Mother Nature—but this is a highly simplified translation of its true meaning.

Pacha refers to the space and time in which everything happens; it's a cosmological and universal vision. It's not just Earth, or the planet, or the present. Pacha encompasses the entirety of time, because for Andean peoples, time is not linear—it unfolds in a spiral, where past and future meet. It's a cosmic and universal definition. Then we have mama, which translates to "mother"—but not merely in the biological sense. It refers to fertility and the potential for life to reproduce within this spiral logic. It's a concept of universality in which we all participate—a temporality that connects all of us.

Therefore, Pachamama is not limited to our common understanding of nature as a forest, mountain, or something outside of cities. It refers to all interconnected elements that sustain life. This is profoundly meaningful. So, in constitutional terms, Ecuador's framework is highly advanced. Article 71, for instance, includes extraordinarily complex rights—such as the right to evolution.

This is remarkable because recognizing nature as a rights-bearing subject is not only about recovering and revitalizing ancestral knowledge from Indigenous peoples. It also reflects a dialogue of knowledge systems. Which knowledge systems? The ancestral knowledge of Indigenous peoples and scientific knowledge—because evolution, for example, is a scientific theory. Evolution is a branch of science—part of the broader field of biology.

This dialogue between scientific and ancestral knowledge systems is what underpins the recognition of nature as a rights-bearing subject in our Constitution. That's why Pachamama—the living Earth—has the right to evolve, to maintain and regenerate its life cycles, and to ecological restoration and reparation.

And understanding it from an interdisciplinary and transdisciplinary perspective is quite extraordinary—and precisely therein lies the challenge. Because our Constitution establishes something so powerful, so progressive, so ahead of its time, it is often incomprehensible to most people—especially to those who are supposed to ensure that what is written in the Constitution is actually enforced. Take, for example, judges.

When they are presented with a case involving the rights of nature, unfortunately, they are often unprepared to handle such cases appropriately, as there is still a lack of deep understanding about what the Constitution truly means. The same

goes for political leaders in decision-making positions: all presidential administrations since the constitutional recognition of the rights of nature have failed to grasp the profound implications of that recognition.

Thus, since the Constitution is the supreme law of the land, it obliges all sub-constitutional norms to be aligned with its provisions. Yet most sub-constitutional norms—starting with the Organic Environmental Code—still fall significantly short of fulfilling the constitutional mandate. They still owe a great deal to nature as a subject of rights.

This creates a highly complex situation. For instance, when litigating in defense of the rights of nature—whether to protect a river from a hydroelectric project, a paramo ecosystem from a mining operation, or the Amazonian rainforest from oil exploitation—you find that sub-constitutional regulations ultimately allow these extractive activities to proceed, two key guarantees for the rights of nature are the principles of precaution and prevention. The precautionary principle holds that even in the absence of scientific certainty about environmental harm, the State must act to prevent such harm from occurring.

The preventive principle, on the other hand, applies when there is scientific certainty of damage; in such cases, the harm must be mitigated. How does the State apply the principle of prevention? Through environmental regulation. This involves companies, particularly mining companies in this context, submitting their activities to State oversight and complying with certain requirements: conducting environmental impact assessments, developing environmental management plans, obtaining water resource certifications, and confirming that their activities do not intersect with protected areas.

In theory, this is a robust process—a checklist that, if fully completed, allows the activity to proceed. However, in practice, environmental regulation is something entirely different. Take the Condor Mirador project, for example—the largest copper mining project in the country. It is literally leveling entire mountains through open-pit mining. It's not just a tunnel extraction operation—it involves the complete dismantling of mountains.

The environmental footprint left by this project in the Amazon rainforest is so massive that it can be seen from satellite imagery over vast distances. Ultimately, the Ministry of the Environment fails to rigorously enforce the environmental impact studies and management plans. That's why the work of researchers like Mika and Edwin clearly shows that, in terms of biodiversity assessments and biological studies, the environmental impact studies are deeply deficient.

They overlook a vast number of species—animal species, insectivores, plant species, fungi, microorganisms, and more. So, in the end, what should be a safeguard for the rights of nature—the application of the principle of prevention through environmental regulation—ends up serving corporate interests rather than environmental protection. To understand this more fully, we must move beyond the legal sphere and delve into political-administrative issues, which brings us to the dependency theory.

This theory, developed in the social sciences—especially sociology—analyzes how countries in the Global South remain dependent on those in the Global North. This dependency is not due to a lack of internal development capacity, but because the Global North perpetuates dynamics that force Southern nations into specific roles in global systems. One such dimension is the international division of labor. In this system, Ecuador plays the role of a primary-exporting country. We produce raw materials—oil, minerals, and others—and export them.

Meanwhile, the Global North produces technology and services, which are then sold to us at much higher costs. This creates a trade imbalance where Ecuador imports far more expensively than it exports, leading to deficits in the trade balance. Dependency theory also explains that being a primary-exporting country means being mono-dependent on a limited set of key products. In Ecuador's history, this has included cacao, bananas, and now oil—and soon, it seems, the country intends to replace oil dependency with mineral extraction.

This brings us to Alberto Acosta and his theory of the “resource curse” (or “curse of abundance”). This theory argues that Ecuador is an extraordinarily resource-rich country: whether we're talking about renewable or non-renewable resources, we have an abundance. At one point, we had vast oil reserves; now, we have significant mineral wealth. We also possess extraordinary biodiversity—in fact, proportionally, Ecuador is the most biodiverse country in the world. And that biodiversity extends across flora, fauna, fungi, and countless microorganisms.

And that is where our wealth lies—that is where our potential for development resides, our potential for a different kind of development, and our opportunity to diversify the economy. Because we are a mono-dependent country—one subordinated to the international division of labor, as I mentioned earlier—and therefore subject to the logic explained in dependency theory, we tend not to energize our economy.

We remain stuck in producing only certain goods, nothing more. The resource curse converges with dependency theory. What the resource curse tells us is that, because we have such vast resources, we become a target, a territory of great interest to powerful international actors and transnational capital seeking to exploit our wealth.

This is where dependency theory comes back into play. Why? Because for these large multinational corporations to maximize their profits, they need the State to refrain from taxing them, to provide cheap labor, to allow poor labor protections, and to facilitate a quick and low-cost permitting process for operations.

Crucially, they need the local population to be controlled, ensuring that there is little or no resistance to corporate interests. To achieve this, they must weaken the State. How do they do that? Through corruption. Corruption is not an intrinsic flaw of Latin American societies or their states; it is the result of practices deliberately employed by these companies to make our governments more vulnerable.



The aim is to weaken the institutions that could regulate, tax, or challenge them; to prevent the development of skilled labor; to avoid having to respect labor rights; and to ensure that companies can continue paying poverty wages to workers. One strategy used is the buying of consciences—bringing in money to influence political authorities and align them with corporate interests. A second strategy is the revolving door phenomenon.

How does it work? A public official, after favoring a company or foreign government while in office, is later employed by that same company. Then, when the company needs regulatory changes, the person returns to a public office to implement them. These individuals rotate continuously between public service and private corporations. While this movement is not inherently wrong, the problem arises when there are clear conflicts of interest.

Therefore, because of everything I've just described, and because these dynamics turn our state into a vulnerable one—prone to corruption and misaligned with constitutional mandates—I would assert that we do not have a sufficiently developed or adequate legal framework to fully guarantee the rights of nature. This is a significant barrier to developing eco-socially balanced societies under key principles—one of which is the ecosystem-based approach.

This principle guides how we should adapt our societies and productive dynamics to the ecosystems we inhabit. Every human society exists within one or more ecosystems—or depends on them. For example, Cuenca relies on the paramo ecosystem for its water supply. Without the paramos, there is no water—it's that simple.

But even the paramos depend on the Amazon rainforest for water regulation, which means Cuenca also depends on the Amazon. Everything is interconnected. That's why an ecosystem-based approach is essential: to align our societies with the ecosystems in which we live and upon which we depend. In summary, our sub-constitutional legislation is severely lacking.

#### **Applying this framework to the case of Maikiuants, what mechanisms are being used for their protection?**

Maikiuants is the headquarters of the Pueblo Shuar Arutam (PSHA) and one of the 47 communities that comprise the PSHA. As such, it falls under the internal governance of the PSHA, which has its own statutes regulating all aspects of its organizational structure. One key aspect regulated by the PSHA statutes is the Free, Prior, and Informed Consent (FPIC) process.

FPIC, when culturally appropriate, is a constitutional and fundamental right recognized for Indigenous peoples, as well as Afro-descendant, Montubio, and since 2018, peasant communities in Ecuador. According to the PSHA statutes, consultation must involve the entire PSHA, not just one or two communities selected for convenience. This requirement is rooted in their right to self-determination, self-governance, and self-regulation.

Therefore, initiating FPIC mechanisms solely with Maikiuants would violate their own statutes, policies, and autonomy. It would be strategically incoherent and legally unsound. Unfortunately, the current leadership of the PSHA is aligned with the mining company, and they could easily hire a competent lawyer to argue that only the PSHA as a whole, not Maikiuants alone, has standing to file such a lawsuit. Moreover, the judicial system's current handling of FPIC cases is problematic.

Courts often acknowledge the violation of the right to FPIC but, as a remedy, order that the consultation take place after the fact. This approach disregards the very essence of the right: consultation must occur beforehand—prior to the development of any activity. Whether it's mining, oil extraction, hydroelectric projects, agribusiness, or any activity that affects Indigenous territories and collective rights, consultation must be conducted in advance.

So, when after these projects are carried out, the authorities say: "Yes, it's true that this activity violated your rights, we recognize that, but as a form of reparation, we order that a consultation be conducted," it is contradictory to the very essence of that right. On one hand, this approach is flawed; on the other, it turns out to be convenient for both the State and the companies, because unfortunately, there is a prevailing notion that the outcomes of consultations are not binding.

That is, even if an Indigenous community is consulted and clearly expresses its opposition to a given activity, the final decision is still made by the State, not the people themselves. That is how both the government and mining companies interpret the process, but that interpretation is incorrect. If you read Article 57, paragraph 7 of the Ecuadorian Constitution, which regulates the right to Free, Prior, and Informed Consultation (FPIC), it states that when the outcome of a consultation is negative regarding the development of a plan, program, or project, the matter must be resolved in accordance with the Constitution and the law.

Now, the only law that regulates how to handle such situations is the Mining Law, specifically Article 87. But if you read Article 87 of the Mining Law, it states that a free and informed consultation must be conducted, and if the result is negative, the relevant Ministry will make a reasoned and justified decision on whether or not to proceed with the project. This essentially gives the Ministry of the Environment or the Ministry of Mining the power to continue with the project—something they will most likely do. However, this article was subjected to conditional constitutionality by the Constitutional Court in 2015.

The Court's ruling stated that any content in the Mining Law that contradicts the collective rights of Indigenous peoples and nationalities must be considered unconstitutional. Therefore, Article 87 is unconstitutional, and the question of whether the results of prior consultations are binding should, in the absence of an organic law on prior consultations, be resolved by referring directly to the Constitution. Not only the Constitution itself, but also the constitutional block, must be taken into account.

The constitutional block includes the Constitution as well as international treaties and agreements on human rights. This requires analyzing international jurisprudence and instruments such as: The United Nations Declaration on the Rights of Indigenous Peoples, The Inter-American Declaration on the Rights of Indigenous Peoples, ILO Convention 169 and the Court rulings like *Saramaka v. Suriname*, *Sarayaku v. Ecuador*, and *La Cajonera v. Argentina*.

The judgments in these cases clearly state that the results of free, prior, and informed consultations are binding, because the consultation is the procedural mechanism, but the substantive right at stake is the right to give or withhold consent. In other words, it is up to the peoples and nationalities to decide whether or not they accept an activity in their territories—not the State. If they do not give their consent, the activity simply cannot proceed.

That's it. However, what often happens is that the State simply declares that a right was violated and then orders a consultation to be conducted. Regardless of the outcome, the State moves forward with the mining project anyway, based on this arbitrary and unconstitutional interpretation. For this reason, pursuing legal action based solely on the right to consultation is not currently the most strategic route. Instead, we are focusing on nature's rights, as well as other human rights, such as the right to water.

The Warintza mining project, for example, is also an open-pit mining project. What they plan to do is literally carve away entire mountains—starting from the top, using excavators to dig downward until a barren plain is left. These are entire mountains that host incredible levels of biodiversity, including many species that remain unknown to science, like the small frog discovered by local researchers.

That is why our legal strategy currently focuses on nature's rights, especially in relation to biodiversity, evolution, genetic resources, and the human right to access water. We are invoking Articles 71, 72, and 74, as well as Articles 407, 395, and 398 of the Constitution. At the moment, we are still building our legal arguments and strategy. The case is not yet ready to go to court, as these are highly complex cases, and as such, require equally complex, robust, and compelling evidence, so that the case cannot easily be dismissed.

**Is there a similar case that has been successfully resolved? Perhaps one involving a newly discovered species?**

Yes. The Llurimagua case, and also the case of Bosque Protector Los Cedros. While not identical, the latter is a very significant case because it sets important legal precedents. The specific legal mechanism we would use is called an *acción de protección* (action for protection), which is a jurisdictional guarantee—technically speaking, it is a constitutional lawsuit aimed at defending constitutional rights recognized in either the Constitution itself or international human rights instruments.

However, because this case involves the Rights of Nature, the legal argument must refer specifically to the Ecuadorian Constitution, as no other country in the world recognizes the rights of nature at the constitutional level. However, there is indeed recognition of the rights of nature or of entities as subjects of rights in other countries.

For example, Colombia has recognized the Amazon as a subject of rights, as well as the Atrato River and even an individual bear, Chuchito, as a subject of rights. India has recognized two rivers as legal persons, New Zealand has granted the same status to one river, and Spain has recognized the Mar Menor as a subject of rights. To add something further: the Pueblo Shuar Arutam (PSHA), under previous leadership—particularly under the presidency of Josefina Tunqui—developed several advocacy campaigns and activated various mechanisms specifically in defense of collective rights, with a strong focus on the right to Free, Prior, and Informed Consultation (FPIC).

The International Labour Organization (ILO) has already recognized that Ecuador failed to comply with its obligations in this regard. While ILO decisions are not binding in the strict legal sense—as they fall under soft law—they still represent significant precedents that can be strategically used in domestic legal proceedings. Moreover, the PSHA launched a powerful and symbolic campaign titled: "The PSHA has already decided: we do not want to be consulted."

This is extremely significant because, through a process of internal consultation, community debates, and collective dialogue, the PSHA—across its entire structure and General Assembly—made a formal decision to reject mining in its territory. Given that the decision has already been made, they assert that they should not be subjected to consultation again, because they have already exercised their right to self-determination.

This introduces a key point of legal and philosophical tension: the right to FPIC should also be interpreted to mean that communities have the right not to be consulted when they have already made a definitive and democratic decision. In other words, two conditions must be respected: (1) that consultation occurs prior to the implementation of any activity, and (2) that if a people chooses not to be consulted because they have already decided, that too must be respected.

The PSHA is clear on this: "We do not want prior consultation because we have already decided." This is similar to what is happening in Quimsacocha, for example. In Cuenca, a popular referendum was held in which the population voted to prohibit mining activities in the region. The people have already spoken. Nevertheless, the Provincial Court ordered that both an environmental consultation and a prior informed consultation be carried out.

But if there has already been a popular consultation, and Cuenca has already said no, then what is the point? This is precisely the contradiction: the right to consultation also includes the right to refuse to be consulted, and this creates a legal paradox for the State. The State responds: "But it's my obligation to consult." This is the work we were advancing under Josefina's leadership. However, after Josefina's term ended, she was succeeded by Jaime Palomino. Unfortunately, despite initially inheriting Josefina's spirit of resistance and commitment to defending the territory and nature, Palomino's administration was not effective, and he was eventually removed from office.

He was replaced by Marcelo Unchush, the current president, who is aligned with the mining company. He has already signed a letter of intent, and it is likely that a formal agreement or contract will follow. From a political perspective, these grassroots campaigns—both nationally and internationally—have served as key tools of advocacy and pressure.

On the legal front, there are ongoing legal actions and lawsuits being developed, as well as the involvement of international institutions such as the ILO. In the productive-economic dimension, there are emerging alternatives to mining, particularly in the scientific tourism sector, ecotourism, and local crafts, such as ceramics and artisanal goods. These represent viable paths for sustainable local development. Finally, the fourth dimension centers on scientific research and knowledge production, which also plays a vital role in envisioning a different development model rooted in ecological balance and cultural respect.