



[Dossier: Decolonial comparative property law]

With consent or not? Plural decolonial corazonamientos on property rights from the Living Forest (Kawsak Sacha)

¿Con (con)sentimiento o no? Corazonamientos decoloniales plurales sobre el derecho de propiedad desde la Selva Viviente (Kawsak Sacha)

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Abstract

This article examines the Own Law of the Kichwa People of Sarayaku, focusing on property as a key element in the interpretation of free, prior, and informed consent, and comparing it with Ecuadorian State property. We *corazonamos* (collectively propose) the Living Forest as a counterproposal of plural, fluid and collective Amazonian property, strengthened by the legal *minga* (the act of weaving law together and respecting the living cycles of natural elements and human laws). In our comparative decolonial exercise, resonances and tensions arise between State law and the Kichwa People's Own Law, evidencing the fragmented nature of property in the Constitution of the Living Forest.

Keywords: Corazonar; Kawsak Sacha; Rights of Nature; Minga jurídica; Constitutional decolonial law.

Resumen

Este artículo examina la Ley Propia del Pueblo Kichwa de Sarayaku, centrado la propiedad como elemento clave en la interpretación del consentimiento libre, previo e informado, y comparándola con la propiedad estatal ecuatoriana. *Corazonamos* la Selva Viviente como una contrapropuesta de propiedad amazónica plural, fluida y colectiva, fortalecida por la *minga jurídica* (el acto de entretejer la ley y respetar los ciclos vitales de los elementos naturales y las leyes humanas). En nuestro ejercicio comparativo decolonial, surgen resonancias y tensiones entre el derecho estatal y los propios, evidenciándose la naturaleza fragmentada de la propiedad en la Constitución de la Selva Viviente.

Palabras clave: Corazonar; Kawsak Sacha; Derechos de la Naturaleza; Minga jurídica; Derecho constitucional decolonial.



1. Parliament in the Living Forest and property in the Fragmented Constitution

The weasels (*Mustela africana*) convened a forest parliament. The tapir (*Tapirus terrestris*) was elected president and the sea turtle (*Dermochelys coriacea*) secretary. The jaguar (*Panthera onca*) took the stage, claiming that it is difficult for it to find food “because hunting is scarce” and because of the attacks it endures for its thin skin. The toucan (*Ramphastos tucanus*) and the macaw (*Ara macao*) denounced the attacks suffered on account of its plumage, used for crowns, challenging the “boasting and vanity of the inhabitants of the forest”. The armadillo (*Dasypus novemcinctus*) denounced oil exploitation. After each speech, applause was heard. The tapir president took the stage again:

We have heard the cry of our companions in the great forest, so we ask the inhabitants, our brothers and sisters of the planet, to protect the survival of all birds and animals (Flores Velasco, 2005, p. 51-53).¹

What does this outcry tell us? How to negotiate the word and “use” these “goods of life²”? Who do they belong to? Should we talk about ownership or resignification? These questions take us to the Amazonian context of the Kichwa Indigenous People of Sarayaku. In their assemblies, the entities of the Living Forest (*Kawsak Sacha*) parliament co-govern in decision-making about the territory. Here, property is collectively resignified, generating dialogue and confrontation with the Ecuadorian State, whose territory includes that of Sarayaku (135,000 km²). In this context of territorial and legal fragmentation, the decolonization of property takes place within the framework of the Rights of Nature (RoN) recognized in the constitution, which embrace pluralistic concepts such as *Pacha Mama*, *Kawsak Sacha*, and collective rights. However, tensions persist with the static notion of property still present in the State, which has been key as an element of resistance in disputes between the State and Indigenous Peoples and Nations and the populations of the forest parliament.³ This narrative is intertwined with analogies of the “wild and the forest” (Taylor, 1994, p. 75). Even in modern art (1941 and 1972), the Amazon was represented under the axes of “colonial survival, magical forest and paradise lost” (Valdez y Morán, 2019).

¹ Adaptation of *Cuentos y leyendas de la Amazonía*.

² The term “goods of life” is used by the Sarayaku people to refer to “resources,” and can be interchanged with the expression “living beings.”

³ For example, *Ley de Tierras Baldías y Colonización* (Uncultivated Land and Colonisation Act) of 12 May 1936, or the *Ley de Reforma Agraria* (Agrarian Reform Act) of 1964 (LRA).



The Living Forest parliament has served as a source of law for internal changes and questions about the legitimacy of property and territory. This article proposes a comparative dialogue between the notion of property in the Constitution of the Republic of Ecuador (CRE) and that of the Kichwa Indigenous People of Sarayaku. Interlegality (Santos 2012, 39)⁴ has allowed Peoples and Nations, forests, moors, rivers and mangroves to influence State law. Although the CRE reflects historical territorial demands through collective rights and the Rights of Nature [RoN], the extractive system prevails, generating collisions between Indigenous justice and State law, which considers nature as a resource and property of the State (Art. 408, CRE).

More than a comparison, we propose a dialogue that places at the center *corazona*⁵ the Sarayaku approach, rooted in the specific epistemology of their Living Forest. This polyphonic dialogue (cf. Guerrero Arias, 2018, p. 39) gathers the voices of the Sarayaku People, the songs of the beings of the forest and the essential forms of listening with the heart [*corazonar*]. This text is a co-authored weaving by Mario Yaucén Remache, of the Kichwa Nation of the Calpis People (Puruway Nation), and a member of Sarayaku, and Jenny García Ruales, a militant anthropologist who accompanies the Sarayaku People. The methodology we offer is a decolonial method in itself (Michaels and Salaymeh, 2022, p. 186) as we unravel and reweave the threads by combining co-authorship, (co)existence, and our own perspectives. We thus reaffirm our commitment to a decolonial theory of law, thereby contributing to an emerging field, as indicated by Lena Salaymeh and Ralf Michaels (Ibid.), who are sowing the seeds for decolonial comparative law.

Our analysis examines the CRE and the Sarayaku Own Law for the exercise of Self-Determination and the right to Free, Prior, and Informed Consent.⁶ However, the comparison must be made from an intercultural perspective, with Indigenous law at its core (*corazonando*). The Own Law on prior consultation is only one element of the Sarayaku's rights, which operates in conjunction with other written documents of the

⁴ We acknowledge the academic's inappropriate conduct. For further reading on the influence of legal frameworks in relation to Indigenous identity, see: Birrell, 2016.

⁵ *Corazonar*, a wordplay between reason and heart. Concept of the Kitu Kara People, see its theorization from anthropology in, Guerrero Arias, 2010. For a reading of *corazonar* in the Amazon, see: García Ruales, 2025. The verb *corazonar* is a difficult to neatly translate play on words derived from *razón* (reason) and *corazón* (heart); accordingly, it essentially means to listen and think with one's heart, thus the act of heartfelt thinking. In attempting to preserve and convey the authenticity of the term and notion, Spanish forms of the word can be found embedded in the text in a present-tense form (*corazona*), in a past-tense form (*corazonaron*), as a noun in gerund form (*corazonando*), and as an adjective (*corazonada*).

⁶ Pueblo Originario Kichwa de Sarayaku, 2022. For an example of self-consultation from an intercultural perspective, see: Ilich Bacca et al. 2022.



People (Statutes, the Declaration of the Living Forest, Life Plan, Norms of Conviviality, etc.).

When addressing the legal document of the Own Law, we must consider that the sources of law are both the law of the Living Forest and the State constitution. Law in the forest is impregnated and fragmented⁷ in multiple materialities, including documents (paper) and the Living Forest itself, in a semiotic textuality,⁸ featuring songs, stories, performances, and rhythms. Hand in hand with the political organization of the people, it allows a reading of a Constitution of Living Forest, comparing that constitution with the State constitution, as an equal. Although it may seem “colonial” to call it that, we seek to show teachings from an Amazonian enunciation that does not necessarily use that category. The underlying system includes legal fragments composed of the Living Forest regulations themselves, the Sarayaku Customary/Own Law (which contains classic elements of a constitution, such as institutionality, forms of governance, and the creation and reform of laws), and the Ecuadorian constitution (which incorporates principles permeated by Peoples and Nations, plurinationality, interculturality, collective rights, and Rights of Nature).

The nature of this fragmentation includes not only a materiality on paper, but in other materialities of law impregnated in the forest itself, reinforcing the Constitution of the Forest – a co-composition of principles and norms that are articulated from its fragmented characteristic. The provocation of our title points to a consent that embraces a pluralistic “intuition” (*corazonamientos*) about property rights, which is possible only if a fragmented constitution gives force to the Own Law.⁹

What we call the *legal minga* must be conceived as a response to colonial notions of property and territorial disputes. It arises from collective community work, allowing “the word to flow from the heart,” from a “cosmos of its own meaning” (Guerrero Arias, 2028, p. 24-25). In the first part, Mario presents brushstrokes on this collective legal work in the face of the nation State – the *legal minga* made by the Peoples. Then, we address Rights of Nature and its intersection with property, structured into three categories: property as a plurality of spiritual, intercultural and magical meanings; property as ecological interdependence; and property in dispute. Finally, as regards the act of the

⁷ On the notion of a fragmented constitution, see Teubner, 2012.

⁸ For a theoretical framework of constitutional semiotics, see Belov, 2022.

⁹ We are coining the expression “force of law” (*fuerza del derecho*, *Rechtskraft*) from Fischer-Lescano (2020).



legal minga, we analyze the legal instrument of prior consultation within the Sarayaku Own Law.

The CRE collects the historical demands of Peoples and Nations, but the property of the Peoples is relevant because it jointly embraces (*corazona*) the territory and the property, requiring an intercultural and intercosmic logic. Our comparative methodology highlights the property enunciated from the specific cosmos of the Living Forest, attending to the different nuances of analysis that the notion of property can adopt.

2. Allpamanta, Kawsaymanta, Yachaymanta, Quishpirinkakama

‘The vision of the Amazon was of a wasteland, owned by the State. The right to land ownership of indigenous peoples was unknown; the State, then, promoted the colonization of the Amazon that determined drastic changes in the ecological and ethnic-cultural order, in addition to deforestation, water and atmospheric pollution due to combustion and gasification of hydrocarbons’ (Franco, 2003, p. 152).

This colonial, republican, and extractivist matrix has generated social, cultural, and political inequalities at the global level, reflected in concepts of property rooted in this logic, which contrasts with the Runakuna episteme and vision.¹⁰ This cultural imposition has been responsible for genocides, ecocides, and the gradual degradation of the life of Mother Earth and its inhabitants, as well as being responsible for their right to exist as a subject of rights.¹¹

The establishment of republican states has implied the creation of their own identity in opposition to other national structures, as in the case of Ecuador, where the power dispute between the Spanish crown and the descendants of the Castilians led to the exclusion of Indigenous Peoples from the democracy established in 1830.¹² The Creole democracy that followed promoted an economic policy focused on generating raw materials to supply European industries.

¹⁰ *Runakuna* is the Kichwa plural form of Indigenous people belonging to Peoples and Nations in Ecuador.

¹¹ For an exploration of various dimensions of the coloniality of being in Latin America, see: Quintana, 2009; Quintero, 2020. Some examples of material and immaterial impacts, at different stages, specifically affecting the Kichwa People of Sarayaku but with long-lasting consequences that could also apply to other Peoples and Nations’ territories include: resource extraction; environmental degradation; impacts on the life projects of the people of Sarayaku and the Living Forest entities; the undermining of (legal) knowledge systems, forms of government, and property; cultural assimilation; and intercommunitarian fragmentation.

¹² Art. 68 CRE, 1830.



Before, during and after these historical events, the episteme of Indigenous Peoples worldwide has advocated an approach to life management based on equality, the common use of resources, and collective decision-making. This process is carried out through “tinkuy,” which involves dialogue and debate of proposals (Yaucén Remache, 2020).

Despite the influence of the State and its governments, Indigenous Peoples continue to seek to exercise territorial rights and have proposed alternatives to the status quo in the relationship between the State and Indigenous Peoples.

Between 1977 and 1978, the CONAIE (Confederation of Indigenous Nations of Ecuador) deepened its reflection on plurinationality not as an Indigenous problem, but as a structural and political problem. Beginning in 1984, the existence of political organizational structures and their own laws, comparable to pre-state societies, was reaffirmed, and the urgency of reconfiguring territorial spaces based on principles of governance and autonomy was highlighted. These territorial emancipation processes, along with other uprisings, marked the the First Indigenous Uprising was one of multiple in fact measures occurring in 1990, which represented the irruption of Indigenous identity on the traditional national political scene.¹³

The global-local approach of the first uprising, led by Ecuarunari (Confederation of Kichwa Peoples of Ecuador), highlights the specificity of the proposal “Allpamanta, Kawsaymanta, Yachaymanta, Jatarishun, Kichpirinkakama” (For our land-territory, for our life, for our education, let us rise up, until we are free). A subsequent event protagonized by the Amazonian Peoples in 1992 reaffirmed this proposal with “Allpamanda, Kawsaymanta Jatarishun” (For our land-territory, for our life, let us rise up). This reflects a mandate and a construction of the plurinational State that involves a process of defense of the communal and collective against individualistic forms.

- From the essence of community emerges the vision of “Allpamanta,” to recover and dispose of our territories in a state of purity and expansiveness.
- “Kawsaymanta,” for our life, which for the Runakuna is only possible only within the territory, where they can build, reinvent themselves and seek economic, political and organizational solutions.

¹³ See also: Simbaña, Rodríguez Caguana, y Martínez Abarca, 2020.



- “Yachaymanta,” for the preservation of the knowledge, know-how, sciences, technologies, and cultural expressions of each organized group, within the framework of interculturality.¹⁴
- “Quishpirinkakama,” until the current system of government is overthrown and a new equitable and socially just organizational process is built, sharing power, reflected in the concepts of interculturality and plurinationality.

The colonization, driven by the uninational state, deepens the commodification of Mother Earth through extractive projects. These policies imply the destruction, contamination, and fragmentation of territories. State management through a representative government has led to the economic dependence of Indigenous Peoples on the State, the exploitation of labor, racism, exclusion, and the promotion of individualism. As a consequence, intensive land exploitation has increased, there has been a loss of Indigenous knowledge, culture has been eroded, and communities face rising family and inter-community conflicts, as well as challenges such as alcoholism and malnutrition. In addition, traditional practices and the integrity of *Runa Kawsay* (the way of life in a specific territory) and *Sumak Kawsay* (good living principle) have been devalued.

To guarantee the historical continuity of the Peoples, we have waged territorial struggles from our territories, and we have proposed decolonization agendas at the national and international level. Through our own representative government, CONAIE, we have won some battles, such as recognition of the rights of Pacha Mama.

3. Rights of Nature and property

The processes of decolonization of law in Ecuador are manifested in the ways that collective groups have influenced the legal field and concepts of property and territory. This is reflected in testimonies like Mario's, which expresses a claim to the Constitution. In terms of decolonial legal theory, we can speak of “decolonial constitutional law” (Michaels y Salaymeh, 2022, p. 182).

Below, based on this premise, we will illustrate how the Rights of Nature (RoN) in Ecuador can be understood as an expression of decolonization (Gutmann, 2021, p. 25),

¹⁴ About that, Walsh, 2009.



especially by reframing the concept of property law, using examples to show the plurality as well as other ways of understanding or embodying property (*corazonar la propiedad*) and its multiple meanings and senses. We will use examples to illustrate three categories: property as a plurality of spiritual, intercultural, and magical meanings/values (La Chiquita and Monjas River cases); property as ecological interdependence (the Los Cedros cloud forest and Aquepi River cases); and, third, as property in dispute representing legal tensions and instrumentalization (the Siekopai and Estrellita the monkey cases).

Rights of Nature cannot be separated from plurinationality, interculturality (art. 1, CRE), and the political and legal claims that encompass the entire existence of the cosmos. The recognition of these rights is achieved through an intercultural dialogue that involves different forms, conceptions, and senses of justice among Peoples and Nations, Afro-descendant communities, and other collectives (Art. 171, CRE; Rodríguez Caguana y Morales Naranjo, 2021). This also implies the adoption of plural notions and regulations of property, resonating with paradigm shifts that question the view of nature as a mere object:

‘In this sense, the Rights of Nature that are recognized in the CRE move away from the traditional “nature-object” conception that considers nature as property. The novelty thus consists in the paradigm shift on the basis of which nature, as a living being, is considered a subject with rights’ (Corte Constitucional, 2023, p. 14).

This reading of property from this perspective is reflected in Article 71 CRE, which defines Pacha Mama as “where life is reproduced and occurs” and establishes the mandate to respect its life cycles. The jurisprudence of the Ecuadorian Constitutional Court has developed this idea by recognizing property not only in terms of biotic and abiotic elements, but also in the interaction and connection between them, forming ecosystems (Ibid.). Property is therefore plural and based on the interdependence and integrity of these ecosystems: ‘Nature is a community of life. All the elements that compose it, including the human species, are linked and have a function or role’ (Ibid., 19).

In other words, the CRE opens the doors to the idea of plural property. Despite the positive progress in decolonial law in Ecuador, we want to highlight and warn of an “assumed homogeneity,” an element of colonial law (Michaels y Salaymeh, 2022, p.



172),¹⁵ and the concept of Pacha Mama in relation to the notion of property. Each notion of property is unique and depends on the specific ecosystem, the conception of nature and territory, the designated guardian and custodian, and the existence of individual or collective property titles (Arts 56-60, CRE), framed within the organization of autonomy and institutionality as well as within property disputes.¹⁶

It is important to recognize the knowledge and regulations that emanate from these interactions, as well as the sharing of territory that we see in the Action for Damages and Losses (*Acción por Daños y Perjuicios*) of La Chiquita in the province of Esmeraldas, where the plaintiffs emphasized (*corazonaron*) that ancestral wisdom has allowed and allows them to

‘... converse with the trees, the flowers and the rivers... listen to the voices of the volcanoes and hills, the song of the wind, the laughter of the waterfalls, the symphony of the song of the birds greeting and thanking for the miracle of a new day’ (La Chiquita, 2017).¹⁷

The factors that support the defense of the Rights of Nature in the lawsuit against the companies *Palmeras de los Andes* and *Palesema* implied not only a violation of the right of ancestral possession, but also a violation of the environment’s right (Ibid.). The lawsuit speaks of an “existence value, ecological value, and even a magical and religious value,” a conception influenced by “the animistic beliefs of both the Afro-Ecuadorian People and the Awá Nation” (Ibid., 32). These beliefs should be considered as expressions (or *corazonares*) of sources of law.

The notion of RoN has not been exempt from complementarities, as observed in the Action for Damages and Losses of La Chiquita, while in the judgment relate to the Monjas River in the city of Quito, the violation of rights was towards life, health, housing, property, access to cultural heritage, and the Rights of Nature (Río Monjas, 2022). In that latter case, the rights operated in conjunction with other rights and, at the same time, with specific conceptions of property. The Kitu Kara People played an important role in the case, from which the concept of *corazonar* comes:

‘Water in the Andean worldview is sacred; it is a sacred mother who is worshipped, nurtured, thanked, and cared for. It is not an inert being but

¹⁵ This also alerts: Vieira, 2019.

¹⁶ Here it is worth mentioning the disputes between the delimitation of ancestral boundaries and the territorial borders marked by the nation State.

¹⁷ See for an analysis of the Action of Damages and Losses, Carlet and Ferreira, 2018.



rather life itself, and therefore it must be cared for so that it can be nurtured and grow. Water is present in various myths of indigenous peoples, whether as rain, floods, rivers, waterfalls, or lagoons. For the Kitu Kara people, the myth of the flood constitutes their founding myth...’ ‘[i]n the myth of Pachakuti, we see that the original parents, Pacha and Hacha, have three children who, tired of the pini snake, attack it with their arrows and it heaves so much water that it causes a flood. They take refuge, they climb Mount Pichincha and stay there for a long time until the waters recede. When they come down, they begin to call themselves Kitus. So as we see the very history of the Kitu People, the very history of the city originates in an issue that has to do with water as much as this water of the flood as the water of the serpent [of the rivers], for us this sacred serpent, this pini serpent that comes, is part of our identity, which is represented in the rivers that bathe our city’ (Río Monjas, 2022, p.8).

These cases of Rights of Nature show us the different relationships and possibilities of embracing property (*corazonar la propiedad*), based on a sense of justice and the forms of nature that permeate that property. An important legal advance in matters where nature and property intersect is that in the Cedros cloud forest and the Aquepi River rulings, the Constitutional Court emphasizes that environmental consultation is not limited to situations of collective ownership of property because they are Peoples and Nations or collectives. Rather:

‘The Court considers that the subject of environmental consultation must always be determined broadly and representatively, so as not to limit the participation of communities potentially affected by state decisions or authorizations on environmental matters. Any person who has not been considered in the environmental consultation and who reasonably considers that the measure affects them must be included’ (Los Cedros, 2021, p. 64).¹⁸

Such representation will, however, sometimes be characterized by disputes and different positions. But what do the natural entities themselves say if they are consulted? That is why the Court listens to different voices and democratizes representation (Gutmann, 2021, p. 206). From a multi-species justice perspective (i.e. justice is understood with the heart (*se corazona*) for all species or life forms), each river has its own life plan (Celermajer et al., 2021, p. 126), which challenges the traditional notion of ownership. The notion of property, rather than in the sense of belonging, is taking on different forms, echoing the language used by the Constitutional Court, and if we say that each entity or ecosystem has its own life plan, it has “its specific properties” as part of its intrinsic notion. Respecting and recognizing the distinct properties implies recognizing the

¹⁸ See also, Río Aquepi, 2021.



differences between entities, “in the characteristics, processes, life cycles, structures, functions and differentiating evolutionary processes of each species” (Corte Constitucional, 2023, p. 30).

The example given by the Court in its guidelines on constitutional RoN jurisprudence is that an Andean condor (*Vultur Gryphus*) as a carrion bird will be different from a pink dolphin (*Inia geoffrensis*), in addition to their sharing interrelationality:

‘Nature is made up of an interrelated, interdependent and indivisible set of biotic and abiotic elements (ecosystems). Nature is a community of life. All the elements that compose it, including the human species, are linked and have a function or role. The properties of each element arise from the interrelationships with the other elements and function as a network. When an element is affected, the operation of the system is altered. When the system changes, it also affects each of its elements’ (Ibid.).

In this line, the principles of interspecies and ecological interpretation are recognized. In addition, the ruling of the cloud forest of Los Cedros refers to the right to water, and “the conservation of waters with their properties as an essential support for all forms of life” (Los Cedros, 2021, p. 50).

However, despite these positive trends, there are also cases of double standards when “nature” is instrumentally used to violate collective property. An example is from the Siekopai Nation, when the Ministry of the Environment, without taking into account the economic situation of the Nation, accused it of violating the Rights of Nature by establishing a monoculture plantation on its territory, arguing that it had caused impacts on a “vulnerable ecosystem” and destroyed the forest by changing the relationship with the life of the trees and “emptying them cosmologically” (*po’say’yo*), without taking into account the economic situation of the Nation (Krøijer, 2021).

A final case that does not directly violate collective property, but that invites interpretation, and that we do not want to fail to mention it briefly in the context of property, is the case of the Estrellita, the chorongó monkey (*Lagothrix lagothicha*) (Mona Estrellita, 2022), who died during her trial. She had been removed from her urban home, where Ana Burbano Proaño considered herself her “mother,” although another interpretation could be that Estrellita was Ana’s “property” and that Ana was her owner, keeping her in captivity. We can no longer ask Estrellita if she felt like Ana’s “property” or like her daughter. We can, however, state the kinship notion of “property” between human and animals implies different modes of relation that go beyond mere “ownership” and encompass affectivity and reciprocity, even in an urban setting.



This case and those mentioned above show how each case is unique and that property must be read in its context, and especially if it is an intercultural context. Despite most of the positive advances in the jurisprudence of Rights of Nature, it is important to emphasize that the recognition of these rights in the constitution does not mean that the constitution itself and the expression of all its forms are untouchable. Rather, it must be analyzed and negotiated on a case-by-case basis; the country faces difficulties removing itself from the extractivist system and looking for post-extractivist options. As mentioned at the beginning of this text, there are articles in the CRE that contradict the constitution itself, such as Article 407 and Article 408, which continue to view nature as a resource, continue to interpret it as a resource, and criminalize the actions of its defenders.

A recent example of the contradictory behavior of justice operators can be seen in the rulings of La Chiquita and Awá Guadalito, where there was no sentence in favor of the communities, nor for Nature. The judge did not suspend the companies' polluting activities. Nor did he provide financial compensation to the communities or to Nature in the terms the plaintiffs had requested. Furthermore, the judge did not hold the companies responsible, but rather the State. In other words, it was in practice, a very negative ruling.

The La Chiquita and Awá Guadalito rulings, or the cases regarding the Monjas River or Estrellita the monkey reflect legal tensions and resignifications not only of the plural property under the umbrella of the RoN, but also of the plural properties of Nature and the pluriownership of the land itself. They are the gradual efforts in the development of the concept and right of property in the context of the RoN. The beating of a heart (*de un corazónar*) for a multi-species justice is possible owing to the existence of an already applied decolonial law which is not a utopia but which exists thanks to the historical legal mingas.



4. Legal Minga



Figure 1. *Minga* of manioc seed in the *chakra*. Credits: Kichwa People of Sarayaku

Minga is a concept that refers to collective community work, part of relearning life, for *Alli Kawsay* (daily life). It is a collective action based on reciprocity, mutual support, solidarity, and necessity. In the Andean-Amazonian communities, mingas are used to open a *chakra* (orchard, traditional system of rotational cultivation), for planting, for harvesting, for the construction of a house, and for maintenance of roads and water systems, among other purposes.

Based on this concept, we can identify a search for the collective common good through “*mingas* of thoughts” and “*mingas* of resistance”. The legal minga can be read as a tool of a social, economic, and political nature in the communities, Peoples, and Nations that has allowed the management of life through the historical legal mingas, in the political struggle narrated by Mario, within the framework of self-determination in the face of the actions and omissions of the central State and in opposition to different practices of the free market and globalization.

It is in this sense that we speak of a legal minga as a metaphor, alluding to the act of the minga where it is shared in the collective, such as the minga to sow manioc (*Manihot esculenta*) (Figure 1) and also as present in the document of the Own Law. But we allude also to a minga that respects the life cycles of the manioc and their own laws in times of harvest and reproduction. The minga *corazonada* (resistance fought in the heart



and in the mind) from the Living Forest resonates with a minga such as ants building an anthill, where no one appropriates this co-authorship, and its production process materializes the movement routes and itineraries of the ants themselves. Moreover, the elaboration of the document of the Own Law in collective authorship is from the forest itself and its people, the Sarayaku People. In this context, the law is relevant because it nurtures abundance, regulates land and the mingas, and resolves conflicts in collective spaces.

The legal minga includes discussions and collective writing, *corazonando* in a “dialogical, collective, and polyphonic exercise” (Aragón Andrade, 2024, p. 372). This description is taken from the article by Orlando Aragón Andrade, a militant anthropologist and lawyer, on the *subaltern legal imagination* in the context of Indigenous Peoples and communities in Mexico. The author emphasizes the asymmetrical nature of power from which this imagination or creativity to be articulated which echoes the argument we present here, since, as mentioned in the title of his text, this imagination is a “contribution to the decolonization of law” (Ibid.). The creativity of lawmakers in exercising the rights established in the Constitution and applying what the Sarayaku lawmakers have learned from the Living Forest as a source of law (Cf. Anker, 2017; Black, 2011; Davies, 2022) to create an “instrument of participation” is an act of decolonization of the law.

Such creativity reflects the learning of the vocabulary of the State and the sustainability of a difficult struggle featuring asymmetrical positions. The historical legal minga means that notions of community property and that of Pacha Mama have permeated State law. That is to say, this source and what they as above have learned from the forest itself have influenced this law, and Sarayaku, in its legal work, in turn relies on State law, which is also one of its sources. That is, previous notions and concepts such as the Living Forest, although in another form transmitted in legal mingas, were already embodied in the CRE where they had materialized as Pacha Mama.

The Constitution of the Living Forest is fractal and fragmented, having materialized from the forest itself and its textuality:¹⁹ in the songs of the toucan, in the rhythms of the drum, in the stories of law such as *Manga Allpa* to take care of the clay when weaving ceramics, by *Amazanga Runa*, about hunting well. Part of this legal minga consisted of translating the languages of stories of law, rhythms, performativity, semiotics (Cf. Kohn, 2021), and interpretations of the forest into its fragmentation on paper and

¹⁹ For a reading of textuality in an Amazonian context, see Uzendoski, “Beyond Orality”.



into Spanish. This process has been fundamental in the legal work of Sarayaku. This is not only reflected in the document of the Own Law of consultation, but also in other documents that are part of the legal mingas of Sarayaku, such as the Statutes and the Declaration of the Living Forest. In this process, the translation is not an exact replica. For the language of the People and the languages of the forest, the exercise of codification means, seeking intercultural terms that are defined by Amazonian personality and the points of view and feelings of living beings, cosmic beings, and their agency.²⁰

The Law Itself expresses tradition and, in the act of codification, is a form of action and omission by the State, as when consultation protocols were not respected and as when, in 2012, Sarayaku won in the Sarayaku v. Ecuador case (Corte Interamericana de Derechos Humanos, 2012). At the same time, the minga implies (un)learning co-governance with the entities of the Living Forest, making mistakes, constantly reflecting, and nourishing oneself with unique experiences and ways of understanding the rights of each Runa with one's heart, thus consistent with the *corazonar* notion.²¹ Thus, the legal minga uses the law as a tool of decolonial resistance, to establish its own enunciation and law, deciding how to exercise self-determination. Illustrative of this idea, it is through long assemblies and congresses and in the accompaniment of drumming and performances by the People that the progress of the *Tayjasaruta* (governing council) and the leaders is presented, that proposals are debated, that resolutions are adopted, and that documents are collectively drafted.

The manioc mingas also opens reflections on the plural ownership of the territory. The categories of common property or private property are wobbly and must also be thought of in the intercultural context. In Sarayaku, a census was conducted to count certain items per family, such as pots, hunting tools, bathrooms, and even pets. T-shirts, cigarettes, sharing songs with birds, or tapping rhythms with the drum depend on the “things” or “subjects in question” and their own characteristics.

To be, as was Mario, a *Kuraka*—a traditional authority who has learned from the beings of the forest (where animals, plants, and *supays* or cosmic beings have their own Kurakas)—you need to have a chakra to make *chicha* (fermented beverage). Manioc, with its own existence and regulations, belongs to the forest and to itself. But in the act of the minga, the Kuraka, together with his *Kuraka mama*, aligned with that normativity, after

²⁰ See for example, Rival, 2012; Rivera Andía, 2019; Viveiros De Castro, 1998.

²¹ Sarayaku Person.



collective work, shares with his ancestral community and becomes part of a common good. Property is not fixed; it varies according to its materiality and meaning. The minga reflects the collectivity and shows the sharing of the plural understanding of property.

Part of the work of the legal minga has been to use these languages and understand property from an intercultural perspective. This implies respecting the lives in and of the forest, its guardians, and the concept of *Kawsak Sacha*.

As regards all of the above reasons, the legal minga is a strategy for the materialization of Sarayaku own regulations for territorial co-governance in the face of the omissions of the Ecuadorian State. The Own Law allows for legal protection through the Living Forest itself, reaffirming the Rights of Nature in polyphony with the construction of a plurinational and intercultural State.

In the next part, we will briefly analyze Sarayaku's Own Law of consultation.

5. Own Law for the exercise of self-determination in the application of the Right to Free, Prior, and Informed Consent²²

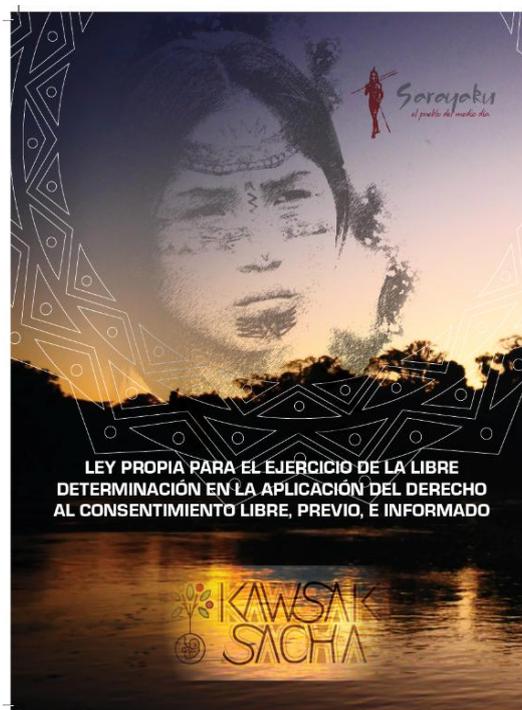


Figure 2. Cover of the Own Law of Free, Prior and Informed Consent. Credits: Kichwa People of Sarayaku.

²² For reasons of space, we have included an annex (Figure 4) describing the general structure of the document.



The Own Law (Figure 2) is a 30-page document, alternating text and images of the territory, and is part of the legal framework of Sarayaku. It operates together with the Statutes, the Norms of Conviviality, Life Plans, the Declaration of the Kawsak Sacha,²³ the Rules of Contraventions, and the ruling in the Sarayaku case. The document begins with a presentation and introduction of the People followed by the vision of life of the Sumak Kawsay and the Kawsak Sacha. The form of organization is described; the included structures are inspired especially by the animal world, as we have observed in the case of the forest parliament; and the assemblies and congresses are aimed at the “collective interest of the people of Sarayaku.”

The makers of the Law give Sarayaku an express role in ensuring that the specified rights are vindicated, highlighting the 1992 march for its having influenced State legislation. For this reason, when the Kichwa People make avail of instruments of international²⁴ and State law,²⁵ as well as of judgments of the Inter-American Court of Human Rights (IACHR),²⁶ it is done within the framework of their own regulations. That is why, in the third section of the document, the “rights that enable us to establish our own regulations and exercise the regulation of our right to free, prior and informed consent” are specifically mentioned and grouped along five axes:

1. The right of self-determination of Indigenous Peoples
2. The Indigenous Peoples’ Own Law
3. The right to identity and non-discrimination
4. The right to land, territory, and natural resources
5. The right to consultation and to free, prior, and informed consent

²³ The Declaration recognizes the territory of 135,000 hectares and almost 1400 inhabitants as Kawsak Sacha (Living Forest), “living and conscious subject, subject of rights”, Pueblo Originario Kichwa de Sarayaku, 2018. For a more in-depth analysis of this document, see: García Ruales, 2024.

For other readings of Indigenous relationships with territory and the stories of law that guide and are a compass of resistance, see: Mitchell, 2018; Simpson, 2011.

²⁴ Instruments and articles of the United Nations Declaration on the Rights of Indigenous Peoples, the International Covenant on Civil and Political Rights, ratified by the Ecuadorian State; ILO Convention 169, Americas Declaration on Indigenous Peoples; and the International Convention on the Elimination of All Forms of Discrimination and Racism.

²⁵ Such State law includes the Ecuadorian State’s recognition of the plurinational character as well as collective rights that legitimize the Kichwa People’s own systems of government and justice. Even the Ecuadorian Constitutional Court has developed a guide of good practices for implementing the free, prior and informed consent,

<https://www.corteconstitucional.gob.ec/guias-de-jurisprudencia-constitucionales/> (last access [26 September 2025]).

²⁶ November 28, 2007, Case of Saramaka People v. Suriname; reference is also made to a recent document of the Inter-American Court of Human Rights that recognizes “that the notions of Laws of Origin or their own laws are an integral source of self-determination from the vision and perspective of Indigenous Peoples”.



Before starting with the 30 articles that articulate a clear “no” and exclude all extractive activity—but give consent for a dialogue as long as there is “good faith,” a request to the People, a methodological route and collective follow-ups—the People list considerations (Figure 3) based on “the exercise of our own rights and the self-determination of the Peoples, based on our Statute, the Political Constitution, international pacts, conventions and treaties.”



Figure 3. Own Law of Free, Prior, and Informed Consent. Credits: Kichwa People of Sarayaku.

6. Final heartbeats

With consent or not?

Plural decolonial corazonamientos about property rights from the Living Forest mean that you can hear roars, screeches, and songs from the forest parliament.

At a time when Pacha Mama is a victim of capitalism and extractivism that have led to ethnocide, ecocide, and a hoarding of the goods of life, the importance of the Own Law for the exercise of self-determination in application of the right to free, prior, and



informed consent lies in the fact that the document has materialized through the legal minga of the Sarayaku People. In the framework of self-determination, one of the mandates of the first Indigenous uprising of 1990 has also been specified: “To build a Plurinational State” (Concejo de Gobierno de la CONAIE, 1994). This reflects the nature of plurinational regulations and is a contribution to decolonial law.

Analyzing this Own Law and conducting a comparative exercise allows us to engage in dialogue and identify the different nuances of property, since the concept of property operates in a polyphony with the collective rights and Rights of Nature recognized in the CRE, demonstrating the need for legal frameworks that recognize plural properties. Consultation from the Constitution of the Living Forest and fragmentation can serve as inspiration for other frameworks of the Own Law. This inspiration seeks to create alliances and find consent with the beings with whom territories are shared in rivers, moorlands, mangroves, mountains and forests. It is crucial that, under the umbrella of the Rights of Nature (RoN), notions of plural property are recognized. The three categories of property illustrated in the framework of the RoN jurisprudence—property as a plurality of meanings and spiritual, intercultural, and magical values; property as ecological interdependence; and property in dispute, presenting legal tensions and instrumentalization—apply not only to the Living Forest and the Sarayaku proposal with its Own Law, but also to Pacha Mama itself. Where does “that cosmos or that property” begin and end?

The decolonial translation of the right to property from the Living Forest adapts to the legal personality and the recognition of the territory as “living and conscious” by recognizing it as Kawsak Sacha and subject of rights (Pueblo Originario Kichwa de Sarayaku, 2018). This decolonial form of property, framed in the concepts of land, territory, or Living Forest, or goods of life that can be used as synonymously or interchangeably, merits attention. In the Own Law document, “property” appears only three times, while terms such as “land,” “territory,” “goods of life,” and “Kawsak Sacha” are used interchangeably,²⁷ revealing how Sarayaku is making a counterproposal to epistemic violence and is embracing (*corazona*) the subaltern legal imagination.

Is it possible to transplant the notion of property and the instrument of collective ownership of Sarayaku to other forests and territories? We believe so: a forest or a river,

²⁷ For more on decolonial translations of violence and destabilization, see: Vázquez, 2011. On decolonial translation in another context, see also: Salaymeh, 2021.



for example, can be a source of law, and the beings of the forest can give their consent or not. However, a constitutional framework that opens doors and legitimizes the plurality of properties is essential. This polysemy of property could also inform private law, particularly when intersecting with the RoN's operational logic, prompting us to think of a source of law in private terms. Beyond the constitutional sphere, private lawyers might consider how contractual agreements, usufruct rights, or trusts could be reinterpreted to recognise more-than-human agency and embed a set of relational schemes as a legal principle.²⁸

The Living Forest is protected by a Pacha Mama with rights. At the same time, collective rights and collective property are key: in Sarayaku, property is also regulated ancestrally. This does not mean that there are no property disputes. Collective rights, as interpreted by the leader and former judge of the Constitutional Court, Nina Pacari, also apply to the lives of the forest existing in the territory (2009, p. 32). The application of this law of the Living Forest is carried out collectively, although it differs according to each *Sarayaku Runa*.

Just as human beings can have different positions on extractive issues, forest beings can also manifest different positions in consultation. It is important to mention that this property is fluid, as are its ontological traces.²⁹ It is an expression that knows no boundaries in the classical sense of property. Other examples could be found in the differences between endemic and introduced unwelcome plants, or even in new readings of property that are appearing as a co-authorship of intellectual property with Nature (Ávila Santamaría, 2023). In Sarayaku it would be important to continue exploring the co-authorship of the Living Forest and its interrelation with property.

The legal mingas flow across borders, resonate in other territories and struggles, takes on artistic components, confront extractivism, and are accompanied by the act of heartfelt thinking (*corazonar*), as a way of bringing possible legal narratives to other fields and creating a territorial takeover.

²⁸ For example, van Laarhoven and Claerhoudt, 2024.

²⁹ Legal scholar Andreas Fischer-Lescano describes this very same fluidity and ontological boundaries for the context of the Atrato River (2020, 248).



TITLE I General Concepts Object, Scope, Principles and Purposes	Art. 1 Object Art. 2 Scope Art. 3 Principles Art. 4 Sanctions
TITLE II Consent for the Kichwa Indigenous People of Sarayaku	Art. 5 Reaffirmation of the prior consent of the Peoples on issues of governmental or non-governmental programs/projects Art. 6 Consent is a community of normative respect and at the same time a “mechanism for democratic, intercultural dialogue and a principle of participation in the construction of the Plurinational State”
TITLE III Sumak Kawsay: Our exercise of the right to define our own life priorities	Art. 7 Life Plan ³⁰ Art. 8 Sumak Kawsay life plan, International Law Art. 9 Introduction to the Three Pillars of Sumak Kawsay Art. 10 <i>Sumak Allpa</i> Art. 11 <i>Sacha Runa Yachay</i> Art. 12 <i>Runakuna Kawsay</i>
TITLE I Kawsak Sacha-Living Forest: Our intrinsic relationship with life in the territory	Art. 13 Interrelationality of the concepts of Pacha Mama, Territory, Kawsak Sacha, Sumak Kawsay Art. 14 Guiding principle of Kawsak Sacha
TITLE V Areas not subject to consent (Topics on which there is no consent from the Kichwa Indigenous People of Sarayaku)	Art. 15 Exclusion of all extractive activities within the territory of the Kichwa Indigenous People of Sarayaku Art. 16 Exclusion of extractive activities: hydrocarbons, mining, large-scale logging, biopiracy, and commercial water exploitation. This is because [these activities] have consequences such as: a) Death of all the beings that balance the life of Pachamama or Madre Tierra [Mother Earth] and with it the certain risk of disappearance of our life and cultural identity b) Imbalance of <i>ayllus</i> (families) and beings c) Situation of ethnocide for Indigenous Peoples and ecocide for the Living Forest, commodification of goods of life d) Violation of the fundamental right of self-determination and autonomy
TITLE VI	Art. 17

³⁰ “Sumak Kawsay Life Plan which includes the main priorities for our process of sustaining life and continuity of our own cultural identity. The Sumak Kawsay Life Plan represents for us the way to express in a document our own priorities with regard to the process of development of our People.”



Standards of the consent process	<p>TO ENSURE COMPLIANCE WITH OUR LAW (emphasis in the original)</p> <p>The issues on which there is consent for culturally relevant dialogue are those fundamental rights guaranteed by the current constitution of Ecuador</p> <p>Art. 18. Free procedure</p> <p>Art. 19. Free consent</p> <p>Art. 20. Prior consent</p> <p>Art. 21. Informed consent</p> <p>Art. 22. Consent in good faith</p> <p>Article 23 Binding consent</p>
<p>TITLE VII</p> <p>Procedure of the Kichwa Indigenous People of Sarayaku for the exercise of the right to free, prior and informed consent</p>	<p>Art. 24. Formal request for the dialogue process on a legislative, administrative, or other initiative</p> <p>Art. 25. Assessment of the official request for a procedure for the exercise of the right to free, prior, and informed consent</p> <p>Art. 26 Definition of the appropriate procedure for the development of the dialogue process in relation to the initiative presented³¹</p> <p>Art. 27 Formulation of the operational plan for dialogue for the exercise of the right to consent with the Kichwa Indigenous People of Sarayaku³²</p> <p>Art. 28 Submission and approval of the consultation/consent plan to the governing council</p> <p>Art.29 Implementation of the information phase of the consent process</p> <p>Art. 30 Deliberative phase of the process by the communities and institutional structure of the Kichwa Indigenous People of Sarayaku</p> <p>Art. 31 Phase of agreements on terms and consent</p> <p>Art. 32 Evaluation and monitoring of the initiative and agreements</p>
Final provisions	<p>First: The application of the law of their [the Kichwa People's] Own Law is authorized by the Governing Council and the Assembly of the People.</p> <p>State obligation to guarantee the right to free, prior, and informed consent</p>

³¹ "Should consent exist, the Governing Council shall determine whether the consent process can be resolved within the framework of its authority or whether it is necessary to establish consultations and dialogues with the Assembly."

³² Once the request for the exercise of the right to free, prior and informed consent has been qualified, the Governing Council delegates a commission to represent the People (...) in the design of a Joint Consultation/Consent Plan in the matter that is required to be dealt with within the framework of the right to prior, free and informed consent with "the proposing party to establish, in conjunction with the Tayjararuta commission, a methodological roadmap or Consultation and Consent Plan."



	<p>Second: Guarantors of the application of this Own Law are the Indigenous organizations (Pakkiru, CONFENIAE, CONAIE, COICA)³³</p> <p>Third: Only the Assembly and Congress of the Kichwa Indigenous People of Sarayaku can reform this law. Effective from May 29, 2022, after being approved by the Extraordinary Assembly</p>
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Figure 4 (Attachment). Summary of the Own Law of Free, Prior, and Informed Consent. Credits: Authors.

References

ANKER, K. Law As...Forest: Eco-logic, Stories and Spirits in Indigenous Jurisprudence. *Law Text Culture*, v. 21, pp. 191–213, 2017.

ARAGÓN ANDRADE, O. La imaginación jurídica subalterna de los pueblos y comunidades indígenas. Un aporte para la descolonización del derecho desde la antropología jurídica militante. In: Asociación Latinoamericana de Antropología (org.). *Antropologías hechas en México*. Ciudad de México: Asociación Latinoamericana de Antropología, 2024. p. 355–379.

ÁVILA SANTAMARÍA, Ramiro. La naturaleza, sujeto de derechos: propiedad intelectual. GK City, out. 2023. Available at: <https://gk.city/2023/11/01/la-naturaleza-sujeto-de-derechos-propiedad-intelectual/>. Accessed in: Oct. 2025.

BELOV, Martin. *Constitutional semiotics: the conceptual foundations of a constitutional theory and meta-theory*. Oxford; London; New York: Hart, 2022.

BIRRELL, Kathleen. *Indigeneity: Before and beyond the Law. Indigenous Peoples and the Law*. Abingdon; New York: Routledge, 2016.

BLACK, C. F. *The land is the source of the law: a dialogic encounter with indigenous jurisprudence*. London; New York: Routledge, 2011.

CARLET, Flavia; FERREIRA, Flavio. Para una socio-antropología jurídica poscolonial: del ethos occidental a las narrativas de resistencia afroecuatorianas. *Oñati Socio-Legal Series*, v. 8, n. 5, p. 646–676, 2018. Disponible en: <https://doi.org/10.35295/osls.iisl/0000-0000-0000-0965>. Accessed in: Oct. 2025.

CELERMAJER, Danielle; SCHLOSBERG, David; RICKARDS, Lauren; STEWART-HARAWIRA, Makere; THALER, Mathias; TSCHAKERT, Petra; VERLIE, Blanche; WINTER, Christine. Multispecies Justice: Theories, Challenges, and a Research Agenda for Environmental Politics. *Environmental Politics*, v. 30, n. 1–2, p. 119–140, 2021. Available at: <https://doi.org/10.1080/09644016.2020.1827608>. Accessed in: Oct. 2025.

³³ Pakkiru (*Pastaza Kikin Kichwa Runakuna*, Kichwa Nation umbrella political organization), CONFENIAE (Confederation of Indigenous Nations of the Ecuadorian Amazon), CONAIE (Confederation of Indigenous Nations of Ecuador) and COICA (Coordinator of the Indigenous Organizations of the Amazon Basin).



- CONSEJO DE GOBIERNO DE LA CONAIE. Proyecto Político de la CONAIE. 1994.
- CORTE CONSTITUCIONAL. Guía de Jurisprudencia Constitucional – Derechos de la Naturaleza. Quito, 2023.
- CORTE CONSTITUCIONAL. Guía de Jurisprudencia Constitucional – Derecho a Ser Consultados. Quito, 2025.
- CORTE CONSTITUCIONAL. Mona Estrellita, 19 Jan. 2022.
- CORTE CONSTITUCIONAL. Los Cedros, 10 Nov. 2021.
- CORTE CONSTITUCIONAL. Río Aquepi, 15 Dec. 2021.
- CORTE CONSTITUCIONAL. Río Monjas, 19 Jan. 2022.
- CORTE INTERAMERICANA DE DERECHOS HUMANOS. Sarayaku, 27 Jun. 2012.
- CORTE PROVINCIAL DE JUSTICIA DE ESMERALDAS. La Chiquita, No. 08100-2010-0485, 11 Jan. 2017.
- DAVIES, Margaret. *Ecolaw: legality, life, and the normativity of Nature*. New York: Routledge, 2022.
- FISCHER-LESCANO, Andreas. *La Fuerza del Derecho*. Quito: Editorial El Siglo, 2019.
- FISCHER-LESCANO, Andreas. Nature as a Legal Person: Proxy Constellations in Law. *Law & Literature*, v. 32, n. 2, p. 237–262, 2020. Available at: <https://doi.org/10.1080/1535685X.2020.1763596>. Accessed in: Oct. 2025.
- FLORES VELASCO, Alonso. *Cuentos y leyendas de la Amazonía*. Puyo: Casa de la Cultura Ecuatoriana, 2005.
- FRANCO, Juan Carlos. “El Estado debe reglamentar la relación de las empresas con las comunidades”. In: *El Oriente es un mito*, 1. ed., p. 148–154. Quito: Abya-Yala, 2003.
- GARCÍA RUALES, Jenny. Corazonando from the Amazon. In: CHAO, Sophie; WINTER, Christine; SCHLOSBERG, David (eds.). *Worlds Beyond Bios: The Life of Matter and the Matter of Life*. Durham NC: Duke University Press, Forthcoming.
- GARCÍA RUALES, Jenny. Forest moralities, kindred knowledge and Sacha Runakuna: Kawsak Sacha as law. *The International Journal of Human Rights*, 2024, p. 1662–1686. Available at: <https://doi.org/10.1080/13642987.2024.2362837>. Accessed in: Oct. 2025.
- GARCÍA RUALES, Jenny; ESLAVA, Luis; MORALES NARANJO, Viviana. Legal ‘heartfelt thinking’, 7 Feb. 2025. Available at: <https://verfassungsblog.de/mingas-rights-of-nature/>. Accessed in: Oct. 2025.



GUERRERO ARIAS, Patricio. *Corazonar: una antropología comprometida con la vida: miradas otras desde Abya-Yala para la decolonización del poder, del saber y del ser*. Quito, Ecuador: Abya Yala, Universidad Politécnica Salesiana, 2010.

GUERRERO ARIAS, Patricio. *La chakana del corazonar: desde las espiritualidades y las sabidurías insurgentes de Abya Yala*. Quito, Ecuador: Abya Yala, 2018.

GUTMANN, Andreas. *Hybride Rechtssubjektivität: Die Rechte der Natur oder Pacha Mama in der ecuadorianischen Verfassung von 2008*. Vol. 307. *Beiträge zum ausländischen öffentlichen Recht und Völkerrecht*. Baden-Baden: Nomos, 2021.

ILICH BACCA, Paulo; MEDINA, Jesús; QUIGUA, Diana; MURILLO, David; PULIDO, Sergio. *Cartilla de consulta previa intercultural: El consentimiento libre, previo e informado en la interlegalidad*. March 2022.

KOHN, Eduardo. *Cómo piensan los bosques: hacia una antropología más allá de lo humano*. Trad. Mónica Cuéllar Gempeler y Belén Agustina Sánchez. Quito, Ecuador: Abya-Yala, 2021.

KRØIJER, Stine. *The Non-Relational Forest: Trees, Oil Palms and the Limits to Relational Ontology in Lowland Ecuador*. In: BONELLI, Cristóbal; WALFORD, Antonia (eds.). *Environmental Alterities*, p. 117–137. *Mattering Press*, 2021. Available at: <https://doi.org/10.28938/9781912729142>. Accessed in: Oct. 2025.

MICHAELS, Ralf; SALAYMEH, Lena. *Decolonial comparative law: a conceptual beginning*. *Rabels Zeitschrift für ausländisches und internationales Privatrecht (RabelsZ)*, v. 86, n. 1, p. 166–188, 2022.

MITCHELL, Sherri. *Sacred Instructions: Indigenous Wisdom for Living Spirit-Based Change*. Berkeley: North Atlantic Books, 2018.

PACARI, Nina. *Naturaleza y Territorio desde la Mirada de los Pueblos Indígenas*. In: ACOSTA, Alberto; MARTÍNEZ, Esperanza (eds.). *Derechos de la naturaleza: el futuro es ahora*, p. 31–39. Quito, Ecuador: Ediciones Abya-Yala, 2009.

PUEBLO ORIGINARIO KICHWA DE SARAYAKU. *Declaration Kawsak Sacha–The Living Forest*, 2018.

PUEBLO ORIGINARIO KICHWA DE SARAYAKU. *Ley Propia: el ejercicio de la Libre Determinación en aplicación del derecho al Consentimiento Previo, Libre e Informado del Pueblo Originario Kichwa*, 2022.

QUINTANA, María Marta. *Colonialidad del ser, delimitaciones conceptuales*. *CECIES: Pensamiento Latinoamericano y alternativo*, 2009, p. 1–7.

QUINTERO, Pablo. *Notas sobre la teoría de la colonialidad del poder y la estructuración de la sociedad en América Latina*. *Papeles de Trabajo. Centro de Estudios Interdisciplinarios en Etnolingüística y Antropología Socio-Cultural*, v. 19, 24 mar. 2020, p. 1–15. Available at: <https://doi.org/10.35305/revista.v0i19.122>. Accessed in: Oct. 2025.



RIVAL, Laura. The materiality of life: Revisiting the anthropology of nature in Amazonia in *INDIANA*, v. 29, 2012, p. 127–143.

RIVERA ANDÍA, Juan Javier, ed. *Non-Humans in Amerindian South America: Ethnographies of Indigenous Cosmologies, Rituals and Songs*. EASA Series 37. New York; Oxford: Berghahn Books, 2019.

RODRÍGUEZ CAGUANA, Adriana; MORALES NARANJO, Viviana. *Los derechos de la naturaleza desde una perspectiva intercultural en las Altas Cortes de Ecuador, la India y Colombia*. Quito: Huaponi Ediciones, 2021.

SALAYMEH (لينا سلامية), Lena. Decolonial Translation: Destabilizing Coloniality in Secular Translations of Islamic Law. *Journal of Islamic Ethics*, 5 mar. 2021, p. 1–28. Available at: <https://doi.org/10.1163/24685542-12340054>. Accessed in: Oct. 2025.

SANTOS, Boaventura de Sousa. Cuando los excluidos tienen Derecho: Justicia indígena, plurinacionalidad e interculturalidad. In: SANTOS, Boaventura de Sousa; GRIJALVA, Agustín (eds.). *Justicia indígena, plurinacionalidad e interculturalidad en Ecuador*, p. 13–50. Quito: Abya Yala, 2012.

SIMBAÑA, Floresmilo; RODRÍGUEZ CAGUANA, Adriana; MARTÍNEZ ABARCA, Juan Mateo, eds. *¡Así encendimos la mecha! treinta años del levantamiento indígena en Ecuador: una historia permanente*. 1. ed. Quito, Ecuador: Kitu Kara, Abya-Yala, Universidad Andina Simón Bolívar, 2020.

SIMPSON, Leanne. *Dancing on Our Turtle's Back: Stories of Nishnaabeg Re-Creation, Resurgence and a New Emergence*. Winnipeg: Arbeiter Ring Publ, 2011.

TEUBNER, Gunther. *Verfassungsfragmente: gesellschaftlicher Konstitutionalismus in der Globalisierung*. 1. Aufl., Orig.-Ausg. Suhrkamp Taschenbücher Wissenschaft 2028. Berlin: Suhrkamp, 2012.

TAYLOR, Anne-Christine. Una Categoría Irreductible en el Conjunto de las Naciones Indígenas: Los Jívaro en las Representaciones Occidentales. In: CHANCOSA, Blanca (ed.). *Imágenes e imagineros: Representaciones de los indígenas ecuatorianos, siglos XIX y XX*, v. 1, p. 75–108. Quito: FLACSO Ecuador, 1994.

UZENDOSKI, Michael A. Beyond Orality: Textuality, Territory, and Ontology among Amazonian Peoples. *HAU: Journal of Ethnographic Theory*, v. 2, n. 1, 2012, p. 55–80. Available at: <https://doi.org/10.14318/hau2.1.005>. Accessed in: Oct. 2025.

VALDEZ, Rosa; MORÁN, Guillermo. *Paisaje/Territorio. Imaginarios de la selva en las artes visuales*, 2019. Available at: <https://www.paralaje.xyz/paisaje-territorio-imaginarios-de-la-selva-en-las-artes-visuales/>. Accessed in: Oct. 2025.

VAN LAARHOVEN, Joris; CLAERHOUDT, Rens. A New Leaf: Is It Time to De-objectify Plants in Private Law? *Transnational Environmental Law*, v. 13, n. 2, 2024, p. 286–311.



VÁZQUEZ, Rolando. Translation as Erasure: Thoughts on Modernity's Epistemic Violence. *Journal of Historical Sociology*, v. 24, n. 1, mar. 2011, p. 27–44. Available at: <https://doi.org/10.1111/j.1467-6443.2011.01387.x>. Accessed in: Oct. 2025.

VIEIRA, Marco. The Decolonial Subject and the Problem of Non-Western Authenticity. *Postcolonial Studies*, v. 22, n. 2, abr. 2019, p. 150–167. Available at: <https://doi.org/10.1080/13688790.2019.1608795>. Accessed in: Oct. 2025.

VIVEIROS DE CASTRO, Eduardo. Cosmological Deixis and Amerindian Perspectivism. *The Journal of the Royal Anthropological Institute*, v. 4, n. 3, sept. 1998, p. 469. Available at: <https://doi.org/10.2307/3034157>. Accessed in: Oct. 2025.

WALSH, Catherine E. *Interculturalidad, estado, sociedad: Luchas (de) coloniales de nuestra época*. Quito: Univ. Andina Simón Bolívar, 2009.

YAUCÉN REMACHE, Mario. *El Estado Plurinacional y la Administración Comunitaria del Agua: Caso en la Comunidad Calera Grande Pomaló, Parroquia San Juan, Ecuador*. Flacso Ecuador, 2020.



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