

Legal case could set a world precedent for forests and priceless wilderness in this Climate Emergency

Ecuador's Protected Forests to define Rights of Nature and test jurisprudence in the country's Constitutional Court...

Quito, Ecuador - In a precedent-setting move, the Constitutional Court of Ecuador, the highest court in the land, has announced it will take on the case of the threatened Los Cedros Protected Forest by using the Rights of Nature enshrined in the constitution. The Constitutional Court chose to hear this case recently and apply, for the first time, Ecuador's constitutionally mandated Rights of Nature providing legal recognition for over 2.4m hectares (6m acres) of Protected Forests.

The government has been promoting large-scale metal mining for some years without respecting the national network of Protected Forests or Indigenous Territories.

José DeCoux, manager of Los Cedros explained: "We're very excited that the Constitutional Court has picked up this case, specifically because it is recognizing the importance of setting precedence for the Rights of Nature. We have been presenting arguments that mining in Protected Forests is a violation of the legal status of declared Protected Areas; the collective rights of indigenous peoples; the Rights of Nature; and the right of communities to prior consultation before potential environmental damages."

One of the UK's leading environmentalists, Jonathon Porritt echoed this view: "Ecuador was the first nation to include the Rights of Nature in its constitution," he said. "It could now become the first nation to protect large swathes of biodiversity, based upon this constitutional innovation. This would set an invaluable precedent worldwide."

Los Cedros in north western Ecuador is one of the most biologically diverse habitats in the world, with more than 4,800 hectares (nearly 12,000 acres) of primary cloud forest, and it safeguards the headwaters of four important watersheds. It protects over 200 species with high extinction risk, five of which are regarded as critically endangered by the Ecuadorian government (see Roy et al. 2018, iNaturalist, and the Los Cedros website for more information).

"The remoteness and high-quality of the habitat explain why there are six species of cats and three species of primate, including some of the last critically endangered brown-headed spider monkeys in the world, as well as the endangered Andean spectacled bear. New species are also being discovered every year," explained Dr Mika Peck from Sussex University.

The area is already under local threats. William Andagoya - the local Community President states “The conservation of Nature is life, the water and all the birds and animals that live here but due to deforestation they are disappearing”.

Elisa Levy, of OMASNE (Observatorio Minero Ambiental y Social del Norte del Ecuador) a non-profit, mining watchdog group in northern Ecuador, explained the legal footing: “In 2017, the Ecuadorian government announced new concessions for mining exploration on over 2.4m hectares (6m acres) of land, a roughly 300% increase. Many of these exploratory concessions are in previously protected forests and indigenous territories, as well in headwater ecosystems and biodiversity hotspots of global importance, like Los Cedros and they appear to be in violation of Ecuadorian law and international treaties.”

As part of this rapid mining expansion, Canadian mining company Cornerstone Capital Resources was given a permit for gold mining in collaboration with the Ecuadorian state mining company, ENAMI. All this despite the Ministry of Environment’s own publication citing Los Cedros in its ‘Areas of Priority for the Conservation of Biodiversity in Ecuador’. Levy points to the, “apparent conflict between the different branches of the Ecuadorian government”.

It is scientifically proven that the exploration and exploitation phases of mining decrease biodiversity primarily through road construction, deforestation, and associated river sedimentation and contamination.

The Los Cedros Protected Forest authorities turned to the courts to fight this mining permit. They won their case for an Action of Protection in the Provincial Court of Imbabura in June 2019, which stripped the mining company of their operating permits. The government, working alongside the mining companies, subsequently appealed against the decision.

Meanwhile the mining company Cornerstone Capital Resources, despite overwhelming opposition in the region, continued exploration within the protected area, in direct contravention of the court order and without the appropriate permits (1).

In mid-May 2020, the Constitutional Court of Ecuador, agreed to hear the Government/ENAMI appeal, saying that it hoped to set a precedent concerning mining in Protected Forests using the Rights of Nature. The Court specifically cited the biodiversity at Los Cedros, and the presence of, “the last populations of the spider monkey in a critical state of conservation, and the Andean (spectacled) bear [which is] in danger of extinction”.

This is a microcosm of the current conflict between the Ecuadorian government and its intention to open the country’s untapped oil and mineral reserves to foreign investment and the long-held public sentiment in Ecuador against extractionist economic development (2). The impending case will help determine the balance between short-term economic gains through mining development

and the slower — but generally more sustainable — economic development that accompanies long-term biodiversity conservation.

With the climate emergency, the case has taken on added urgency: the absolute imperative being now that carbon and water sequestering forests, and the biodiversity that they contain, are protected and kept intact.

“This case has implications not just for Los Cedros, but for all 186 Protected Forests in Ecuador, totalling some 2.4m hectares (6m acres),” said Dr Bitty Roy, Professor of Biology at the University of Oregon and one of a number of scientists for whom Los Cedros is a research base.

More than a third of these Protected Forests have been under imminent threat from mining since 2017, when a policy change within the Ecuadorian government allowed these protected lands to be included in mining concessions (3).

The Los Cedros area is already dealing with local threats. William Andagoya - the local Community President said: “The conservation of Nature is life, the water and all the birds and animals that live here but due to deforestation they are disappearing.”

Globally, this would be one of the first cases of constitutional protections for nature being enforced at a national level.

Edgar Merlo, who heads the legal team for Los Cedros, put it this way: “The [Constitutional] Court’s ruling in this case would be a first in Ecuador: on the Rights of Nature, the right to prior consultation of communities, and the right to legal certainty, since concessions were granted without respecting the declaration of protective forests. The final judgment by the Constitutional Court in this case could change the legal focus in Ecuador, South America, and the entire world on the Rights of Nature and the rights of local communities, so that mining concessions are not granted in Protected Forests.”

For further information please contact

Jose Cueva - Media spokesperson intaglibre@gmail.com +593 99 9347230

Josef de Coux - Los Cedros Reserve jose@reservaloscedros.org +593 99 277 8878

Elisa Levy - OMASNE - elisalevy2@gmail.com +593 99 279 9751

John Seed - Rainforest Information Centre, Australia - Johnseed1@ozemail.com.au +61 0410370632

-
1. Information supplied by Kirsten Frascoscone, the Latin American Coordinator for MiningWatch Canada, a mining industry watchdog non-profit. “They argue incorrectly that the decision is not valid without a ruling from the Constitutional Court.”
 2. Information supplied by Liz Downes, Director of Australia’s Rainforest Information Center.
 3. Information supplied by Paul Gilding, former Executive Director of Greenpeace Australia and Greenpeace International

Resources & Additional Coverage:

For a short 7 minute video update see

<https://www.youtube.com/watch?v=1m5Wq2Uv204&feature=youtu.be>

and for the full 30 minute stunning wildlife documentary about Los Cedros see...

<https://youtu.be/J7Z2gHXgyB0>

For more information and to donate, please visit the crowdfunding campaign here:

<https://www.fundmyplanet.org/campaign/11/save-ecuadors-forests-from-mining>

To see some of the species that call Los Cedros home, visit iNaturalist:

https://www.inaturalist.org/observations?place_id=124456&subview=grid

Or eBird: <https://ebird.org/hotspot/L1481360>

Or the Los Cedros homepage: loscedrosreserve.org

#JusticiaLosCedros

#BosquesSinMineria

Roy, Bitty A., Martin Zorrilla, Lorena Endara, Dan C. Thomas, Roo Vandegrift, Jesse M. Rubenstein, Tobias Policha, Blanca Rios-Touma, and Morley Read. (2018). New mining

concessions could severely decrease biodiversity and ecosystem services in Ecuador. *Tropical Conservation Science*. 11: 1940082918780427.

<https://journals.sagepub.com/doi/full/10.1177/1940082918780427>

Magdaleno, Johnny. (Nov 2018). In Ecuador, landmark court cases challenge mining projects. Thomson Reuters Foundation. <https://www.reuters.com/article/us-ecuador-landrights-mining/in-ecuador-landmark-court-cases-challenge-mining-projects-idUSKCN1NA222>

Basantes, Ana Cristina. (May 2020). Mining company pressing to enter Ecuador's Los Cedros Protected Forest. Mongabay. <https://news.mongabay.com/2020/05/mining-company-pressing-to-enter-ecuadors-los-cedros-protected-forest/>