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CHURCH, STATE AND INDIGENOUS  
PEOPLE

A CASE STUDY ON NATURE AS A HOLDER OF  
RIGHTS UNDER THE SUMAK KAWSAY IN  
ECUADOR

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## **ABSTRACT**

The adoption of Nature as a holder of rights under the Sumak Kawsay (Good Living) conception in Ecuador's constitution 2008 represents a landmark in world history and its relevance relies on its potentiality to overhaul development. This thesis proposes to include inside its debate the Catholic Church as an actor and consistently, the influence of religion and spirituality. In order to argument the proposal, firstly, strategic moments will cover joint efforts of the Church, state and indigenous people inside the journey that lead to the adoption of Sumak Kawsay; secondly, emphasis will be placed on the elucidation of consistencies inside Church and Andean cosmovision stances towards Nature for a sustainable coalition; and finally, it will be defended the inclusion of diversified actors due to the flaws on the applicability of the constitutional law to protect and restore Nature.

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## TABLE OF CONTENTS

ABSTRACT.....	2
ACKNOWLEDGEMENTS.....	3
GLOSSARY .....	7
INTRODUCTION .....	9
Methodology.....	15
Explanatory Hypothesis.....	16
CHAPTER I – The Conceptual Framework: Ecuador, indigenous people, Sumak Kawsay (Good Living), Nature and religion .....	18
1. Introduction.....	18
2. Ecuador diversity and the government structure .....	18
2.1 Indigenous peoples and nationalities .....	19
Source: INEC, Census 2010 .....	20
2.2 Government structure.....	21
3. Sumak Kawsay.....	23
3.1 Sumak Kawsay vs. development .....	25
4. Nature as a holder of rights.....	27
5. Religion, spirituality and the Catholic Church in Ecuador.....	35
5.1 Religion and spirituality.....	35
5.2 Religion in Ecuador .....	36
5.3 Catholicism throughout history and its syncretism in Ecuador .....	37
6. Chapter conclusions .....	41
CHAPTER II - Church, state and indigenous people .....	43
1. Introduction.....	43
2. Catholic Church and the Ecuadorian State .....	43
2.1 Liberation Theology.....	45
3. Liberation Theology, the government and recognition of indigenous rights.....	49
3.1 The indigenous uprising in Ecuador .....	50
3.2 The influence of the Catholic Church.....	54
4. Chapter Conclusions .....	57

CHAPTER III – Church and Andean cosmovision towards Nature.....	60
1. Introduction.....	60
2. The Catholic Church and the environment.....	61
2.1 Sollicitudo Rei Socialis (The Social Concern) – 30 <sup>th</sup> December 1987.....	65
2.2 Caritas in Veritate (Charity in Truth) – 29 <sup>th</sup> of June 2009.....	66
2.3 Laudato Si (Praise be to you) – 24 <sup>th</sup> May 2015.....	67
3. Indigenous people and Nature.....	71
3.1 Andean philosophy by Josef Estermann.....	71
3.2 The humanism and the “Pacha Mama” of Mario Mejia Huaman.....	75
3.3 Indigenous people and their cosmovision – Various authors.....	78
4. Chapter Conclusions.....	80
CHAPTER IV – Applicability of Nature’s rights.....	85
1. Introduction.....	85
2. Applicability of Nature as a holder of rights in Ecuador.....	86
2.1 A legal and institutional overview.....	86
2.2 The interaction of diverse actors on environmental/Nature policy.....	89
3. Nature as a holder of rights (Real cases).....	92
3.1 The first case ruled.....	92
3.2 Mirador large-scale mining project.....	93
3.3 Pachamama Foundation.....	96
3.4 ‘Socio Bosque’ Program of the Ministry of Environment.....	98
3.5 Yasuni ITT (Ishpingo-Tambococha-Tiputini).....	100
4. Chapter conclusions.....	105
CONCLUSIONS.....	108
1. Church, state and indigenous people.....	108
2. Church and indigenous people regarding Nature.....	109
3. Applicability of Nature as a holder of rights.....	110
BIBLIOGRAPHY.....	112
Books and Articles.....	112
Documents and Reports.....	118
Legal sources and case law.....	120
Websites.....	121

*“In order to protect nature, it is not enough to intervene with economic incentives or deterrents; not even an opposite education is sufficient. These are important steps, but the decisive issue is the overall moral tenor of society.”*

*Caritas Veritae*

*“Taita (Father) God put us men to test our intelligence, to see what we prefer, here is water and below gold. What we prefer, gold or water? ”*

*Indigenous lawyer in Azuay (Ecuador)*

*“Sumak Kawsay, the ‘Good Living’ of Andean people, means to live in dignity, with basic needs met but in harmony with oneself, the community and the different cultures and nature”*

*Rafael Correa*

## **GLOSSARY**

Andean: an adjective that makes reference to the geographical belonging to the Andes highlands zone in South America. Inside the thesis, it makes reference to the diverse indigenous groups living in these zones.

Environment: The totality of the natural world but always with the consideration of its relation and dependence to humans.

Indigenist: from ‘indigenism’, a term emerged as a literary movement that idealized the Inca Empire, but then it was also understood as the construction of a new national identity whose center was indigenous culture. It has been also used to sustain political and sociological approaches that criticize the discrimination to this people.

Inti Raymi (Kichwa): the festivity of the sun celebrated each winter solstice on June.

Kapak Raymi (Kichwa): celebration of new life made on December.

Koya Raymi (Kichwa): a special festivity made on September that celebrates fertility.

Mestizo: it became a category of ethnicity in the colonial time that persists until nowadays to describe a person who has a mixture of European and Amerindian ascendance.

Nature: according to the Ecuadorian government party ‘Alianza Pais’ and its National Plan 2007-2013; Nature is every plant, animal, river, lake, sea, air, land, and every element and spirit that make possible life. As this thesis argues with the legal personhood of Nature, it is employed as a proper noun with capital letter. It is a concept argued on deep ecology that has an individual an independent status from its relation to humanity.

Neo-constitutionalism: a new theory in law that evokes: wider intervention of the government inside state’s decisions, creation of democratic equalitarian spaces and respect for the human rights. In Latin America, these tendency was characterized to aspire for a better democratic stability by reducing the hyper-presidential system; the strengthening of human rights and the recognition of indigenous groups; and, higher standards of governance and constitutional control.

Neoliberalism: a modern politic-economic theory favoring free trade, privatization, minimal government intervention in business and reduced public expenditure or social services.

Pacha Mama (Kichwa): these words would be usually translated to Mother Nature in English. Pacha means not only nature or land but the whole cosmos.

Pachamamist: an ideology that recognizes a change from humanity as the owners of nature to a biocentric equality in which men are part of Nature and not its master.

Pawkar Raymi (Kichwa): the blooming season celebration usually made on March.

Socialism of the twenty-first century: a socialist tendency described by Heinz Dietrich that criticize free market and industrial capitalism for failing to solve urgent social problems such as hunger, poverty, destruction of natural resources and exploitation. It took further relevance by Latin American leaders (Lula da Silva, Evo Morales, Hugo Chavez and Rafael Correa) coining to appertain to this tendency.

Tahuantinsuyo (Kichwa): the largest Inca empire of South American continent covering a geographical space that begun in Colombia and finished on the north of Argentina.



## INTRODUCTION

Just on 2015, approximately 185 killings of Nature<sup>1</sup> defenders were registered according to the report *On Dangerous Ground* by Global Witness<sup>2</sup>, 40% of them belong to indigenous groups. The impunity of these crimes signals the insufficient guarantees that states and international community generate in order to protect the ecosystem exploitation, its advocates and the population directly affected. On the other hand, some hope still remains as cases like the ‘Whanganui River iwi’ in New Zealand emerge as a solution to protect the most valuable sources of life, through the grant of legal personhood to Nature. These is the dichotomy of a same problematic enclosed in the battle of environmental crisis vs. economic profit that represents a well-known reality discussed at academic and political levels since the last century.

In addition, the world is living in a permanent state of crisis that runs through environmental problems, political extremist uprisings, religious predicaments, xenophobic demonstrations and fear. The occidental economic model characterized by secular preference, neoliberal policies, consumerism and capitalistic tendencies has caused a terrible social fragmentation that has led to an extreme divided society: of those privileged that can access to basic services, comfort, status, education and a possible dignified future; and those who struggle with the devastating consequences of poverty that this system has created. Moreover, Nature has also suffered terrible direct and collateral damages and the consequences have been pernicious enough to affect the entire ecosystem and threat human existence itself.

The first relevant debates in the international framework regarding the deterioration of the environment occurred on 1972 on the United Nations Conference on the Human Environment in Stockholm, Sweden. Later, the dialogue continued on documents and events such as the Earth Charter, the Rio Declaration on Environment and Development or the World Summit on Sustainable Development of Johannesburg. Only after the increasing occurrence of natural disasters caused by climate change, the world leaders finally started to pay attention to this severe problem and a considerable

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<sup>1</sup> According to the Ecuadorian government party ‘Alianza Pais’ and its National Plan 2007-2013; Nature is every plant, animal, river, lake, sea, air, land, and every element and spirit that make possible life. As this thesis argues with the legal personhood of Nature, it is employed as a proper noun with capital letter.

<sup>2</sup> See: Global Witness *On Dangerous ground*. 2015. Retrieved September 8<sup>th</sup>, 2016 from the Global Witness web: <https://www.globalwitness.org/en/reports/dangerous-ground/>

attendance was displayed in the last United Nations Climate Change Conference (COP 21) that resulted in the Paris Agreement document, which recalls the effort of member states to deal with greenhouse gases emissions on three levels: mitigation, adaptation and finance starting on 2020.

The earth's ecosystem balance alteration, overall perceived since the twentieth century, would seem to screen a hostility between development and environmental preservation, between human and Nature. The strong anthropocentric stance of economic standards settled after the Cold War and the Washington Consensus by the occidental world, sometimes justified by different sources (including the theological one) lead to the utilitarian abuse of living and non-living creatures with the sole aim of acquiring certain monetary profit that would enable the access to the standard of life that was defined to be the 'desirable one'. A standard based on materialistic and consumerist attitudes as the only path for economic reactivation and development. A development based on profit margins and net income increase due to diversified methods of reducing the expenses and costs, even if that means to disregard the protection of human rights and the preservation of Nature.

Solutions for this apparent contradiction between the much-desired economic wealth of development and the sustainability of the ecosystem started to be pursued. In this context, it is the specific case of Ecuador and the Sumak Kawsay (Good Living) promoted by the political speech and strategy of current president, Rafael Correa, that concerns the elaboration of this dissertation.

After a serious unstable politic, economic and social instability that lasted a decade (1996-2006), Ecuadorians were not enthusiastic of the same proposals, deceits, and demagogy. In 2006, the new candidate running for presidency, Rafael Correa, former Ministry of Economics and his innovative government plan promised a completely different vision for the country and the world. A vision to rebuild a new Ecuador where different peoples and nationalities could work altogether as one. "Patria, tierra sagrada" (Homeland, sacred land) was one of the main slogans employed to gather the support and the enthusiasm of indigenous, mestizos, afros, montubios, and the whole population, within the same project. On 2007 a new era named 'Socialism of the twenty-first century' started with Rafael Correa Delgado as the elected president of Ecuador.

Ecuador is a constitutional state of rights, meaning that the Constitution is the supreme law and inside the Magna Carta of 2008, the Kichwa indigenous people conception of Sumak Kawsay was adopted. The ‘Good Living’ is a new alternative for an integral development (economy-social- environment) originated in a different paradigm from the capitalistic one, where an equal coexistence with diversity and harmony with Nature is possible. Although the essence of the new concept was already mentioned on indigenous proposals like the governmental plan of the Confederation of Indigenous Nationalities of Ecuador (CONAIE) on 1994 and 2001, they could never deliver the project in the cohesive and appealing way like Correa did on 2007 under his strong political campaign.

Despite some critics arguing its distance with real indigenous values and cosmovision of being more attached to an occidental notion of development, public policy and the environment (Schavelzon, 2015), it still created a unique condition for Nature as a holder of rights.

Rights given to Nature as an alive being are displayed on several articles and segments of the Constitution. A more comprehensive and detailed analysis will be presented in the first chapter as part of the conceptual framework used in this dissertation. It constitutes a different appreciation of the evolution of law grounded on a biocentric vision instead that has a logical explanation and sense inside Ecuador due to the country’s mega-diverse qualities on flora, fauna and ethnicities.

Throughout the country’s history, indigenous people have always been left aside of political, economic and social participatory spheres. Previous governments, always conformed by elite powerful groups and mestizos, never made a true effort to highlight the importance that indigenous people knowledge and culture meant for the future of the Ecuadorian society.

Similar to the events occurring on Ecuador, in the rest of Latin-America (a continent that previous 1492 had its own civilizations, cosmologies, systems and structures) a continuous predisposition ignored indigenous ancestral knowledge, baggage and practices of a cosmovision in coexistence with the Pacha Mama (Mother Nature). Since colonial times, native population suffered terrible mistreatment, genocide and ethnocide; for example, in places like Uruguay or Argentina, indigenous population was wiped out almost to extinction. In other cases, like the Andean region covering Chile,

Peru, Ecuador, north of Argentina, Bolivia, Colombia and Venezuela; the presence of indigenous people persists until nowadays but they are still struggling to preserve their culture, self-determination, land and rights. These characteristics of the region, is a further quality to validate the Sumak Kawsay as a breakpoint on a society governed by the appealing capitalist, consumerism agents and the Eurocentric influence causing the widespread conception of what development should be.

On the book “The Greening of Faith: God, the Environment, and the Good Life” of John E. Carroll et al. (1997), it is stated that in a world infected of *growthism*<sup>3</sup>, institutions and intellectuals are not immune to this disease and only churches, synagogues and mosques acknowledge the possibility of some other goal. On the present dissertation, the fallacy around this asseveration is quite clear on the abovementioned argument of indigenous conception of development, which is not based on economic growth. To deny the existence of other sources of knowledge besides the ones recognized by the western world is a mistake that is not intended to be reproduced in this thesis. This is the reason why another main actor was considered to be part of the trinomial agents of this investigation besides the state and indigenous people, and it is the Catholic Church.

In this context, one of the most challenging proposals during this Master, exposed that there is a *moral as well as analytical duty for scholars to expand their circle of inquiry to give due attention to all forms of religious militancy* (Omer, Appleby, & Little, 2015), highlighting the prominent negative attention that the involvement of religion on violent acts have had in comparison with the positive influence it can has. This attitude was also supported by the position of the secularization thesis<sup>4</sup> where religion was doomed to be forgotten; however, on the last decades a global resurgence of religion materialized. It is sustained that globalization and modernization were two of the main tendencies that were going to obliterate religion, but on the contrary, their homogenizing forces, corruption and immorality, gave the power to religion to became a renewed source of identity (Kavalski, 2016).

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<sup>3</sup> “Growthism” is a term employed to make reference to a conduct of different actors of the society such as educators, intellectuals, business men, politicians, and others; that is guided by the belief of an ultimate aim: the economic growth. See (Carroll & Brockelman, 2016)

<sup>4</sup> The secular thesis predicts that as states modernize, they simultaneously become more secular and reduce the role that religion plays in politics. Religion would fade in importance and influence over time (Kavalski, 2016).

Certainly, not only positive uses were made out of religion like the African-American Civil Rights Movement<sup>5</sup> but throughout history, several negative examples will be founded: Inquisition, Crusades, Evangelization on the conquer period, September 11, etc. It will not be the purpose of this thesis to belittle those acts, nonetheless, the proposal is to concentrate on the potential of the reading of the events promoting the adoption of Nature law in Ecuador with the inclusion of the Church action. It is asserted that new paradigms are urgently needed to find solutions to the diverse problematics affecting the current world (Acosta, Esperanza, & al., *Derechos de la Naturaleza: el futuro es ahora*, 2009) (Houtart & Daiber, 2012); thus, it is necessary to consider diverse actors ability to contribute into a better exercise and application of the innovative and ambitious project launched by the Sumak Kawsay and Nature.

The role of the Catholic Church regarding the Human Rights topic is relevant and undeniable. According to William J. Wagner (2009), there were five moments that defined this inference: the role of Catholic thinkers and statesmen inside the process of the origin of international law regime; the own Church contemporary statement of human rights inside the speech of recent Popes and the Second Vatican Council; the intellectual and moral reflections that play a reciprocal influence to human rights; institutionally, its discernible role in the political dialectic and its strong influence on Western politics and law; and finally, for being subject of evaluation of its contemporary human rights record and weakness of the concept by Catholics and non-Catholics.

Therefore, there is no surprise that there may be a compelling influence of the Catholic Church in Latin America and the case of Ecuador with an affiliation of almost the 70% of the population and a presence on local territories that cover the whole country<sup>6</sup>. Since the arrival of the first missionaries that came with the Spanish Crown, the Church has had a direct contact with indigenous communities and they have caused relevant influence on native cultures; some examples are the preservation of the Kichwa language, advocacy for indigenous rights, land restitution, creation of associations to promote their political representation, educative programs, among others. This renewed and proactive attitude of the Church and its involvement with the needs of the people, specially seen since the twentieth century, had its influence mainly through the Social

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<sup>5</sup> See: Mason, P. Q. (2015). *Violent and Nonviolent Religious Militancy*. The Oxford Handbook of Religion, Conflict, and Peacebuilding, 212.

<sup>6</sup> See Chapter I.

Doctrine, the Second Vatican Council, and the emergence of the Liberation Theology (as a consequences of missionary contact with the most deprived populations in Latin America).

Regarding the posture of the Catholic Church and Nature, the recent encyclical of Pope Francis, 'Laudato Si', constitutes one of the most innovative and outstanding postures of the Church regarding the environment (Tilche & Nociti, 2015) as it emphasizes a positive reading of the Pope on the advances of technology and science, and how the environmental problem may become into a *beauty, immense and urgent* challenge that test human capacity to collaborate with God in *His continuing creation of the world*. Moreover, it is a new posture that accepts the contribution of other academic and theorists coming from different beliefs and background and it is adressed to all type of audiences besides the Catholic faithful one. On the analysis of the recent evolution of the Church concerning the relevance of the preservation of Nature; some common ground was founded with the Andean indigenous cosmovision and the unique knowledge and relation they have with Nature.

The relation of human and Nature, according to indigenous understanding, is deeply rooted on the ancestral practices and spiritual merging used in everyday life that embodies the functioning of their communities and the sustainable behavior they have had among centuries. There are four main principles that englobe most of this harmonious coexistence: relationality, correspondence, complementarity and reciprocity. Today, unfortunately driven by moments of despair and need, the world has looked to appreciate the extraordinary practice of indigenous groups but this knowledge cannot be acquired easily and the evidence is that not even the adoption of Nature law in a country's normative like Ecuador, has eased its applicability. As a result, a further debate and consideration of the diverse variables interacting in the reality of the country regarding this topic constitutes the principal objective of this dissertation, in order to rethinking and question different paradigms that can propose more suitable ways of living and solutions for the current dilemmas of the world.

The first chapter covers the conceptual framework of the thesis that will introduce the reality of Ecuador and essential elements regarding the three actors analyzed on this paper: Church, state and indigenous people. New concepts regarding the innovative proposal of Nature as a holder of rights under the Sumak Kawsay will be emphasized,

specially due to its unique condition worldwide and the development of this dissertation paper inside a European context that might not be completely aware of the particularities of the case study.

The colonial period is a particular and unavoidable moment of Ecuadorian history if the intention is to understand the socio-political-economic characteristics of the population and the relations between the studied actors. The second chapter begins with that period of time in order to distinguished strategic moments where Church-state-indigenous people contribute to positive changes on the development of each particular agent (Liberation Theology, indigenous uprising, inclusive policies, plurinational state, etc.), and the overall convergence that would somehow contribute, over the time, to the adoption of Nature law and the Sumak Kawsay.

The third chapter will focus on recent history and the understanding between the Catholic Church and indigenous people of Ecuador regarding Nature. It is important to understand the journey of the awareness on environmental protection and the actions taken by the Catholic Church on one hand; and the meaning of Nature inside indigenous cosmovision, on the other. These overviews might elucidate coincidences and divergences between the considerations of Nature from these two different actors, and it might well reveal a path for better practices.

Most of lectures concerning the situation of Ecuador, Sumak Kawsay and Nature, have considered the relation of diverse actors but there was scarce material that deliberately considered the agency of the Catholic Church inside this problematic. Thus, the final chapter was conceived to analyze the applicability of Nature's rights and the effort of the state to comply with the initial speech of 2007. In this regard, this chapter's analysis and conclusions will serve to further sustain through real praxis, the explanatory hypothesis on asserting that giant steps towards environmental protection were given without considering that there was a void for its implementation rooted in its conditioned dependence to the political will where only the inclusion of different sources of advocacy affecting the civil action can surpass this deadlock.

## **Methodology**

The methodologies employed in this thesis are: documentary analysis and qualitative interviews. The documentary analysis gathered: official documents deriving

from the state and private sources, mass-media outputs and virtual outputs. All of the documents employed were previously evaluated considering its authenticity, credibility, representativeness and meaning according to the purposes that each chapter has defined and what the whole dissertation aims to achieve.

Despite that the Sumak Kawsay and Nature as a holder of rights, is a conception adopted in the last decade, it has already generated assorted discussions and attention; moreover, the arguments that lead to this conception are deeply rooted in the context of Latin America struggle to find its own development path without the impositions of the Occident, particularly with the last governments elected (Evo Morales, José Mujica, Cristina Kirchner, Rafael Correa). In these context, one of the main challenges was to use adequate strategies and approaches for the analysis that would help to coordinate the myriad of the data collected. The reasoning employed was deductive, inductive and analogue.

The qualitative interview methodology adopted to recollect information on the fourth chapter was specifically chosen to gather a real, sincere and vivid information of relevant actors working in different spheres (private and public) with the subject of environment. The interviews' questions were semi-structured (Bryman, 2015) and different in every case due to the varied background and expertise of the interviewees. The adoption of a semi-structure was done to use an interview guide for a better and more accurate management of all the amount of topics (multiple case study is carried out on chapter IV), without forgetting to mention key elements; nevertheless, the process was still very flexible on the responses and rich detailed answers were obtained.

### **Explanatory Hypothesis**

Within the discourse of the Ecuadorian government, academics and theorists who helped to develop and create the new Constitution of 2008, the inclusion of Nature as a holder of rights and a new development under the conception of the Sumak Kawsay, was mainly drafted and discussed disregarding a possible influence from the Catholic Church. In the Ecuadorian reality, the agency of the Church has always influenced other spheres outside religion. Over time, thanks to drastic changes evinced in the adoption of Church Social Doctrine, the Second Vatican Council and the influence of Liberation Theology in



Latin America; the Catholic Church has increasingly become an undeniable player in the pro-environmental discourse.

Ecuador is the only country in the world to adopt the condition of Nature as a holder of rights in the Magna Carta and considering its high percentage of Catholic affiliation, it would be unwise to ignore the potentiality that the Church action could have into the applicability of Nature law. Thus, this thesis proposal is to cease on the omission of the Catholic Church influence inside this event as it might contribute to cope with current adversities of the success of this political project inside the country, and on future portray of a new path into a different development that the international community might follow.

To achieve this, it will be exposed historical relationships and joint efforts between Church, state and indigenous peoples in order to build valuable and prosperous conditions for a transformative moment.

## **CHAPTER I – The Conceptual Framework: Ecuador, indigenous people, Sumak Kawsay (Good Living), Nature and religion**

### **1. Introduction**

Being this thesis presented in a European institution and context, it becomes necessary on the first chapter to recover relevant aspects characteristic of the Latin American and Ecuadorian reality. It is of prominent interest to emphasize the different realities, reasoning, understandings, conceptions and arguments that are part of the innovative Ecuadorian constitutional proposal of a new development and its more prominent feature: Nature as a holder of rights. In order to offer a different reading of the adoption of the referred proposal, the inclusion of the Catholic Church among the actors is suggested; therefore, this chapter will expose the overall background and contextualize the premises that endorsed the adoption of this noteworthy conception.

Therefore, on the next pages, it will be elucidated the context of the country since the moment where state, Church and indigenous people met until nowadays. Secondly, substantial concepts will be introduced and developed: Sumak Kawsay, Nature law, religion and spirituality. And, finally, the whole chapter will be consistent with the objective of stressing the moment of encounter between the different ‘worlds’ and the products that they have produced. All of this, with the intention to contribute to the achievement of a favorable path for the understanding and analysis of the subsequent chapters.

### **2. Ecuador diversity and the government structure**

The Republic of Ecuador is a country in the South American continent. Its area is 281.341 km<sup>2</sup> and the capital is Quito. It is divided in 24 provinces and four regions (Coast, Highlands, Amazon basin and Island territories). The population by 2016 is approximately 16,3 million habitants (CEPALSTAT, 2016) divided in: Mestizos 72%, White 15%, Indigenous 6%, Afro descendants 4% and Mulatto 2% (MAEC, 2016). It is necessary to point that there is unprecise information over the final and accurate percentage of indigenous population inside the country, as the Census of 2011 indicates 7% of the population, while the political indigenous organization CONAIE highlights that it is around the 40% (Becker, 2011). The official language is Spanish altogether with Kichwa and Shuar, which are the official intercultural languages (Constitution, 2008).

According to the United Nations Environment Program - UNEP and its World Conservation Monitoring Centre, Ecuador has been catalogued as one of the few megadiverse<sup>7</sup> countries in the world. The diversity on flora and fauna is such that there is not accurate data and studies that have gathered all the different species inside the country; nonetheless, what is certain is that the exploitation of oil deposits, mining industry, monoculture, construction of highways, among others are endangering these habitats (Ministry of the Environment of Ecuador, 2010)

The GNP on 2014 was of 100,917 million dollars and more than the half of it (52,3%) consisted on the exportation of oil (CEPALSTAT, 2014). Ecuador's economy has depended on the extraction of oil specially since 1970's and it can be said that it suffers from the phenomena coined by the economist Richard Auty as the "Resource course"; that is, when countries that have abundance in natural resources (specially those non-renewable) tend to have less economic growth and development.

### *2.1 Indigenous peoples and nationalities*

In Ecuador the term employed when there is a reference to the autochthonous groups, is "indigenous peoples and nationalities". "Indigenous nationalities" are indigenous groups with the same origin, history and language who are governed by their own beliefs, and their social, economic and political organization inside their territories. In Ecuador there are also Afro-Ecuadorian and Hispanic-Ecuadorian nationality more known as mestizos (CONAIE, 1994). On the other side, "indigenous peoples" are the ethnic group inside indigenous nationalities which have a common history, local belonging and their own way to live their culture (Schavelzon, 2015).

There are 14 indigenous nationalities: Awá, Achuar, Chachi, Cofán, Épera, Siona, Secoya, Shiwiar, Shuar, Tsa'chila, Waorani, sapara, Andoa and Kichwa; and 18 indigenous peoples: Chibuelo, Kañari, Karanki, Kayambi, Kisapincha, Kitukata, Natabuela, Otavalo, Panzaleo, Puruwá, Salasaka, Saraguro, Tomabela, Waranka, Huancavilca, Manta, Palta and Pasto. The Table 1 shows the language that each

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<sup>7</sup> The concept of mega-diversity is based on the total number of species in a country and the degree of endemism at the species level and at higher taxonomic levels. The World Conservation Monitoring Centre recognized 17 megadiverse countries in July 2000 including Australia, Brazil, China, Colombia, Democratic Republic of the Congo (DRC) (formerly Zaire), Ecuador, India, Indonesia, Madagascar, Malaysia, Mexico, Papua New Guinea, Peru, the Philippines, South Africa, the United States of America (USA) and Venezuela. Together, these 17 countries house more than 70% of the earth's species.

nationality and people speak, as well as the number of habitants per each one. It is clear that among nationalities and peoples, Kichwa is the most numerous one with 71,52% of the total indigenous population in Ecuador.

*Table 1 - Indigenous Nationalities and Peoples*

Nationalities/Peoples	Language	Population (approx.)
<b>Nationalities</b>		
<b>Awá</b>	Awapit	5,513
<b>Achuar</b>	Achuar Chicham	7,865
<b>Chachi</b>	Cha Palaa	10,222
<b>Cofán</b>	A'ingae	1,485
<b>Épera</b>	Siapede	546
<b>Siona</b>	Paicoca	611
<b>Secoya</b>	Paicoca	689
<b>Shiwiar</b>	Shiwiar Chicham	1,198
<b>Shuar</b>	Shuar Chicham	79,709
<b>Tsa'chila</b>	Tsa'fiqui	2,956
<b>Waorani</b>	Wao Terero	2,416
<b>Sapara</b>	Saparo	559
<b>Andoa</b>	Andoas	6,416
<b>Kichwa</b>	Kichwa	328,149
<b>Peoples</b>		
<b>Chibuelo</b>	Kichwa	5,383
<b>Kañari</b>	Kichwa	28,645
<b>Karanki</b>	Kichwa	11,590
<b>Kayambi</b>	Kichwa	33,726
<b>Kisapincha</b>	Kichwa	10,105
<b>Kitukara</b>	Kichwa	2,399
<b>Natabuela</b>	Kichwa	1,862
<b>Otavalo</b>	Kichwa	56,675
<b>Panzaleo</b>	Kichwa	61,026
<b>Puruwá</b>	Kichwa	136,141
<b>Salasaka</b>	Kichwa	6,445
<b>Saraguro</b>	Kichwa	17,118
<b>Tomabela</b>	Kichwa	12,044
<b>Waranka</b>	Kichwa	16,963
<b>Huancavilca</b>	Castellano	2,063
<b>Manta</b>	Castellano	311
<b>Palta</b>	Castellano	424
<b>Pasto</b>	Castellano	1,409
<b>OTHER NATIONALITIES</b>		20,525
<b>NOT SELF-IDENTIFIED</b>		144,988
<b>TOTAL</b>		<b>1'018,176</b>

*Source: INEC, Census 2010*

### *Kichwa People*

The Incas came from Peru to conquer what today is known as Ecuador and they brought their own customs and language. Kichwa spread across the country despite the

diversity of languages, ethnicities and cultures that existed before the Incas arrived. Most of them disappeared or were assumed by the Inca's kingdom around the half of XV century (Ortiz Arellano, 2001). Because of the expansion of the Incas, nowadays, Kichwa is still a language spoken by indigenous people along six countries in South America: Colombia, Ecuador, Peru, Bolivia, Chile and Argentina.

At the beginning when the Spanish conquerors arrived, they tried to impose their language but soon they noticed the potentiality and success of the “cacicazgo”<sup>8</sup> system used by Incas to govern the land and people, so they adopted this system for their benefit. Likewise, the Church wanted to go further on their evangelization process so they soon started to learn Kichwa language and the Mercenaries drafted the first Kichwa grammar. Later on Franciscans, Dominicans and Jesuits joined to the task of learning and producing the first writings of Kichwa (Ortiz Arellano, 2001). There are no records of any Ecuadorian Kichwa written document before the XVIII century and this was mainly because it was a spoken language (Ortiz Arellano, 2001).

Based on the above, it is clear to see the relevant influence and link that the Catholic Church has had with Kichwa and indigenous people since the very beginning and their first encounter. To have a written language that can be transmitted to different audiences helps to the ancestral groups preservation and forms a substantial part of the culture identity. Moreover, the writing of Kichwa serves as an example to demonstrate positive aspects that the partnership of different collectivities, communities, groups and populations can provoke.

## *2.2 Government structure*

Ecuador has a presidential government and the powers of the State are divided in five: Executive, Legislative, Judicial, Electoral and Citizen Control and Participation. The New Constitution of 2008 established that Ecuador is a constitutional State of rights and justice, social, democratic, sovereign, independent, unitary, intercultural, plurinational and laic. It is organized as a republic and is governed in a decentralized manner.

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<sup>8</sup> The ‘cacicazgo’ is a form of social and political life of indigenous or tribal communities where the highest authority of the tribe is the chief, who has authority over indigenous warriors and shamans or healers. This allows the figure of a leader who governs various aspects of the tribe or indigenous community.

On January 15<sup>th</sup> 2007 the current president of Ecuador, Rafael Correa Delgado was elected as the new nation leader. He suddenly started a process to call for a Constituent Assembly that will prepare the new Constitution. Later on, the new document was approved through a referendum on September 28<sup>th</sup> 2008. It has 444 articles and it has a wide declaration of rights, among which the most innovative ones are the rights of Nature, the rights of indigenous communities or aborigine cultures, culture and more.

Due to the new Constitution, Rafael Correa once more on 2008 ran for the re-election and won with a majority of 56,67% of votes and starts his period on 2009 (MAEC, 2016). On his first term he focused on a complete transformation of the government throughout the strategies and policies established on the “National Plan for Good Living” (Sumak Kawsay). This plan consisted mainly on implementing the framework that will enable the constitutional mandates to become real. It had a strong tendency to create the adequate conditions that will enable an increase of the social indicators, better access to public services, reduce poverty and raise the fiscal revenues through a renewal of the public investment.

On 2013 Correa was re-elected and won on the first round with more than the half of the electorate supporting him. Likewise, on the Parliament his party (Alianza Pais) obtained the 73% of seats, which gave him an overwhelming legislative approval (MAEC, 2016). On his second term the “National Plan for Good Living” for the period 2013-2017 was renewed but this time it had emphasis on the change of the production matrix in order to reduce the exportation of raw materials and increase the production of more elaborated goods. It could be felt how the strong discourse carried out on the first term regarding the ‘new development’ was decreasing.

This change of speech and several acts that were carried on against the initial spirit of the Sumak Kawsay that served to obtain the support of diverse numerous audiences (indigenous groups, young people, environmentalists, etc.), was made evident in the 2014 municipal elections. Correa’s party suffered from the first electoral setback since he took office. At the same time, the economic scenario was having a considerable fall due to several facts like lower worldwide prices of oil and its consequences on the drop of the state’s income which caused political tension and disconformity that manifested through public protests from different sectors, including the indigenous ones.

### 3. Sumak Kawsay<sup>9</sup>

Sumak Kawsay in Kichwa and ‘Buen Vivir’ in Spanish is a complex concept that on a very loose translation to English, it can be conceived as “Good living” or “Well living”. Nevertheless, this translation can lead to a loss in its essence and its framing inside an individualistic notion always related with “western” economic standards (Balch, 2013).

On a quick definition, ‘Sumak Kawsay’ is a harmonious way of life with Nature and other human beings. This concept encloses the principles of social equality and environmental sustainability. Its origin lies among the ancestral knowledge of indigenous people, specifically the Aymara and Kichwa (Hidalgo-Capitan & Cubillo-Guevara, 2014). It is not the intention of this thesis to start an epistemological discussion of the term; nevertheless, it needs to be settle that this is a knowledge born outside from traditional western stands and it is remarkably new on the political and international arena. Therefore, it has aroused several debates regarding its potentiality, flaws, conceptualization, cultural baggage, adaptation and employment.

It is also important to comprehend that this concept was influenced by plurinationality and interculturality<sup>10</sup>. The appreciation of these two concepts allow to consider the characteristics of the country ethnography and the different cultures living in the same territory not as separated but interconnected with a sharing of their customs, live cosmovision, practices, spirituality, and more (Walsh, 2008). It is undeniable the recognition of the otherness not only among society but also within its relation with the whole environment, being the environment itself an agent. This relationship between humans and Nature is completely different from the one imposed by a market regulated economy. It is not selfish and considers a social responsibility and an ethical commitment as a pillar to the relation Nature-society.

Likewise, in order to reach a better understanding; the following paragraphs will expose theoretical considerations that must be taken into account when the topic of Sumak Kawsay is discussed.

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<sup>9</sup> To avoid the different interpretations that the translation of the concept might evoke; throughout this dissertation paper, the term will be employed in its original format, in Kichwa.

<sup>10</sup> “Interculturality is the recognition of the radical differences within society; meanwhile, the Plurinational State carries that recognition of the radical differences to the scope of rights, both in the sphere of its enunciation (dogmatic and constitutional ethics), as in the guarantees of execution and implementation procedures (organic part constitutional, laws, rules and implementing regulations)” (Chuji, 2008)

There is a debate of whether the concept belongs to a conception that is ancestral, modern or post-modern. The ancestral founds its reasoning on the assertion that Sumak Kawsay is part of the traditional knowledge of indigenous people, therefore it existed before modernism on the occidental culture. On the other side, modernist theorists propose it as a social transformation that search social equality and harmony with Nature on an occidental frame inside modernism itself and the use of reason.

Finally, the post-modernist, which shares the stance of this thesis, argues that it is a proposal to be built from different frames coming from the ancestral, modern and post-modern postures. A new moment to create different meanings that rejects the meta-narrative and the intellectual and scientific authority to go for the defense of the hybrid and the popular culture where the rationality will be questioned and the irrational will be accepted (Hidalgo-Capitan & Cubillo-Guevara, Six open debates on Sumak Kawsay, 2014). Among this 'irrationality' it can be found the relevance of the feeling, beliefs, magic, the hereafter, etc.

Consistent with the above, there are three main schools of thought related with the Sumak Kawsay: Socialist-Statist; Ecologist and Post-development; and 'Indigenist'<sup>11</sup> and 'Pachamamista'<sup>12</sup> (Hidalgo-Capitan & Cubillo-Guevara, 2014). The first one, evokes a post-capitalist system and is linked to a modern neo-Marxists thought. On the first stage lies the state policy management towards the Sumak Kawsay and the matters related to social equality. Other concerns like environment and culture or identity are left on a secondary level and therefore it has several critics upon the *extractive development methods* it employs. On the political speech and practice, it is referred as *socialism and Sumak Kawsay* sometimes evoking that this is a socialist understanding from the Andes and it needs complementation with other thoughts like the 'twenty-first century Socialism', or the 'Revolución Ciudadana'(Citizen Revolution)<sup>13</sup> in Ecuador.

The second is linked to a post-modern constructivist thought and concerns primarily on the environment preservation and a participatory construction of the Sumak Kawsay

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<sup>11</sup> 'Indigenism' emerged as a literary movement that idealized the Inca Empire, but then it was also understood as the construction of a new national identity whose center was indigenous culture. It has been also used to sustain political and sociological approaches that criticize the discrimination to this people (Ayala Mora, 2014).

<sup>12</sup> The 'Pachamamista' ideology recognizes a turn of humanity as Nature's master to a biocentric equality in which men are part of Nature (Lamberti, 2011).

<sup>13</sup> In English, Citizen Revolution, is the name that president Rafael Correa uses to refer to his regime and the revolutionary changes that it has generate.



among indigenists, socialists, feminists, theologians and ecologists. It is understood to be a proposal beyond development which is built and practiced according to different conceptions coming from different sectors such as sociologists, pacifists, cooperatives, peasants, de-colonialism, etc.; who have roughly criticized the pro-extractive postures of Correa's government. The last one is characterized by the importance given to the self-determination of the peoples and to the spiritual elements of the Andean cosmovision. It has an aspiration to recreate the harmonious conditions of a socio-economical system that would be self-sufficient, communitarian, solidarity based, equalitarian and sustainable. This thought is linked to a traditional indigenous thought.

### *3.1 Sumak Kawsay vs. development*

Development has been associated to the term Sumak Kawsay, and it has raised critics and opposition, overall from theorists and academics who sustain its essence and its distance within modernism. Instead, they characterize Sumak Kawsay as a radical breaking concept different from the development paradigm, or on the very least, an alternative from it. Sumak Kawsay is a concept that not only Kichwa people has, but also Aymara in Bolivia, they called it "Sumaq Qamaña", and Ministry Choquehuanca, as other theorists have well-founded reasons to avoid associating the topic with development.

Unfortunately, development is a concept that overall on higher and decision-making levels has been associated and measured mostly by economical and market standards, despite the inclusion of other indicators such as the Human Development Index or the Sustainable Development Goals. After all, the current adoption of the development terminology originated in top-down processes since the Greek, Christian and Enlightenment history to its framing inside President Truman's speech on 1949 (Rist, 2008). Authors like Gilbert Rist (2008) in his book "The History of Development" have a clear posture towards the current validity of development terminology and its repercussions on poverty relief, wherein development has only been a tool to hide or excuse the excesses of industrialization and market goals.

In this context, for example, the Minister of Foreign Affairs of Bolivia, David Choquehuanca, explains that the term development is understood as the exaggerated industrialization and vicious consumerism of some countries and their irresponsible exploitation of humanity and natural resources (Schavelzon, 2015). He is opposed to the

association of Sumak Kawsay to the development speech. He considers that the current understanding of development is what has caused the current world crisis, a crisis not just related to the economy but to our relation with Nature, communities, society and the life on earth itself.

Likewise, Sumak Kawsay as an alternative of development has to be understood from the Andean cosmovision, where the traditional development does not exist. The Sumak Kawsay is not a straight forward path to follow as the latter, but it is an assembly of different strategies according to the different realities of each people (Hidalgo-Capitan & Cubillo-Guevara, 2014). With this in mind, when development is mentioned, it is because it is the route to achieve certain level of well-being (always represented in material accumulation) and Sumak Kawsay refutes this method of measurement (Prada, 2013).

To indigenous people, the economic system under Sumak Kawsay should refer to the need to build and reinforce a new model based on community, solidarity, equitability and redistribution of the whole Ecuadorian society, especially for the most marginalized sectors. This model will not be sustained nor should have a growth based on the proposal of production, circulation and wealth accumulation of a few families; but it will depart from ancestral and community practices of barter or fair trade of products according to the needs of the nationalities and peoples; thus, it envisages the creation of mixed venues between private capital and community initiative, that is to say, the combination of the two economic models (CONAIE, 2001).

In conclusion, by introducing Sumak Kawsay it was intended to create a discontinuity on the elements that define development under a selfish paradigm of capitalism, neoliberalism and modernity (Dávalos, 2008); and, propose different features based on communitarian ancestral practice where harmony was found inside the differences, complementarities and reciprocities. After all, the Sumak Kawsay was built inside a world dynamic where the cosmos, Pacha Mama and Nature are as relevant as human beings (Schavelzon, 2015). Sumak Kawsay is more than just a concept it is a different way of life that searches for a harmony between the material and the spiritual, that is, a holistic well-being (Prada, 2013).

#### 4. Nature as a holder of rights

The complex nuances of the Ecuadorian society on the last centuries did not pay much attention to the different indigenous nationalities and peoples; thus, the acceptance of a plurinational and intercultural state allowed the country to have a discussion between the different ethnic groups and all their ancestral knowledge and baggage silenced for centuries. Also, it allowed a more participatory process where interests, experiences and expertise was shared, appreciated and incorporated. Sumak Kawsay was one of this important learnings and it became an iconic concept of the new period in Ecuadorian governance. Within it, Nature was a pillar in its foundations and the juridical status that was given to it became a unique case worldwide where law was going to stop being anthropocentric and acquire a biocentric quality.

Ecuador's constitution is part of the neo-constitutionalism<sup>14</sup> era where the state is more interventionist, the participation of the citizens is crucial, and the respect of human rights is strong. The 2008 document declares that Ecuador is a *constitutional State of rights and justice, a social, democratic, sovereign, independent, unitary, intercultural, plurinational and secular State*, while on the constitution of 1998 it was established as a state subject to the rule of law. This difference is crucial due to the possibilities that it creates to the action or inaction of the country's government.

On a positive reading suggested by Wilton Guaranda Mendoza<sup>15</sup> the constitutional state or rights allows a horizontal relation of the citizen and the state because both are obliged to obey the constitutional mandates in the same level and are subject to a control system in charge of the Constitutional Court. However, also several concerns have been raised towards the endorsement of the state interference in every subject which may attempt with the liberties and autonomy of the population and Nature activities.

The following Table 2 analyses the main articles in the Constitution that highlight the qualities of Nature's condition as a holder of rights to produce a better understanding

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<sup>14</sup> The intention of neo-constitutionalism in Latin America is to formally build modern texts that can materially promote the transformation of society through three objectives: democratic stability through parliamentary control and mechanisms to reduce 'hyper-presidentialism'; strengthening of human rights and recognition of rights of indigenous groups; and, higher standards of governance and constitutional control. (Viciano Pastor & Martínez Dalmau, 2010)

<sup>15</sup> Jurist of the Regional Foundation for Human Rights Advisory – (INREDH in its Spanish acronym). A non-partisan, non-governmental agency established since 1993 with the aim to give technical and professional consultancy in the field of Human Rights. He has also published several articles and books on the matter of environmental law and the exploitation of natural resources.

of this innovative proposal and to answer the question if it is possible that Nature holds rights. The following articles on the Magna Carta will be the ones that settle the unique condition of Nature.

*Table 2 - 2008 Constitution: Nature as a holder of rights*

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**2008 Ecuadorian Constitution<sup>16</sup>**

*Article 10. Persons, communities, peoples, nations and communities are bearers of rights and shall enjoy the rights guaranteed to them in the Constitution and in international instruments.*

*Nature shall be the subject of those rights that the Constitution recognizes for it.*

With this article, Nature is given for the first time rights as only humans and legal entities were able to hold before. This statement goes along the new paradigm established under the Sumak Kawsay and it constitutes a new, different and innovative conception of understanding development and the well-being into a non-anthropocentric dimension, against a system that has treated Nature as a mere object of exploitation justified under the imperatives of the market.

*14.- “The right of the population to live in a healthy and ecologically balanced environment that guarantees sustainability and the good way of living (Sumak Kawsay), is recognized.*

*Environmental conservation, the protection of ecosystems, biodiversity and the integrity of the country’s genetic assets, the prevention of environmental damage, and the recovery of degraded natural spaces are declared matters of public interest.”*

The first part of the article recalls for a brand-new trend that was happening in Latin-American constitutions since the 90s<sup>17</sup> (Ávila Santamaria, 2010) that definitely set the tone for future stands regarding Nature. Nevertheless, on that reading, the human is still the main interest and the condition of Nature was an aspect which importance depended on its influence and relation with human life (environmental law).

The second paragraph states environmental conservation as a matter of public interest asserting the serious tone to the place that Nature was going to occupy in the public policy and private sphere.

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

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

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<sup>16</sup> Translation made by (Georgetown University, 2011).

<sup>17</sup> This tendency was triggered by the influence that the Rio Declaration on environment and development of 1992.

*The State shall give incentives to natural persons and legal entities and to communities to protect nature and to promote respect for all the elements comprising an ecosystem.*

The first part of the article mentions Nature and Pacha Mama (Mother Nature in Kichwa). Having this consideration with the language is already a stance to support and justify this new posture of Ecuador as a plurinational country with an intercultural attitude that sustains indigenous cosmovision. Further, the narrative of the article places Nature as an entity with life that can reproduce, demand for respect, regenerate, evolve, among other characteristics only given to humans before. This consideration has its reasoning on indigenous relation with Pacha and their understanding of it.

The second paragraph is extremely important as one of the main arguments against the posture of Nature as a subject of rights is specially its capacity to exercise these rights (Rámirez Vélez, 2012) as Nature cannot express its needs and demand them verbally or in writing. But the reasoning lies on the fact that the national Civil Code also considers those persons that are incapable to hold rights under certain conditions like for example dementia<sup>18</sup>; thus, these people can perfectly exercise their rights with help of a “legal representative” or a “guardianship”. Hence, in this paragraph the Constitution has this same consideration with Nature, and make a clear pronouncement of who can enforce the rights of Nature.

Finally, the last paragraph of the article recalls for an obligation of the State to stablish the respective ‘means’ in order to promote the possibility of people and legal entities to protect and respect Nature. This constitute one of the most relevant duties that the State has to develop in subsequent normative and instruments, otherwise the actions required to protect and preserve the Pacha Mama will remain only on paper.

*72.- Nature has the right to be restored. This restoration shall be apart from the obligation of the State and natural persons or legal entities to compensate individuals and communities that depend on affected natural systems.*

*In those cases of severe or permanent environmental impact, including those caused by the exploitation of nonrenewable natural resources, the State shall establish the most effective mechanisms to achieve the restoration and shall adopt adequate measures to eliminate or mitigate harmful environmental consequences.*

The article 72, also for the first time stablishes the obligation that the state, natural persons and legal entities have in order to restore the damaged caused to Nature. In this matter it should be considered that in some cases the damage cannot be repaired as some

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<sup>18</sup> See “Absolute inability” on the Art. 1699 of the Ecuadorian Civil Code and “Relative inability” on the Art. 1700 of the same legal instrument.

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elements are not renewable, so the means of compensation and the conditions of the damage need to be established in ulterior normative.

*73.- The State shall apply preventive and restrictive measures on activities that might lead to the extinction of species, the destruction of ecosystems and the permanent alteration of natural cycles.*

*The introduction of organisms and organic and inorganic material that might definitively alter the nation's genetic assets is forbidden.*

It is a smart consideration of the Ecuadorian state, considering that is one of the few mega-diverse countries of the world and the flora and fauna is extremely sensitive in some areas. Therefore, this is a precautionary principle of the State in order to fulfill with its obligation of creating suitable conditions for the Nature to have its life cycles. This means that the state has to build a national environment policy that is coherent with the constitutional mandates and help to regulate the use of the natural resources.

*74.- Persons, communities, peoples, and nations shall have the right to benefit from the environment and the natural wealth enabling them to enjoy the good way of living.*

*Ecosystem services shall not be subject to appropriation; their production, delivery, use and development shall be regulated by the State.*

This article makes reference to the benefits that people obtain from ecosystems which support directly or indirectly human well-being. In the case of Ecuador, they cannot be privatized nor enter to the market under the same conditions and legal figure as common services.

This article has raised some disapproval from certain NGOs and actors involved in environmental activities. In this regard, it is evident that the drafters of the constitution contemplated the importance of maintaining a free enjoyment of the benefits provided by Nature; however, there exist also the possibility of projects implemented under the legal figure of 'ecosystem services' that help the ecosystem and/or the humanity involved, for example, control of flooding. Definitely, it is still a subject of controversy that requires a profound analysis from the part of the State to settle its regulations.

*Article 83. Ecuadorians have the following duties and obligations, without detriment to others provided for by the Constitution or by law: (...) 3. To defend the territorial integrity of Ecuador and its natural resources. (...) 6. To respect the rights of nature, preserve a healthy environment and use natural resources rationally, sustainably and durably. (...) 13. To preserve the country's cultural and natural heritage and to take care of and uphold public assets.*

Here, the Constitution highlights a substantial statement. In a democratic society, the power relies on the people and despite the influence, control and relevance that the government has on the execution of national planning and management; the main actors

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of change has to be the citizens themselves. The society is obliged to have responsibilities and must strive to fulfill them. The only way in which a state can move forwards to a better well-being is if the population is truly involved with the national strategy, if they are empowered with adequate measures that sustains the inclusion of their needs, and if a sense of belonging exists as it is the road to have a compromise (Ottone, Ernest et al., 2007) of the population to accomplish the law and create a better social responsibility and solidarity among humans and Nature.

*Article 395. The Constitution recognizes the following environmental principles:*

*1. The State shall guarantee a sustainable model of development, one that is environmentally balanced and respectful of cultural diversity, conserves biodiversity and the natural regeneration capacity of ecosystems, and ensures meeting the needs of present and future generations.*

*2. Environmental management policies shall be applied cutting across all sectors and dimensions and shall be mandatorily enforced by the State at all of its levels and by all natural persons or legal entities in the country's territory.*

*3. The State shall guarantee the active and permanent participation of affected persons, communities, peoples and nations in the planning, implementation and monitoring of all activities exerting environmental impacts.*

*4. In the event of doubt about the scope of legal provisions for environmental issues, it is the most favorable interpretation of their effective force for the protection of nature that shall prevail.*

The first part applies the concept of sustainability and the second part underlines the characteristics of considering it as a cross-cutting feature along the constitutional document, which has a coherence with the governmental plan of the Sumak Kawsay, as it has been mentioned above, it is proposing to build a different economy based on a development that search for a holistic well-being of the person, community and Nature not measured in economic standards.

The 'pro homine' principle is a legal posture that serves for the application of law to be made on the most favorable way to the benefit of all individuals and it has become a core element of the international human rights law system. In the present article, a 'pro natura' principle is made on the fourth sub-paragraph and on this matter W. Guaranda Mendoza also proposes an interesting reading of this posture. He explains that this is a radical change for the anthropocentric center of law because of its new biocentric mode that differentiates the environmental law (effects of the human activity on the natural environment) and the law of Nature; meaning that the second acquires a superior status and, for example, in a case of natural resource exploitation in a protected area, the second one should prevail (Guaranda Mendoza, n.d.).

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*Article 396. The State shall adopt timely policies and measures to avoid adverse environmental impacts where there is certainty about the damage. In the case of doubt about the environmental impact stemming from a deed or omission, although there is no scientific evidence of the damage, the State shall adopt effective and timely measures of protection.*

*Responsibility for environmental damage is objective. All damage to the environment, in addition to the respective penalties, shall also entail the obligation of integrally restoring the ecosystems and compensating the affected persons and communities. Each one of the players in the processes of production, distribution, marketing and use of goods or services shall accept direct responsibility for preventing any environmental impact, for mitigating and repairing the damages caused, and for maintaining an ongoing environmental monitoring system.*

*The legal proceedings to prosecute and punish those responsible for environmental damages shall not be subject to any statute of limitations.*

This article importance lies on the message of sustainability that it delivers. If the sustainability concept was already established in the previous article, this one develops its content. Being a country with a considerable percentage of the population living in conditions of poverty<sup>19</sup>, one of the most difficult tasks that the Ecuadorian government has is to satisfy the basic needs of the population considering the adequate management of the natural resources *without compromising the ability of future generations to meet their own needs* as stated in the Brundtland Report (1987); overall because of the considerable dependence that the Ecuadorian economy has on the exploitation of natural resources.

Besides from what is exposed on the above-mentioned article 72; this article highlights further measures of regulation, control and sanction that have to be taken in order to preserve the environment like environmental impact studies and monitoring systems that the state is in the obligation to develop. In the case of Ecuador, the Ministry of the Environment is the one in charge of evaluating, monitoring and accepting the environmental impact studies that any person or enterprise presents before starting the execution of any project that might affect protected areas.<sup>20</sup>

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<sup>19</sup> In March 2014 the poverty line stood at US \$ 78.91 per person per month, while the extreme poverty line at US \$ 44.47. With this threshold, in urban areas exist 16.75% of poor people and 3.87% in extreme poverty (INEC, 2014). In the Human Development Index of 2014, Ecuador was located in the position 88 of 188 countries with an HDI of 0,732, which meant that it is located in a mid-high level range but it still have several difficulties to overcome that are visible in the Inequality-adjusted HDI, where Ecuador has a value of 0,570 with an overall loss of HDI of 22,1%, that might prove a situation that is closer to reality (UNDP, 2014).

<sup>20</sup> On Chapter IV it is developed the applicability that the constitutional law has had in Ecuador through the praxis on the last eight years.



*Article 398. All state decision or authorization that could affect the environment shall be consulted with the community, which shall be informed fully and on a timely basis. The consulting subject shall be the State. The law shall regulate prior consultation, public participation, time-limits, the subject consulted and the appraisal and objection criteria used with regard to the activity that is being submitted to consultation.*

*The State shall take into consideration the opinion of the community on the basis of the criteria provided for by law and international human rights instruments.*

*If the above-mentioned consultation process leads to majority opposition by the respective community, the decision whether to implement or not the project shall be adopted by a resolution that is duly substantiated by the corresponding higher administrative body in accordance with the law.*

On the one hand, this article gives people the ability to always be informed and express their criteria over projects or decisions that were to affect the environment; but on the other hand, the 'consultation' made to the population is merely symbolic because no binding power grant that the opinion and requirements of the constituents will change the state decision as the ultimate decision relies inside of it.

*Article 407. Activities for the extraction of nonrenewable natural resources are forbidden in protected areas and in areas declared intangible assets, including forestry production. Exceptionally, these resources can be tapped at the substantiated request of the President of the Republic and after a declaration of national interest issued by the National Assembly, which can, if it deems it advisable, convene a referendum.*

It constitutes the most evident conundrum of the government intervention on the respect of Nature rights. On one side, it impedes the exploitation and damage of unique areas, but on the other, it allows the consideration of its exploitation to the executive and legislative powers under the argument of 'national interest' but the critical point remains on establishing the specific characteristics of 'national interest'.

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Source: Analysis made by the author of this thesis with support of the Constitution of Ecuador 2008; (Ávila Santamaria, 2010) (Guaranda Mendoza, n.d.).

Given the above juridical reasoning of the feasibility of Nature as rights holder; it is possible to say that it is not an impossible conception nowadays, though it could have been considered unbelievable under traditional anthropocentric stances sustained on the Kantian reasoning; the theory of subjective law of Kelsen, Ferrajoli or Antonio Peña; the ability to incur in obligations; or, the principle of equality applied only to elements of comparable characteristics; among others (Ávila Santamaria, 2010).

Over the course of history, the right holder has changed in several occasions: on the modern constitutionalism the only right holder was the bourgeoisie, on the social constitutionalism was also the worker and the peasant, it extended to women, indigenous people and elderly was included until currently who basically is every person, and also,

Nature (Ávila Santamaria, 2010). In other words, law tends to evolve and the characteristics of the elements that integrates it change as well. The evolution and consideration of different right holders per se does not mean that the law is absurd, as long as it complies with several parameters of the validity of law. According to the Articles 424 and 425, the Constitution is above every other normative, meaning is the supreme law inside the legal order and its content have to be comply directly and immediately.

To Ávila (2010), the constitutional law has to propose and utopic reality that is desirable to achieve in order for the society to strive for it. In this manner, to Ecuador since the political shift of 2007, the desirable and “utopic” dream is the Sumak Kawsay and the rules to established a better development focused on non-monetary goals but dignified ones are settled in the new Constitution. One of the main cores of the Sumak Kawsay is Nature, overall because of the unique characteristics of Ecuador as a mega-diverse country; its meaning to indigenous people; and, because of the exploitative economic model that the county has had during the last decades. This model has allowed several indiscriminate violations to humans and nature<sup>21</sup> that were not compensated nor alleviated. Thus, it is time for the society to strive for the desirable ‘utopia’ where they want to live and demand to the state to build the adequate instruments in order to enjoy the rights guaranteed under the Magna Carta.

As it has been exposed, this neo-constitutionalism instrument adopted since 2008, brings a different relation between the state, the population and Nature, which is coherent with the new development paragon (Sumak Kawsay) that is intended to be established. Nevertheless, inside the same documents it can be found loopholes and contradictions that raise doubt on the scope that the state might have on relevant decisions that interfere with the whole system. On the last chapter, some real cases of the application of the Nature law is presented in order to analyze over its journey, obstacles, achievements and considerations to reinforce.

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<sup>21</sup> See: Alier, M. (2011). El caso Chevron Texaco en Ecuador: una muy buena sentencia que podría ser un poco mejor. *línea]. ALAI, Quito*; IDH, C. Caso pueblo indígena kichwa de Sarayaku vs. Ecuador. *Fondo y Reparaciones. Sentencia de*, 27.

## **5. Religion, spirituality and the Catholic Church in Ecuador**

### *5.1 Religion and spirituality*

In recent time, vigorous debates have arose concerning the difference or similarity of spirituality and religion concepts. In everyday language, it is not rare to listen the use of both to describe religious practices, rituals or beliefs in a certain domain. Due to the relationship between Sumak Kawsay and the ancestral knowledge of indigenous people regarding their conception and practice of the sacred; it is necessary to define these two concepts as spirituality plays an important role on the conception of this new way of life and its height inside the Ecuadorian reality.

Inside the Ecuadorian legislation there is not any definition stablished of religion. The recognition and exercise of religious groups is mainly regulated by the Law of Cults of 1937 and its Regulation of 2000. Nine years later, the Decree 1780 of the president Correa describes the missionary and social work that the Catholic congregations should maintain with the population and the support that the government will give to those. Despite the attempts from 2010 to propose an Organic Law on Religious Freedom and Equality that will expand definitions, rights and obligations for religious congregations, the proposed was shelved (EcuadorInmediato, 2012).

On the sociological field, to define religion has been quiet complicated and renown scholars like Durkheim, Weber, Tylor, among others, have proposed important concepts. However, the society has drastically changed in the last decades (due to globalization, networks, Internet, etc.); thus a simple concept with a broad scope is needed. The author of the book *Religion in China*, Fenggang Yang (2011), offers an attractive description of religion as “(...) *a unified system of beliefs and practices about life and the world relative to the supernatural that unite the believers or followers into a social organization or moral community.*”

Spirituality on recent time is commonly used inside modern society's expression related to religion and its adaptation into the language of the society, state and clergy englobes a potentiality of the term to approach the division between these actors. Some scholars refer to spirituality as an opposed term to religion and others as non-excludable concepts. After some reading and analysis of the differentiations, similarities and current controversies that this term might cause on the theological field; it has been stablished

that the second view is the one shared in this thesis. Therefore, to the purposes of this thesis, spirituality is defined as an autonomous research of the meaning of life and the sacred in order to establish a personal wellbeing and fulfillment that takes into consideration the body, the inner state and the surrounding (Giordan, 2009).

In places like South America and Ecuador where the clash of diverse cultures among native and post-colonial ones is still persistent and with them, the different understandings of what is sacred, the inclusion of spirituality inside the language is thought-provoking and inclusive as it is wider than the term 'religion'. It also might be more attractive for those who resist to be 'trapped' under a rigid system and structure imposed by its own normative but are still searching for that personal fulfillment that goes beyond the material. In this context, this search for meaning in life and their relationship with the transcendent and the cosmos did not come with the arrival of conquerors and the Catholic Church but it was already deeply rooted inside the Andean indigenous cosmology, inside a different contextualization that will be later on analyzed in Chapter III.

### *5.2 Religion in Ecuador*

The Constitution of 2008 establishes religious freedom<sup>22</sup> and the only limits imposed by the government are those that might be demanded by law in order to protect and respect the diversity, plurality, safety and the rights of others<sup>23</sup>. Discrimination based on religion is not accepted under the Magna Carta<sup>24</sup>. On 2010, the National Statistics and Census Institute (INEC) collected data over the religious affiliation of the population. The data evinced that 91,95% of the population claims to have a religion, 80,4% were Catholic, 11,3% Evangelic, 1,29% Jehovah witnesses, and the remaining 6,9% from other religions.

The Catholic Episcopal Conference estimates that within those who claim to be Catholic, only 35% are active practitioners. Some ethno-linguistic groups, particularly indigenous people living in the mountains, follow a Syncretic Catholicism that combines indigenous beliefs and practices of the Catholic doctrine. For example, Catholic deities like the Virgin Mary hides behind the adoration that indigenous had to the "Quilla", or the festivity of Corpus Christi underlies the "Inti Raymi" festival (Crespo, 2007).

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<sup>22</sup> See, Art. 66 Constitution of Ecuador 2008.

<sup>23</sup> See, Art. 19 and Art. 66 id.

<sup>24</sup> See, Art. 11 id.

### *5.3 Catholicism throughout history and its syncretism in Ecuador*

Long before this territory was called Ecuador (approx. 3500 BC) and even long before the arrival of the Incas, there were other cultures: Valdivia, Machalilla, Quitus and Cañaris (Reyes E. A., 2000), with their own civilization and customs, including religion rituals but with the expansion of the Incas they were conquered. The Inca period is the one that ‘unified’ the different ethnical groups (Chicaiza & Varea, 2014) and settled more homogenous customs, beliefs and practices like agricultural rituals that obey the change of seasons according to the Andean calendar and festivities: Inti Raymi, Koya Raymi, Kapak Raymi and Pawkar Raymi<sup>25</sup>, which are practiced until nowadays.

When the Spanish conquerors arrived, the “Tahuantinsuyo” (Inca kingdom) was governed by the Inca Huayna Capac and later on by their two sons: Atahualpa in the lands that today is Ecuador and Huascar on the south (Peru); neither of both had the intention to share the kingdom so they started their own war. Thus, when Francisco Pizarro arrived to these lands, the situation was already chaotic and this gave them even more advantage. They divided the kingdom into the viceroyalties of Lima and the New Granada (Ecuador) and indigenous population were submitted to mistreatment, abuses, torture, within the “evangelization” processes supported by the Catholic Church was a substantial part of it (Salvador Lara, 2001).

The Spanish crown and the Catholic Church had an indisputable alliance used as a weapon of control and profit. The Pope Julio II decreed the document “Patronage of the Indias”, which basically settled the relationship between the Spanish monarchy and the Church (Lucero Aviles, 1999). The monarchs were entitled to: established churches; monasteries; name bishops, other clerics; and, collect tithes.

The Bishopric of Quito was established in 1545 and the evangelization processes led mainly by the Dominican and Jesuits began on the 1590’s and by the XVII century

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<sup>25</sup> *The Andean calendar is composed of four major celebrations, related to specific astronomical event (solstices and equinoxes) and to the cycles of nature. Thus, **Inti Raymi** is the time of harvesting the fruits and to enjoy what has been seeded and be thankful for the good fortune. Then comes the **Koya Raymi**, a celebration dedicated to women and to the moon and a period to prepare the ground for the reception of the fruits. The **Kapak Raymi**, which coincides with the winter solstice, is regarded as a party where the birth is celebrated as the plants begin to reveal their first leaves. Once the plants have sprouted and the first fruits begin to leave, a cycle called **Pawkar Raymi** starts, also known as the feast of fruits, this celebration coincides with Carnival, a habit that came with the colonizers and found its hybridization with the autochthonous culture (Aguagallo, 2015).*

the whole country was already evangelized (Clifton H, 2009). After the independence from Spain, on 1820, the subsequent governments were still linked with the Catholic Church and the power of the cleric was widespread. Under the presidency of Gabriel Garcia Moreno (1859-1865 and 1869-1875), the Catholicism was established as the official religion and under the law citizenship was given only to Catholics. Changes only occurred almost a century later, on 1895 with the liberal president Eloy Alfaro (Ayala Mora, 2008).

The power of the Church started to reduce and the division with the State became real especially after the ‘Revolución Juliana’ of 1925 when the freedom of religion and a laic state were established (Paz & Cepeda, 2002). Moreover, several actions against the Catholic church were taken like the expropriation of properties and their designation to become hospitals and other social assistance houses.

On 1936 due to the tensions between the State and the Church, diplomatic relations begin in order to arrive to a solution between the Vatican and Ecuador. The negotiations resulted in the signature of the “Modus Vivendi”<sup>26</sup> (1937) that ruled the coexistence of the Catholic Church inside the Ecuadorian state. Within the instrument agreements, the Church must devote itself only to activities related to instruct the catholic doctrine and separated from any political proselytism activity.

On the 60’s the tension inside the Ecuadorian Catholic Church started to be felt among the “Reformists”, “Enlighteners”, “Radicals” and “Charismatic agents” (Clifton H, 2009). The first group basically was supporting the Council position in favor of the modernization and tolerance of the diversity based on the official Social Doctrine; while the second group wanted to implement a “preferential option towards those in poverty” throughout social policy and action aiming to transform the Ecuadorian society and settle social justice using peaceful means. The third ones adopted the Liberation Theology inspired on the Marxism and encourage people to overthrow the right-wing military dictators and create a socialist state at the service of the poor and marginalized masses. The last group was in search of the transformation of the spiritual and communal life of the Catholics by the power of the Holy Spirit instead of political and social activism.

In Ecuador, despite dictatorship was not radical as in other countries (Chile, Argentina, Nicaragua, etc.), the pressure of a change was felt from the extreme unequal

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<sup>26</sup> See, Modus Vivendi, 1937, Retrieved June 28<sup>th</sup> 2016, <http://www.iuscangreg.it/conc/ecuador-1937.pdf>.

distribution of the society services and exercise of rights of the minority native groups. This caused that the branch of the Church inspired by the Liberation Theology, start promoting a different attitude from the estate that will include those deprived groups inside the society like indigenous minorities.<sup>27</sup>

By the XXI century, being the Catholic faith the most prominent among the Ecuadorian society, it has developed a structure and physical presence widespread in the whole territory. Among the main religious Catholic orders are the Franciscans, Mercedario (Order of Our Lady of Mercy), Dominicans, Augustinians, Carmelites, Capuchins, Jesuits, Salesians, Lazarists (San Vicente de Paul), Oblates and the Congregation of St. Joseph (Crespo, 2007). Almost all of the Catholic Church territorial organization coincide with the political-civil division of the Republic (Crespo, 2007): there are four Archdioceses (Quito, Guayaquil, Cuenca and Portoviejo); 12 Dioceses (Santo Domingo, Machala, Azogues, Loja, San Jacinto de Yaguachi, Babahoyo, Riobamba, Ambato, Ibarra, Guaranda, Latacunga and Tulcan); 8 Vicariates; one apostolic prefecture and one military ordinariate<sup>28</sup>.

#### *Syncretic Catholicism of indigenous people*

The emergence of mestizos is one of the characteristics that decreased the radical racial and religious division between Spanish and indigenous people, without diminishing its brutality (Chicaiza & Varea, 2014). This also contribute to the beginning of the syncretism in Ecuadorian religion which was evinced on the devotion to statues, saints and figures that later on was referenced as ‘popular religiosity’ (Crespo, 2007). The Catholic syncretism brought together elements from two different religion sources: Roman Catholic and the one practiced by aborigines and the Andean cosmovision.

The Spanish conquers saw the similitude on dates among some indigenous celebrations and the Catholic festivities; thus, they were incorporated on an effort to create a better coexistence of the two worlds. As André Droodgers (2005) mentions in his study of syncretism, the adoption of this model is a productive way of handling theological differences, help mingling different cultures. Further, it remains into question

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<sup>27</sup> This will be better elucidated in Chapter II.

<sup>28</sup> See, Ecuadorian Episcopal Conference, Ecclesiastical jurisdictions, Retrieved: June 30<sup>th</sup> 2016, <http://www.conferenciaepiscopal.ec/index.php/la-iglesia-catolica/2015-04-29-18-10-11>

for further studies, the influence that this mingling had in order to benefit indigenous religious traditions survival until nowadays.

One of the most interesting contribution in the subject of the syncretism of indigenous beliefs and Church evangelization consequences is explained in the book *Un Cristianismo Andino* (Andean Christianity) of Diego Irazaval (1999), after his coexistence with Andean native groups for almost twenty years and the observation of their lifestyle, rituals, festivities, etc. His argument to go through the consecution of this publication, was to believe that inside the behavior of these indigenous groups is the key to the future of humanity due to their different attitude toward the ‘other’ vs. the occidental one where the ‘other’ was discriminated, destroyed or alienated.

Irazaval describes the Andean Christianity as a concept built from how Andean indigenous people have reached a harmonious moment *between indigenous autochthonous forms and syncretic forms, given the pluricultural and interreligious character of Christianity lived by the southern Andean people, and given the way of how this interaction welcomes and selects what is offered by the Church*. His critic to the current moment of ‘secular religion’ auspicated by the market and the mass media where it is better to acquired rites that elevate the material progress, rather than those rites to thank for life of indigenous people toward Pacha Mama and God; emphasize indigenous syncretic practice of religion, which does not lie on polytheism or animism (Irazaval, 1999) but on a profound respect for the sources of life that can only be understood on the cohabitation with these people and their cosmovision customs.

The survival of indigenous ancestral spirituality, allowed the modern world to discover different schemes of thought and rationality that are not grounded in reason but in senses. Some of the main sources of this understanding are supported by the relations sustained with the Pacha (cosmos, Nature); the symbolic and representative world through the *ruma shimi* (the language of humans) and mathematics; and, several ceremonial symbolism used by the sages or *yachas* (Chicaiza & Varea, 2014).

To the Andean cosmovision, knowledge is searched within the coexistence with the cosmos and only departing from this relation, against the Socratic autonomous one.<sup>29</sup> That is why, the practice of native indigenous rituals, where Nature plays an essential role, altogether with the syncretism of the Catholic festivities have come to create rooted

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<sup>29</sup> This is further developed on Chapter III.



traditions inside the Ecuadorian society habitudes. This is an example of the coexistence that two different worlds (Church and indigenous) have managed to reach, being mutually influenced to portray a significance to the rest of the society that elevates not only deity's devotional meaning (Inti Raymi, festival of the Sun for indigenous and celebration of St. John in the Catholic calendar); but a deeper meaning of the celebration itself lying on a linkage to Nature and life itself (In Inti Raymi, the festivity is carried out specially to give thanks for the harvest and celebrate the fertility of the 'Pacha Mama').

## **6. Chapter conclusions**

On this first chapter the context of the Ecuadorian history and its current conditions were stated in order to have an introduction that will provoke a better understanding of what has been proposed through this thesis. Important concepts have been elucidated, some of them already discussed in different western and non-western realities like religion and spirituality; and, others recently incorporated into the discussion of the international community, like Sumak Kawsay.

Ecuador is a mega-diverse country because of its flora, fauna and its native and post-colonial society groups. Several processes motivate by different actors during the last 500 years have originated in the installment of a government that brought a totally different speech and proposal, where indigenous voices were finally included, and the challenges of the outside world (Environmental crisis, consumerism, poverty, hegemony of the world powers, etc.) were also envisioned.

The Sumak Kawsay is an innovative proposal that defeats the current understanding and principles of a market and economy based development. The economic and environmental crisis that erodes the sustainability of the ecosystem is what has encouraged to search for different methods. On the Ecuadorian stance, Nature acquires an active and key role for the promotion of a new development. All of this, would not have been possible without the inclusiveness of a plurinational and intercultural interaction of different actors inside the society that led to discover ignored realities of indigenous communitarian practices that had the potential for being duplicated in national scale in order to promote a different well-being.

The Catholic Church, religion and spirituality is an actor that has been influencing the relation of the two worlds: indigenous and European. At the beginning, atrocious abuses

were committed to native groups and the Catholic evangelization was the perfect tool to exercise this dominance. Nevertheless, over the years, the exchange of cohabitation between the analyzed actors: Church, indigenous groups and state, created different reasoning that started to be more respectful towards the 'other' that was discovered in the Americas. The syncretic practice of the Catholic religion and the emergence of new theories like the Liberation one, settled the beginning for the claim of rights and empowerment that will enrich the whole society.

## **CHAPTER II - Church, state and indigenous people**

### **1. Introduction**

On the first chapter it has been settled the conceptual framework throughout which the thesis will develop. In the second chapter it will be further analyzed the relationship among the three actors: indigenous people, government and Catholic Church, and their influence on the adoption of the Sumak Kawsay concept and Nature as a holder of rights. This scrutiny is done in order to discover strategic coalitions of the actors' involvement on concerns that were not necessarily expected to be constructed in a collaborative way. The different partnerships over time have been beneficial to the Church in its innovative process that began since the adoption of the Social Doctrine and on the exercise of indigenous people rights that helped to formulate the sustainable, respectful and reciprocal coexistence with Nature that was taken for the Sumak Kawsay purpose.

Despite that the thesis focuses mostly on events occurred on the twentieth and twenty-first century, it cannot ignore the presence of the Catholic Church in Ecuador, which goes back to the conquest moment. In this regard, it is necessary to frame the main characteristics that described the scenario involving these three actors since the colonial time until nowadays.

### **2. Catholic Church and the Ecuadorian State**

The relation of the Spanish Crown and the Roman Church was established by law and created a condition of codependence that empowered both. Among the mutual benefits the Crown's restricted the entrance to other religions, was in charge of electing Church authorities and decide upon the evangelization of the new continent, it also managed the tithes and decided on the territorial division of the Church parishes according to the elitist interest upon the land distribution, among others (Chicaiza & Varea, 2014). Although this alliance benefited especially the Crown, Church and elites; some contribution to the social component was created, and the Church play a relevant role on the construction of several hospitals, schools, universities, orphanages and hospices.

Since the XIX century the downfall of the Spanish Empire began to be felt specially by the influence of France, England and the capitalism at the international market. The territory of Ecuador was divided and governed by temporary administrations, among which Quito's Bishop was elected a member of the main board. Soon the independence

processes began and for a short period of time, the Catholic Church, still loyal to the Spanish Crown, was reluctant to designate permanent bishops. After the independence, the political and social structure of the country did not change that much. The elites were still establishing the rules, the interest was focused on controlling the labor force and the diverse means of popular protest were suppressed (Chicaiza & Varea, 2014). On the economic level, the coast region started to grow and the migration to that region caused the adoption of other religions as the Catholic Church did not have the presence in the whole territory.

Particular events occurred under the Constitutions of 1830 and a century later on the document of 1929. On the first one, it was disposed that priests will become tutors of indigenous people; on the second, the entrance and occupancy of urban space was forbidden for them. These two postures on different period of times, particularly the latter (after the Liberal revolution), corroborate the denial of the existence and exercise of rights for indigenous people. However, ironically they still had obligations like the one that demanded from them to pay the ‘indigenous tribute’<sup>30</sup> established since the colonial time (Chicaiza & Varea, 2014).

Since the arrival of the conquerors, centuries have passed but the situation of indigenous people until the first half of the twentieth century, even inside an independent state as Ecuador, was still extremely precarious as their inclusion and coverage of unsatisfied needs. They were left aside from every important decision and considered not ‘self-sufficient or capable’ enough to act without a legal guardian. This representation was usually exercised by the cleric (Chicaiza & Varea, 2014) as another method of the Spanish Crown to continue the alienation, division and subjugation of this groups. Before and during the founding of the Republic, the Church still enjoy of several privileged status and considerations that were strategic for the state to maintain in order to have a better influence over the citizens.

At the beginning of the twentieth century, labor force associations started to appear and the Catholic Church had more presence regarding these events. An awakening to understand and deal with real problems of the common citizen started to characterized the agency of the Church, specially influenced by the direct contact provoked by the

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<sup>30</sup> On the Republican era, indigenous tribute represents almost the 50% of the colonial state budget. It was applied to the male indigenous from 18-50 years and was equivalent to 2-3 labor weeks (Ribadeneira Suárez, 2001).

pastoral missions. Dealing with social concerns was the new post-war posture and to respond to this goal, a more organized Church was seen. The efforts were recognized by the Vatican and on 1953, the first Ecuadorian cardinal was chosen, Carlos Maria de la Torre; and by, 1954 the New Testament was translated to Kichwa (Ortiz Arellano, 2001).

It must not be taken for granted the influence of other factors, such as the entrance of other religions to the territory (Evangelic, Protestant, Jews, Muslim, etc.) who were promoting social change; and also the influence that modernism had on these changes. Since 1970 the whole continent lived dramatic changes and struggles characterized by fierce dictatorships and intrusion of North American and European corporative and politic influences. In Ecuador there was an important effect of the neoliberal economic models and with the arrival of the “oil boom”, the attention of the state was focused on commitments with multinationals, the elites and the business sector (Crespo, 2007).

During the 80's the scenario was still critical for the greatest number of citizens with limited resources; the oligarchy took the direction of the public policy and investment, there were strong disagreements with the labor sector and the minorities were completely ignored and oppressed (Becker, 2011). The rise of protests from different sectors was more notorious and the Church started to get involved with some of them. These new attitude of the Church became progressively evident particularly after the fifties with a mixture of two important events: the II Vatican Council and the emergence of the Liberation Theology.

### *2.1 Liberation Theology*

Liberation Theology can be explained as a theoretical and practical reinterpretation of Jesus' message, Christianity, and the Church itself, in the sociological context of misery and oppression of the Latin America of the 60s (Dueñas, 2015). This theology was intended to provoke a different attitude from the Church, demanding a critical review of the own agency in the history and a more active attitude inside future moments of the world transformation into a better place of a new society that is fair and fraternal (Gutiérrez, 1975).

On the years preceding the II Vatican Council a radical change occurred inside the Catholic Church. On the region, hard conditions were afflicting the ethnic minorities and low-income classes due to a mixture of situations, such as: a draconian foreign influence

on the policy and the market, consequences of the Cold War, capitalist and neoliberalist tendencies, empowerment of the elites and unstoppable increase of the international debt (Dueñas, 2015). These events affecting the deprived populations gave more encouragement and justification to the pastoral commitment with the poor and oppressed. Thus, the decisions taken inside the II Council matched chronologically with the tendencies discussed by Latin American theologians around 1964 on several meetings happening in Petropolis, Brazil.

Church relation to the elites and power was still closed. The liberationist aspect of this theology called the attention of antisocialist sectors inside and outside the Church as this new movement was against the anthropocentric, individualist, utilitarian and market focused capitalist stand that the world powers were trying to disseminate. In this part is necessary to elucidate that even though the Liberation Theology mainly speaks about the poor without an ethnic division, in the Latin American reality of that time, especially in the Andean countries, indigenous people were an important part of the poor population.

Thus, it can be inferred that the Liberation Theology called for an inclusive understanding of the 'other' that were indigenous people; not as objects but subjects with their own characteristics, equal rights, capacity, rationality, intelligence to create, build, love and feel; and, to be masters of their own life and their relations with their community, Nature and society (Boff, 1995).

On the meetings celebrated by the Latin America Episcopal Conference (CELAM) to discuss about the challenges and concerns of the Church; the assemblies of Medellin (1968) and Puebla (1978) were particularly important to the introduction and rejection of the new theology. On the first one, the liberationists attend on a more representative number in face of the traditional episcopate and could influence the final document (Dueñas, 2015), which gathered several aspects characteristic of this new theology like the need for an integral development, change of the structures and to be free from any type of oppression. On the second one, the dispute between liberationists and anti-liberationists was marked specially by the new conservative elected Pope (Wojtyla) at the Vatican and Lopez Trujillo as the new head of CELAM (Dueñas, 2015).

The new theology was severely contested and stigmatized under the communist veil that was so alive at that period. Some of the liberationists priests were replaced, sent to

different areas or pensions, warned or called to give testimony in Rome, some examples are: Pedro Casaldaliga, Samuel Ruiz, Gustavo Gutierrez, Jose Maria Diez-Alegria or Leonardo Boff that was even sent to China and ended up resigning to the Franciscans and to priesthood (Dueñas, 2015).

This new attitude of the liberationists inside the Church that tried to understand and serve the poor and oppressed more than the empowered and elites, who historically have been its allies; caused during the last decades of the twentieth century the persecution, torture and death of several members of the clergy because they were no longer in agreement with the regime or the oligarchy and were unprotected by their own (Example: archbishop Oscar Romero). Furthermore, the influence that the United States were exercising over the region contributed to this chase as this movement was targeted to be against the interest of the private property and the growth of capitalism (Dueñas, 2015). It all seemed to be that the Liberation theology was carrying a heavy stigma for being related to the Marxist and socialists tendencies (Núñez, 2005).

Nonetheless, according to the main representatives of this theology, it could not disappear because its main concern is the poor not to argue with the international political system though, it has an evident relation with politics and economic rules that are expected to change in order to guarantee better life conditions to the poorest segments of the population. Moreover, what Hugo Assmann or Leonardo Boff asserted is that there were going to be unknown paths and new challenges that this theology will have to face because of the evident new realities of a continuous changing world (Núñez, 2005).

In this manner, new solutions in face of the economic exploitation or the environmental crisis needed to be created and this will continuously generate bigger challenges to the Liberation Theology. At the same time, there are other aspects to consider into the characteristics of the societies such as: culture, ethnicity, religious affiliation, gender, etc. But it does not have to be unrecognized the evolution that this Theology has already triggered in different fields: Black Liberation Theology (H. Cone, 1969), Feminist Theology (Grey, 2000), Indigenous Theology (Lopez, 1996), Gay Theology (Edwards, 1984) and Ecology.

In this context, Leonardo Boff made a deliberation upon the relation between Liberation Theology and Ecology. In his analysis, he ascertains that both seek for

liberation; one of the poor by themselves, and the other of the earth through a new alliance between it and human beings.

On the Ecuadorian case both have encountered inside the project exposed by this dissertation. On the first part, when Boff explains the vicissitudes of Liberation Theology and its compromise with the poor and their liberation, not just from the oppression but from themselves, allowing them to empower of their own situation, decide for themselves, fight for themselves and built the life they want and deserve to have (Boff, 1995). This particular situation, is not only what gave birth to this theology in Latin America, but what in the specific case of Ecuador, originated the uprising of indigenous people so long relegated by the society, as it will be further elucidated in this same chapter.

On the second part of Boff's analysis, it is highlighted the ecological part and the need of an alliance between the earth and human beings in a way that their relationship will be characterized by a sustainable development which will respect the ecosystems, future generations and life itself. This new relationship is exactly what Sumak Kawsay is trying to build specifically on the element of Nature's rights. This conception of life which respects human beings as much as the cosmos is also what indigenous cosmovision has always believed on and practice in their everyday life because it is a lifestyle compromising every aspect of the culture, religion, economy, etc.

Finally, a marked comeback of Liberation Theology into current religious spheres discussions was the election of Pope Francis on March 2013. Contrary to the attitudes of previous Popes (John Paul II and Benedict XVI) towards the theology born in Latin America; Bergoglio immediately exhibited throughout his actions and speech that he was searching for an active Church focused on the poor. He even made amendments with priests stigmatized on the past years because of their connection with the mentioned theology (Gutierrez, Romero.) (Cox, 2013). Moreover, since 2013, Bergoglio has showed a considerable involvement in several critical causes discussed in the international community, especially the environmental one. Furthermore, his behavior has been continuously linked to the Liberation Theology because of his strong stance of '*a poor Church in service of the poor*' that can be exemplified in his common activities, like on his latest speech in Mexico (Cullinan Hoffman, 2016), where he addressed to the poor



and oppressed indigenous people and asked for forgiveness and guidance towards their environmental ancestral knowledge.

### **3. Liberation Theology, the government and recognition of indigenous rights**

‘Socialism of the twenty-first century’ is an insignia that some left-wing governments in Latin America use to define themselves. It portrays a resounding opposition to neoliberal policies and supports socialist stands. This new tendency overall heard since its use by Hugo Chávez in Venezuela, characterized the beginning of this century politics in the region and certainly it drew attention due to several accomplishments like the strong electoral support of its representative figures in countries like Bolivia, Ecuador, Venezuela and Uruguay; or, like the creation of political organizations such as UNASUR.

In the case of Ecuador, it arrived with a different perspective from the others (Nature law) that was felt in the speech of a fresh and revolutionary beginning after the ‘long neoliberal night’<sup>31</sup>. In several occasions since 2007 and until the recent visit of the Pope on 2015, traces of the presidential postures in favor of the Liberation Theology could be outlined by the recognition of the missionary work with indigenous population and Monsignor Leonidas Proaño, the main figure of this theology in the country.<sup>32</sup> The acknowledgment of Monsignor Proaño’s influence on the recognition of indigenous rights and its uprising are also justified inside the speech of the government of Correa because at the beginning it had an undeniable foundation on: the alliance with indigenous people, the recognition of ancestral knowledge and their use in the construction of Sumak Kawsay political plan and future embracement inside legislation.

Indigenous people always lived in struggle claiming for the recognition of rights and their consideration and participation inside the political, economic and social spheres. On the last years of XX century when these protests occurred, indigenous people were a strong, cohesive and relevant force; despite belonging to different ethnicities they use to protest together and be able to block the country usually arriving to an arrangement with the government in power at the time. Indigenous movements were an undisputable key

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<sup>31</sup> President Correa with this expression refers to the time when the impositions of the Washington Consensus tried to convince the region to minimize the role of the state and privatize everything: health, education, water, natural resources, human labor.

<sup>32</sup> See: Ayala Micaela, Presidente Rafael Correa: El gran pecado social de nuestra América es la injusticia, ANDES, <http://www.andes.info.ec/es/noticias/presidente-rafael-correa-gran-pecado-social-nuestra-america-es-injusticia.html>, 05 July 2015.

actor inside the political strategy; however, an alliance was hardly ever sustained by hard-law proposals. Only in this unique time, with Correa, things were different and the plurinationality, interculturality and Sumak Kawsay was going to conform a considerable part of the discourse, planning and normative.

### *3.1 The indigenous uprising in Ecuador*

The evangelization process was linked to a political compulsory project of the Crown. The Spanish conquer meant for indigenous people a destruction of the structure of their society and of their spiritual beliefs (Suess & al., 1989). In others words a physical and spiritual destruction that under the tactics taught by Sun Tzu on *The Art of War*, it would constitute the ideal approach to defeat the 'enemy'. The alliance between these two actors allow them to cover almost all American territory and erase a considerable part of culture, customs, practices and belonging of indigenous groups (CONAIE, 1992).

The dominant posture of the empowered on that period implied that social changes without political will were not possible as in the conquer era. For instance, when Bartolome de Las Casas understood and identified himself with the sufferance of indigenous people, he demanded that the Spanish treatment and legislations towards the native people of America should change. It was a stance against the economical desires of the Crown and too revolutionary for that time; thus, since the beginning there was a complete absence of any political will that could support it. But there was another source of power beside the political one and that was religion (Catholic Church) by itself that little by little claimed its own role and differentiated from the politics (never completely). Eventually, this source of power on the twentieth century would have an important restructure concerning its main goals and actions (Liberation Theology, II Vatican Council, Medellin and Puebla meetings).

The fight of indigenous movement dates back to the same period of the most notorious changes inside the Catholic Church. The 60's and 70's were also important dates for the world given the context of the Cold War. Inside the context and events occurring in Ecuador, agrarian and labor reforms (Ortiz-T & al., 2011) were taking place. To indigenous people the land is life itself, it is sacred and the relation with their life sources is the most important as it is not just polytheism or animism, it is a concrete and terrene spirituality (Irrarrazaval, 1999). The big landowners possessed everything in the times of

the ‘hacienda’ system<sup>33</sup>, including indigenous people inside of the boundaries. The Agrarian Reform was aim to handle the redistribution of territory but on its beginning none cultural consideration was taken into account and the result was that unwanted lands were designated for the use of indigenous people.

Some clergy sectors, witnesses of the sufferance and unfair treatment to this population, lobbied for policies and supportive actions like the creation of the Marginal Rural Development Fund (Foderuma) to allow them to have access to credit; and, the Alphabetization National Plan in order to consent their voting right on national elections, as illiterates were impeded to vote (Ortiz-T & al., 2011). This actions generated some of the most basic conditions that later on will enable them to start the construction of indigenous organizations and political movements.

In this regard, the Church also had certain leadership and leverage on the creation of associations that were going to promote indigenous rights. The following organizations exposed on Table 3 constitute the first and most relevant bodies that created the general platform for the trigger of indigenous political stance and their demand on the fulfillment of their rights.

*Table 3 - Indigenous movements in Ecuador*

<b>Year</b>	<b>Name</b>	<b>Description</b>
<b>1938</b>	Ecuadorian Confederation of Catholic Workers - CEDOC	It represents the first labor organization of Ecuador and it was created by the Catholic church and the Conservative party in order to constitute a union foreign to left tendencies. Later on, it separates from the conservative side and the church and named Ecuadorian Confederation of Classist Organizations for Workers' Unity – CEDOCUT. (Altmann, 2013)
<b>1944</b>	Ecuadorian Federation of Indians – FEI	The first successful attempt in Ecuador to establish a national federation for and by Indigenous peoples to fight for better labor conditions and salary. The indigenous leader Dolores Cacuango was its founder, she was a communist leader who fought for equalitarian treatment and access to education for indigenous people. Until nowadays FEI is part of the Ecuadorian Workers Confederation. (FEI, 2016)

<sup>33</sup> The hacienda is a typical form of economic organization of the Spanish colonial system, which remained in Latin America until the agrarian reforms of the second half of the twentieth century. The term is used to describe a ‘latifundio’ (Colmenares, 1992).

1972	Confederation of Peoples of Kichwa Nationality (in Kichwa: Runakunapak Rikcharimuy, “Movement of indigenous people of Ecuador”) – ECUARUNARI	This is the first organization of indigenous people mainly compose at the beginning by the Kichwa people and later on gather the different ethnicities. The Catholic church had a strong influence in the foundation of this movement, specially through the Liberation Theology, II Vatican Council and the Conference of Medellin where a commitment of the church towards the poor was made. It had a transcendental role in the vindication of indigenous rights and It has been a main actor in the Agrarian reform of 1973, the return to democracy on 79, the encourage to found other relevant indigenous movements like CONAIE and the coup d’état of former presidents Bucaram and Mahuad, among other important events. (ECUARUNARI, 2016) The clerical character inside ECUARUNARI was seen through the adoption of priests as assessors for the provincial organizations (Altmann, 2013). Its meaning in Spanish is “The Awakening of the Ecuadorian Indigenous Peoples” (Becker, 2011).
1980	Confederation of Indigenous Nationalities of the Ecuadorian Amazon or CONFENIAE	It is the organization of indigenous groups of the Ecuadorian Amazon basin region. Around eight different indigenous groups are associated to claim their rights and the protection of the environment because of the continuous invasion of neo-liberal tendencies of the state in order to search for oil, precious stones, mining, among others (CONFENIAE, 2016). Its goal is to preserve the ancestral knowledge, generate sustainable development projects, promote the bilingual education, among others (Becker, 2011).
1980 and 1997	National Federation of Organizations peasant-FENOC that later on would become the National Federation of Peasant, Indigenous and Black People - FENOCIN	It is an organization that fights against the exclusion and international submissions that causes the loss of ethical values, identity, social capital; it also encourage the participation, inclusion and interculturality, among others. (Altmann, 2013)
1980	Ecuadorian Council of Evangelical Indigenous People and Organizations - FEINE	It is an important aggrupation of evangelic communities and structures (By 2000 counted with 17 provincial organization and support of 600 local churches) non exclusively attached to the indigenous movement, thus from the outside it is seen as not authentic and weak. Other

		accusations are that it is always in agreement with the government in power despite its tendencies. It has a political party: Amauta Jatari and recognizes its religious background through a political manner (Altmann, 2013)
1986	Confederation of Indigenous Nationalities of Ecuador CONAIE	Is the association that gathers all the nationalities, people, communities, centers and indigenous associations of Ecuador. Its objective is to consolidate indigenous peoples and nationalities of Ecuador, fight for: land and indigenous territories, their own education (bilingual intercultural), against oppression of civil and Church authorities, for the cultural identity of indigenous peoples against the colonialism and for the dignity of indigenous peoples and nationalities (CONAIE, 2016). It is composed by three regional federations: ECUARUNARI, CONFENIAE and CONAICE
1995	PACHAKUTIK Movement for Plurinational Unity - MUPP	The most relevant left-wing indigenist political party which is opposed to neoliberal economic policies and search justice, the restore of order and equality. Pachakutik was a name of an Inca ruler and its meaning is between revolution and rebirth. (Becker, 2011)
1999	Coordination of Indigenous and Black Organizations of the Ecuadorian Coast CONAICE	It is the organization of indigenous groups of the Ecuadorian Coast region.

Source: Compilation prepared by the author on the basis of data above mentioned

The Inti Raymi uprising of 1990 organized by CONAIE constitutes the most notorious and cohesive event of indigenous protests which aimed to portray the total oblivion of them inside the Ecuadorian society for the last centuries. It raised the question over the real democracy and development model that did not include them. To support their claim, indigenous groups presented a document named: The Mandate for the Protection of Life and for the Rights of Indigenous Nationalities in which, among other relevant issues, they claimed for their right to have access to health, housing, land, credit, the recognition of a plurinationality state and their equal conditions facing other groups in society like mestizos or whites (Ortiz-T & al., 2011).

Later on, after the victory that meant the uprising of 1990; another relevant protest carried on by the Organization of Indigenous People of Pastaza (APIP) displayed into the streets on April 1992 to demand for the legalization of their territories in the Amazon

basin and for their self-determination rights, which received a considerable embracement in the government of Rodrigo Borja (1988-1992). Little by little the static idealism that used to represent for indigenous people the remembrance of Tawantinsuyu that served to maintain their focus and overarching goals, came back to live in the shape of the political movements that were opening new horizons for their inclusion (Becker, 2011). The last decade of the twentieth century was definitely characterized by various indigenous revolts which gave national voice to their difficult conditions and encourage the reflection inside the Ecuadorian society towards the treatment that they had received since colonial times.

There was still a long way to go overall considering the tendencies of governments that followed 1992-2000 which promote right-wing policies and programs (Ayala Mora, 2008). On the first decade of the XXI century, CONAIE would strengthen over the years and become one of the most important organizations that will support the fall of many governments: Abdala Bucaram in 1997 and Mahuad in 2000; and support others like Lucio Gutierrez in 2003 and Rafael Correa in 2007.

### *3.2 The influence of the Catholic Church*

It is important to underline that the indigenous uprising is an event that was not exclusively motivated, supported or influenced by the Catholic Church; many other actors and events interfere with; nevertheless, the actions taken by Church on this period were significant and are of the interest of this thesis.

There is no coincidence that the Liberation Theology came out at the same period of time as the beginning of the organization that later on would lead to the indigenous uprising and mobilization in all Latin America. They both influenced each other greatly (Congreso Continental de Teología, 2012) and in Ecuador it occurred through the figure of Monsignor Leonidas Proaño. He represented an iconic symbol for the history of indigenous people in Ecuador and not just for spreading the word of justice but because he would evangelize not just by words but by actions, a strong social compromise; not in vain he was even nominated for the Nobel Peace Prize candidacy on 1986. The whole ministry action that Proaño will achieve until his death in 1988, is known as the “Poncho Revolution” (Tinel, 2008) and inside this journey numerous acts were committed that marked the history of the Catholic Church action towards indigenous people and their crusade in the search for rights recognition and equalitarian treatment.

By 1954 he was declared bishop of Riobamba city in Chimborazo province on the Highlands region of the country where there is a high percentage of indigenous population (INEC, 2012) until nowadays. He was witness of the unfair treatment that the landowners had with this segment of the population, and he saw the dispossession of land to which they were subjected. He suddenly started to work with the most affected indigenous groups by raising their voice and claiming for their rights to fair treatment, access to land, bilingual education, among others. His methods were different from the actions that the Catholic Church was having until then, therefore, he was stigmatized by the oligarchy and the right-wings parties of being communist, subversive and even terrorist (Salgado Jácome, n.d.).

His main contributions to the indigenous cause were: the extensive alphabetization programs that were include into the national policy and helped innumerable indigenous to access to primary and secondary instruction levels respecting their native language preservation and their ancestral knowledge in many fields like medicine, values and self-governance (SENPLADES, 2016). He believed that no political movement could be made without education and no liberalization without organization. He was also a pedagogue, taught indigenous rights and support the creation of movements such as ECUARUNARI and CONAIE<sup>34</sup>.

In this manner, through the example of actions carried out by Monsignor Proaño it can be exemplified two aspects discussed: the first one, the positive facet of the exercise of the Catholic Church in the Ecuadorian history and the politic influence that it has had in the recognition of rights of indigenous minorities, without which the events occurring decades later might have not occurred in the same manner that they did. The second one, the influence of the Liberation Theology in the actions taken by the Church and becoming part of the moment of transformations, stepping aside on the role of passive witness.

Likewise, it is undeniable the impact that indigenous political uprising and movements have had in the recognition of their rights and the disclosure of their ancestral baggage and knowledge that on the anti-capitalist and neoliberal speech of the candidate Rafael Correa was employed and used to create the strategical governmental plan of Sumak Kawsay and the recognition of Nature rights.

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<sup>34</sup> See Table 3.

*The encounter of two worlds 500 years of European conquest*

Within the context of the indigenous revolt, it seems relevant to take a few lines to remember and discuss over what occurred on October 12th 1992, the date that commemorated 500 years after the arrival of the first European in the American continent. Spain wanted to celebrate this special date as a joyful festivity. This celebration caused the outrage of indigenous people all around the continent. They gathered, protested and claimed for a massive mobilization inside the different countries to demand for the dignity of indigenous people and the condemnation of all forms of subjugation and colonialists and neo colonialist practices (CONAIE, 1992).

To the American indigenous world, the celebration of the 500 years meant a mourning day for their genocide, ethnocide, evangelization, oppression and humiliation (Parker Gumucio, 2002). On 1988 in the VI Session of the Working Group of the United Nations in Geneva, a message from Guatemala indigenous groups exemplified the imposition, invasion, totally disrespect of the otherness and its plurinationality that the European colonialization meant. They claimed that a mutual agreement was never proposed worse settled among indigenous groups and the states: states were composed by judicial system that punish, discriminate and kill instead of one that could correct and restore social harmony; by an education system that encouraged individualism, selfishness and competing with one another instead of collaboration and solidarity.

These examples demonstrated the dismissal of the values that indigenous cosmovision appreciate inside the behaviors and attitudes of the communities. The state apparatus was built with any participatory or inclusive methods with the real conditions and needs of these minority groups.

The history was once again being told by the side of the winner and the truth of all the abuses still undertaken against indigenous people needed to be revealed and restored, not celebrated by the western world. Indigenous people were claiming for answers, self-determination, land sovereignty, recognition of rights and their plurinational reality. These 500 years instead of a celebration, they should have represented an exhaustive examination of the conditions of the native groups and their real access to equalitarian goods and services that would enable them to be the masters



of their own destiny<sup>35</sup> in cooperation with the rest of the society, the government, the international community.

#### **4. Chapter Conclusions**

The lessons learned from the encounter with a continent that had such diversity and completely different cosmovisions, languages, customs, behaviors and appearances; helped a Catholic Church that was extremely closed, hermetic and intertwined with the monarchy to rediscover its original vocation. The evangelization process that the conquer brought was a moment to create a dialogue with other cultures and question oneself; but not all of the Church representatives were like Montesinos or Bartolome de Las Casas. Over the years, the coexistence and constant presence with indigenous people who showed such strong beliefs that not even the terrible tortures, punishments and discrimination could take away; unleashed the processes reigning on the Vatican Council II and the Liberation Theology that settle the transformation of the Catholic Church towards a proactive exercise under the Social Doctrine.

The impact that the Liberation Theology might have had on the questioning of who is the other and why should the Church truly care, understand and involve with the other is part of an integral enculturation in the evangelization process described on Paulo Sues (1990) document “Enculturation: paths, goals and principles”. The evolution of these process might have influenced over the relation among other cultures with an abysmal difference like the Incas and the Spanish were; but also, on the present times and future, it can have a substantial weight among the interaction of citizens under the same characteristics, living in the same geographical place like Paris, Italy, Sweden, Munich, etc. To Sues, there was a close relationship between enculturation and liberation, because the first allowed and encourage the other to exist.

Therefore, under this understanding, events occurring since the conquest era, were carried first for a missionary tactic that did not made proper used of adequate evangelization methods (integral enculturation) and served only to the expansionist will of the Crown. There were impositions of the empowered actors and the missionary goals sustained by an authoritarian political environment with null participatory means, inequality and extreme vertical decision-taking methods. On the first approach of the

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<sup>35</sup> For further analysis, see: Sen, A. (2001). *Development as freedom*. Oxford Paperbacks.

Church and indigenous groups, they never shared a mutual learning nor a symmetrical dialogue. It was only after centuries that the system could change and even on the latest half of the twentieth century, there were still discrepancies among the speech of the Catholic Church and that one of indigenous people.

Nevertheless, regarding the positive collaborative results exposed of the interaction between the Church and indigenous people, it can be asserted what Gumucio (2002) exposed in his studies of different indigenous uprisings in the Latin American continent, when he said that *religion appears as a profound source of strength, wielding undeniably great influence upon the reconstitution of ethnic identities and the formulation of ethnic claims and principles for the 21<sup>st</sup> century*. In the Ecuadorian case, specifically under the figure of Monsignor Proaño, religion caused an empowerment into the claim of rights and the means used to arrive to the uprising of the nineties.

As exposed on the beginning of the chapter, the three actors: indigenous people, government and Church have always had a codependent undeniable relation in the construction of the events that would end up in the adoption of Sumak Kawsay concept, the recognition of Nature rights and a deep questioning of the Ecuadorian society towards their attitude in face of the exclusion of indigenous people and our authentic origin. It has also generated a new conception of development and both the Church and the state have evolved upon this relationship with indigenous cosmovision; weather it was by the Liberation Theory or by the proposal of new economic models that would take into consideration sustainability and intercultural aspects.

Sumak Kawsay is an opportunity not only for the Ecuadorian society but also it might serve as an example to the international community if its application and results prove to be positive for Nature rights enforcement. The Catholic Church still plays an important role in the Latin American reality, the evangelization process is a permanent activity and it is the responsibility of the Church to “lead their flock” in the best mode. If the integral enculturation method of evangelization might allow the ‘flock’ to empower of their own liberties and include the cultural minorities (indigenous groups) to participate and build altogether a mutual civilization formed by the ensemble of different cultural expressions (Suess & al., 1989); then, Sumak Kawsay and its coexistence with Nature might have an opportunity to be impregnated in the whole Ecuadorian society and the respect towards

the Pacha Mama, acceptance of the ancestral cultures and knowledges, and better environmental habits; consciousness might finally be assumed as part of our own.

## **CHAPTER III – Church and Andean cosmovision towards Nature**

### **1. Introduction**

The history of environmental awareness embodied in international discussion and debate began in the 60s (Forsythe, 2009). At the beginning it was discussed that it might not be part of human rights classification but with the pass of time evidence of environmental catastrophes caused by the human action such as the oil spills of 1979 in Mexico and Trinidad y Tobago in the Pacific Ocean (Telegraph, 2011) showed that it was intrinsically and directly related to violations of the right to life itself.

Nowadays, it is almost impossible to believe that the environment being such important for human life existence, it was not specifically included on the most relevant documents on the last century such as the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) or the International Covenant on Economic, Social and Cultural Rights (ICESCR). Likewise, neither the bill of the European Court of Human Rights or the one of the Inter-American Court included the environmental concern at the beginning.

It was not until the Stockholm Declaration in 1972 that the world leaders gathered to discuss about the actions needed to be taken in the face of the clear and irreversible damages that human action was causing to the environment. Thus soft law started to be influential even though it was not binding.

While these was occurring inside the debate among states, the Catholic Church was also having its own meditation process towards Nature and the role that the religious speech has played on the use and abuse of our planet resources. This process occurred in a period where the world was changing dramatically and academics, theorist, politicians were developing new theories or searching for answers to understand the climate deterioration and to propose for innovative solutions. Coincidentally, also on the last decades of the twentieth century, indigenous people were uprising and finally the world was taking a posture towards their historic exploitation and abuse, but most importantly, their voice was starting to be heard and felt and their ancestral knowledge, culture, practices and cosmovision draw the attention because of their different relation with the surrounding specially, towards Nature.

On the previous chapters, already a conceptual framework and the history of indigenous groups, their reality and connection with the Catholic Church and the

government was made. Now, the description of their relation with Nature and what represents the environment to them is the focus of the present chapter. The description of the history of Catholic Church and the environmental consciousness would be easier to follow as the relations of men, God and environment are settled to the majority of the occidental mind; while the description of the conception of environment inside the Andean cosmovision is different because the relations of men and the cosmos are diverse, and they do not depend on the western reasoning of the value of things and hierarchies. In order to take the most from the explanation that follows, these differentiations needed to be clarified.

## **2. The Catholic Church and the environment**

Twentieth century has been a period of time where the biggest steps towards the protection of human rights and the recognition of unfair treatment to men and Nature has been raised. The adoption of several soft-law and hard-law agreements on these matters are a substantial evidence of it. In this record, the Catholic Church has play an important role as an actor with guidelines (apostolic constitutions, papal bills, apostolic briefs, encyclicals, apostolic letters or papal speeches) supporting the Social Doctrine and including in some pro-environment postures that has to be implemented on the territorial pastoral activities.

Nevertheless, this relative new attitude and radical changes of the relation between humans and Nature have not erased a past of association an accusation of the Church as an instigator of an anthropocentric attitude and its utilitarian role facing natural resources. An accusation based on the arguments of condemnation to cult animals or non-living beings like the sun, stars and mountains; or the posture of Adan and Eve as ultimate masters of the creation meaning the living and no living entities that conform the Earth. This exploitation of Nature justified by the Bible positioning of men at the apex of creation is shared by numerous theorist, including the historian Lynn White and his assertion that *the roots of the western societies exploitative attitudes towards nature come from the Judeo-Christian tradition* (White, 1967)

However, on the paper “L’Église Catholique e la cause de l’environnement” of Isacco Turina (2013), he explains how the essence of the modern economy being utilitarian and focused on the profit does not necessarily has to have its foundations on religion because

the anthropocentric stand of religion was to see the human being as the center of the universe to God and only under the necessarily existence of God; therefore, the submission of the human to God remains while on the western stand, there is a secular anthropocentric discourse with none God at the top to interrupt the diverse practices (ethical or non-ethical) to reach more profitable goals. Also the author highlights the anti-capitalist attitude that the Church has had on the last century displayed on the different public documents and guidelines produced by it.

This interesting consideration of the abovementioned author serves to highlight the important stance that the Church is having against an economical model of exploitation that is damaging the Earth. In this context, on the Table 4, a chronological display of the main postures of the Catholic Church towards environmental protection will be described:

*Table 4 - Catholic Church and Nature*

<b>YEAR</b>	<b>EVENT</b>	<b>IMPORTANCE</b>
1182-1274	<b>Saint Francis Assis and his devotion to nature</b>	It is not unknown the attitude of Saint Francis of Assisi towards nature and the living creatures of Earth. At that time, a doctrine of the Catholic church towards nature was not made but since Francis teachings there is an undeniable historical concern of the relationship of humans and other creatures (Sorrell, 1988). The attitude of Francis towards nature displays the recognition of it as part of the whole creation that embraces humans inside this common home (Francis, 2015).
1891	<b>Encyclical Rerum Novarum (Of New Things)</b>	This encyclical of Pope Leo XIII took a different road of the Church posture from the period of Pius IX. It was the beginning of the social teaching of the Catholic Church and their criticism of exploitation conditions such as labor.
1965 1967	<b>Pastoral Constitution “Gaudium et Spes”, and Encyclical “Populorum Progressio”</b>	Even though explicitly they do not make any pronouncement about environmental care; they certainly, mention the responsibility that human has regarding the rest of the creation.
1970	<b>Paul VI discourse in front of the United Nations Food and</b>	On the 25th anniversary of existence of FAO, the Pope gave a discourse that criticized severely the behavior of men towards the exploitation of nature by means of the scientific and technological advance and economic

	<b>Agriculture Organization (FAO)</b>	growth. He called for a time to “dominate de domination”. (Paul VI, 1970)
1972	<b>Vatican Delegation for the Stockholm, Conference</b>	The delegation agreed with the conclusions of the Stockholm meeting despite giving some critics towards the lack of inclusion of penalties to the polluter and the adoption of concepts towards moral and economical justice. (UNEP, 1972)
1990	<b>World Day of Peace message from Pope John Paul II</b>	First Papal document dedicated solely to ecology. Besides the evident against conflicts, weapons and injustices between nations that the event meant; the Pope made a special emphasis on the “due respect for Nature” and he encouraged the new ecological awareness born in face of the plundering of natural resources and the destruction of the environment. He urges to call the environmental degradation a problem of morality towards the respect of life itself and the abuse of science and technology. (Paul II, Vatican: The Holy See, 1990)
2001	<b>Encyclical Centesimus Annus</b>	On the hundred anniversary of the encyclical Rerum novarum (Revolutionary change) is part of the writing of the Catholic social teaching and it has a relevant content related to the political moments lived at that time which were characterized by the presence of dictatorships. Already in this document several negative claims over the abuse of the profit focus system and its utilitarianism was underlined.
2004	<b>Compendium of the Social Doctrine of the Church 2004 (Safeguarding the environment)</b>	The document provides the fundamental elements of the social doctrine of the Catholic Church. Inside these pastoral guidelines there is a whole chapter dedicated to the environment (Chapter 10). The relation of men and environment is settled as part of the human identity, essence and also the relation and dialogue with God. It is important the critic made to human as “exercising unconditional dominion over things” and treating Nature in a utilitarian way. Nevertheless, on the article 463 it is made a specification of the Church and its opposition regarding some ecological stands where they put humans and environment at the same level or Nature in a superior level, treating its components as deities, which according to the Catholic Church cannot be neither acceptable. On the article 470 the economic model is questioned and the use of nature for mere profit goals is regretted as the market is incapable of managing the environment as an asset that will be taken care of. Finally, a remark and recognition towards indigenous groups and their relation with

		Nature and its use is demanded to be respected on article 471. The preservation, knowledge and harmonious coexistence with Nature of these autochthonous groups is settle as an example. (Paul II, 2004)
2009	<b>Ten Commandments for the Environment</b>	A book that gathers the thoughts and posture of Pope Benedict XVI regarding the environment. It intends to serve as a guide to raise people consciousness of their stewardship obligation towards the rest of the creation.
2010	<b>Pope Benedict XVI message for the World Day of Peace</b>	The message spreads a strong relation of the stewardship of the environment and the consequences that it has on a peaceful coexistence between man. The relation of natural resources and the right to food, water, life health and development is recalled.

Source: Compilation prepared by the author on the basis of data above mentioned.

The above-mentioned synthetic compendium represents the most notorious moments of the Catholic Church sending a message of ecological concern. However, special mention and analysis needs to be address to three specific documents from the last three Popes, which constitute the principal postures and guidance of the Catholic Church regarding the environment: ‘Sollicitudo Rei Socialis’ of Pope John Paul II, ‘Caritas Veritae’ of Pope Benedict XVI and ‘Laudato Si’ of Pope Francis.

Pope John Paul II is the first pontiff that has made continuous and clear declarations and documents regarding the interest of preserving the creation of God, meaning not just the human beings but the whole ecosystem. Since him, other successors have also taken a relevant stance on this topic. Pope Benedict XVI continued working for an environmental stewardship, targeting it as a matter of social justice. On 2009, Benedict released the “Ten Commandments for the Environment” to encourage a responsible lifestyle and inspire Catholics to reduce the ecological footprint. His environmental concern even gave him a nickname, “The Green Pope”. He carried his ideas also to the Vatican state practices and encourage to become a carbon neutral nation. Finally, Pope Francis, coming from a different regional background and history, he is not only continuing with the legacy of his predecessors but he is taking a more rigid and straight forward posture of the Church in this topic evinced on his encyclical, discourses, meetings and participation on the recent Cop 21.



## *2.1 Sollicitudo Rei Socialis (The Social Concern) – 30<sup>th</sup> December 1987*

On the twentieth anniversary of the encyclical *Populorum Progressio* (The Development of Peoples), the subject of development is again a main interest inside the Pope guidelines. This time, development was approached differently, from a more critical perspective of how the economic policies of the western world are driving it into a crisis of hardening the conditions of the poor and risking the environment.

Inside the document of Pope Paul VI of 1967, the concern of the Church behind the progress and its application inside the political and economic decisions of the states was already mentioned. The Pope encouraged the social activity of the whole human kind, trying to have a holistic approach to the subject in order to promote actions that can take into consideration the existence and sufferance of the poor. Moral congruence is also recalled in this encyclical with the aim of rethinking the consumerist habitudes on the population.

Thus, this was a document that was trying to give continuity in the topic of development but this time making a recount of the achievements and failures (debt, unemployment, recession). A rethinking of the meaning of development is discussed and it recalls for a profound contextualization of it under the conceptions of solidarity, human dignity and moral, guided by faith and charity. Also the influence of the Cold War era was felt and the topic of East versus West was targeted as a need to search for more cooperation and solidarity among the states in order to abstain from falling into isolation or to forget the human misery and just play under the rules of trade (Paul II, 1987) .

Specifically, to the topic of environment, the document takes into consideration: the treatment of living and non-living creatures as part of the same cosmos which is interdependent and interconnected; the awareness that natural resources are limited and should be preserved for the future generations to come; and, the harmful consequences of the excess on industrialization for the health of the population. It is important to highlight the effort put into the consideration to explain that the power of God granted to humans as “owners” of the rest of the creation was in no way absolutist and unconscious; it was not only a concession of rights but also a reminder of the duty to have a stewardship of the creation and obey to moral and not just biological laws.

## 2.2 *Caritas in Veritate (Charity in Truth) – 29<sup>th</sup> of June 2009*

This is the last encyclical of Pope Benedict XVI. It carried a message of moral principles to serve to the leaders of the world and the public in general to create for solutions to achieve the common good. The situation of development and progress was again at the center of the document and many topics were presented like: social solidarity, hunger, energy, sexual tourism, environment, bioethics, among others.

On this document there are three important constants that should guide human activities towards their behavior for the community and the world: truth, charity and love. It is divided in five chapters: the first one recognizes the efforts of the Church under the message of development of the encyclical of ‘*Populorum Progressio*’ and criticize the institutions and actions made behind the development excuse, which not necessarily produce positive outcomes. It is sustained that this failure might be due to absence of vocation and teachings learned from the love of God and the *lack of brotherhood among individuals and peoples* (Benedict XVI, 2009).

In the second chapter it tackles the benefits of the globalized world but makes a further reflection on the challenges that this represents when the progress is made only for profit objectives without targeting the human needs coverage as the essential to be achieved. It condemns the corruption, unethical managing of resources from environment to intellectual property in the healthcare field. On the third chapter, the relation of commerce and society is confronted. The concept of gratuitousness is used to emphasize that economical transactions should not act only guided by self-interests, and certain level of gratuity inside it could generate a sense of responsibility, justice ad common good with other actors of the society and the common future. The fifth chapter, deals with matters of solidarity and the community in which it is encouraged that developed countries contribute more to the less fortune nations. Topics like migration, unemployment and financial regulation are also examined. On the final chapter, the fears of the Church behind the advances of the science and technology are exposed on subjects such as abortion, euthanasia and eugenics.

The “Green Pope”, with this document, dedicated a whole chapter to the subject of environment (fourth chapter), despite that on the other ones it was also slightly considered. From the perspective that rights do not come alone and duties have to be expected in order to create a functional relation with the world; the Pope encouraged

governments to discover new economic models that can help their citizens to increase their living conditions under a different notion beside the accumulation of goods. The role of ethics and moral is decisive in this matter and the Pope offers the advice and guidance of the Church to avoid falling in “misinterpretations” influenced by commercial interests and other diversions that not understand that the main source of truth comes from love, and the latter comes only from God in its pure state. Likewise, under the environmental umbrella many topics are discussed such as international cooperation and adequate use of energy.

The principal messages regarding the environment and humans in this encyclical is the correctly understanding of “human ecology” which highlights the responsibility of humans regarding the creation, which should begin from the inside of the person itself, from its moral values. The connection of the harm to society and the disruption of the environment comes from the demeaning of the person. Other important conclusion inside the whole document is the allegations against the individualistic stance of humanity nowadays, specially the one coming from atheist postures or secular governments. The Church believes that the only route to a truthful development is the believe in God, because this belief generates openness to solidarity and to build relations with others that will help to create a real integral humanism born from the community.

### *2.3 Laudato Si (Praise be to you) – 24<sup>th</sup> May 2015*

It is the first encyclical that in its 246 paragraphs, it addresses entirely to the problematic of environmental crisis. Pope Francis even gave this document a name coming from the Poem “Canticle of the Sun” of Francis of Assisi, a saint which a strong posture regarding the relevance of environmental awareness and the coexistence with Nature<sup>36</sup> (Francis, 2015). The encyclical demands a change of values, attitude and daily behavior towards life and the creation; it places spiritual values at the foundation of all the issues related to environment.

Pope Francis chose this topic as it is an undeniable problem that puts in risk the entire humanity and it is directly related to development and the social crisis, which urges for a holistic attendance. Some stances and topics were already discussed by previous Popes but only Bergoglio have managed to give them a louder and more powerful voice,

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<sup>36</sup> See Table 4.

which might come from his background, charisma and particular international acceptance; in this manner, the environment has come to be a matter of primary discussion inside the Church guidance, teachings, speech and concerns.

A relevant particularity of one of the inspirational sources from where the Pope found the arguments to come up with 'Laudato Si', is the meeting 'Aparecida (2007)' on the V Latin American Episcopal Conference and the Caribbean. The meeting was convened by the bishops and not by Pope Benedict XVI, then reflects an important feedback to the head of the Church as it is a bottom-up contribution to the real needs of the Church in the territory. The purpose of 'Aparecida' was to renew the evangelization, pastoral and missionary action of the Church (Aparecida, 2007).

It was in this conference where one of the most interesting and new methods was discussed, that is the intercultural evangelization influenced by the introduction of the inductive method<sup>37</sup>. There was also a strong social conscience language that focused on the attention to the poor, so influences from the Liberation Theology cannot be dissociated. Finally, among other relevant concerns, the meeting was a proper opportunity to share the situation of the environmental crisis in the Amazon (The Economist, 2015), Bergoglio who was not pontiff at that time could participate in this discussions and was introduced to these environmental issues happening in the region.

'Laudato Si' is divided into an introduction and six chapters: what is happening to our common home, the gospel of creation, the human roots of the ecological crisis, integral ecology, lines of approach and action, and ecological education and spirituality. The document uses positive narrative and it exhorts to every human being independently of their beliefs and their background, to help on the common task to rescue the earth. The Pope also recognizes the advances of science and technology and using this argument tries to emphasize on the great abilities that humanity has in order to invent and build new methods to face the destruction of the environment.

According to some authors who reviewed thoughtfully the document, it constitutes one of the most innovative and outstanding postures of the Church regarding the environment, as it emphasizes a positive reading of the Pope on the advances of technology and science, and how the environmental problem may become into a beauty,

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<sup>37</sup> See Chapter II conclusions.

*immense and urgent challenge* that test human capacity to collaborate with God in *His continuing creation of the world* (Tilche & Nociti, 2015).

The encyclical begins by making a description of the ecological crisis using a more technical language of the characteristics of natural resources that evince this problematic. Likewise, the technocratic paradigm makes its appearance and the dichotomies of sustainable cycles and the throwaway culture are mentioned as the Pope criticizes the unconscious dismissal of materials and even humans when they are no longer considered as an active good. Also, the discussion deals with the difficult conditions that the most vulnerable, the poor, must overcome as they are the first and direct affected by the natural deterioration due to their living conditions that are in constant dependence and relation with the earth.

Furthermore, the document reviews the misreading of the Bible and the interpretation of men as Nature owners without any responsibility and complete disregard of a reciprocal relation. Attention is given to the situation of the modern technological capacity that has been reached faster than a development of human responsibility, values and conscience (Tilche & Nociti, 2015); thus, causing a clear decompensation of the ecosystem and the moral and ethical guidance that each individual should have to conduct their behavior.

The encyclical is quite an extensive text consisting of numerous ideas, concepts, thoughts, proposals and reflections and to resume it in a few words might be risky. However, without minimizing other important parts of the document, it can be said that the key reflections of the encyclical are:

- The technocratic paradigm has become so dominant that it will control the economic and political spheres with the only aim of reaching more profit as the goal of development. Consumerism is a reflection of this paradigm.
- *There can be no ecology without and adequate anthropology*, meaning that the human being has to recognize their unique role inside this ecological crisis, and the contribution that can provoke humanity's knowledge, will, freedom and responsibility.
- *Integral ecology* is proposed as an ensemble of the economic, social and cultural dimensions, thus the environmental and the social crisis are on the same predicament.

- A notion of a common good and a common responsibility needs to be spread and agreed for guaranteeing a better future to the next generations.
- *Ecological spirituality* is the encyclical suggestion of the source that can motivate the population to be more passionate regarding the environmental protection. A spirituality that will trigger an *interior impulse which encourages, motivates, nourishes and gives meaning to our individual and community activity*.

Last but not least, being a document that is addressed to the whole society of believers and non-believers; it must be noticed that the arguments and language used are clever and consistent with this audience. The final goal is to encourage the reasoning about everyone's activities and its consequences to the environment, searching the deep roots of the problem; which in the case of believers will be found in the existence of God, and in the case of non-believers will lie under the paradigm of love and brotherhood (Tilche & Nociti, 2015).

On this resumed journey of the adoption of the Catholic Church of a more environmentally conscious and promoting attitude; it can be shown the continuous intention of the Church to change the message sent once by authors like Lynn White and the interpretations of the Bible giving total control and rights of men over nature without mentioning the limits and responsibilities that this represented, and later on using this as a justification of industrialization, capitalist and consumerism attitudes, policies, campaigns and economic models. Certainly, on the last encyclical, Pope Francis revealed a stronger and fierce message to the entire population but overall to states and world leaders who are responsible for the allowance of polluting activities and risking the safeguard of their citizens, which always must come to the forefront.

Other interesting recount from this relation of the Catholic Church and the environment is the continuous search for new models, theories or solutions that come to the rescue the religion affiliation as well as the environment. It cannot be left aside on the speech of the previous encyclicals and documents, that there was some confrontation regarding other beliefs but the interesting of the last document was the joint and contribution of different sources that were united in order to tackle a common problem which was the deep-rooted economic development notion of the accumulation of goods and profit as if Nature was an eternal renewable source.

Nevertheless, in Latin America another source of a new environmental protection attitude and a different development already existed, hidden in silence, but always latent inside the native population. This is the case of Sumak Kawsay and indigenous cosmovision in the Andes region.

### **3. Indigenous people and Nature**

Indigenous people understanding of their relation towards the environment constitute a different reality from the occidental one, it is important to elucidate this relation with diverse conceptualizations, studies and standpoints taken from different authors coming from different realities, experiences and backgrounds.

#### *3.1 Andean philosophy by Josef Estermann*

One of the most interesting researches made to understand the existence of Andean philosophy was made by the Swiss missionary, philosopher and theologian P. Josef Estermann on his studies of indigenous groups in the Andean zones that have been published in different books.<sup>38</sup> When he tries to describe the Andean philosophy of indigenous people in the Andes (Kichwa, Aymara and other small nationalities); he cannot dissociate this concept and the relation this indigenous groups have with the 'Pacha' (cosmos, earth, space). Estermann presents the Andean understanding and relation with the Cosmos as a process needed to be seen from an intercultural vision that respects the otherness, contrary to the occidental conception of preferences, supremacies and grading (Estermann, 1998).

Despite the critics made to this author that refute the existence of a true Andean philosophy due to its lack of criticism and rationality in its discourse that was not made on previous colonization times (Sobrevilla, 2008); the several documents published by him and his contributions on the debate and understanding of indigenous cosmovision are relevant and pertinent in this case due to the contrasting differences that Estermann makes between indigenous perspective of life and the occidental one that definitely encourage

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<sup>38</sup> See, Colonialidad, descolonización e interculturalidad: Apuntes desde la Filosofía Intercultural; Crisis civilizatoria y Vivir Bien: Una crítica filosófica del modelo capitalista desde el allin kawsay/suma qamaña andino; Filosofía Andina estudio intercultural de la sabiduría autóctona andina; Filosofía andina: sabiduría indígena para un mundo nuevo; Si el Sur fuera el Norte: Chakanas interculturales entre Andes y Occidente; Ecosofía Andina: un paradigma alternativo de convivencia cósmica y de vivir bien; among others.

debate. Therefore, it is pertinent to consider his proposal of the existence of an Andean philosophy that is not only an ethno-folk nor purely a historical matter, but an *epistemological necessity to uncover the blind spots of a tradition cloistered in a civilizing solipsism, whether it was called Eurocentrism, Occidentalism or Hellen-centrism* (Estermann, 2013).

The mentioned author describes an Andean Eco-Sofia as one of the variables of the relation of 'Pacha' and indigenous philosophy. In this regard, the environment is seen from a non-economic perspective but an ecological one that sees it as part of the person. In this relation, there is also an establishment of ethics where humans cannot be abusive of Nature due to the respect of the relation between both. The logic of peoples' meaning/identity cannot be defined detached of the cosmos but only in regard of the relations that humans have with it and the different actors inside the "Pacha". The Andean person and the moral order depends upon their correct being inside the "Pacha" as guardians who contribute and preserve the sustainability of the cosmic order and the vital relations avoiding disruptions of it.

Furthermore, on the effort to clarify the abovementioned conception of the relevance of the relations, the author makes an example between the Greek language structure which has two parts: subject and predicate but both are built around the importance of the substantive; however, the Andean languages' structure is made considering the verb, meaning the relation of the whole elements in the phrase. This differentiation also stands out on the example of the Aymaran expression of marriage "jaqichasiña", which means "to become a human person"; that is to say, that the event of forming a couple leads to the personal identity (before the person was incomplete) due to the complementary parity between the relation of men and women altogether.

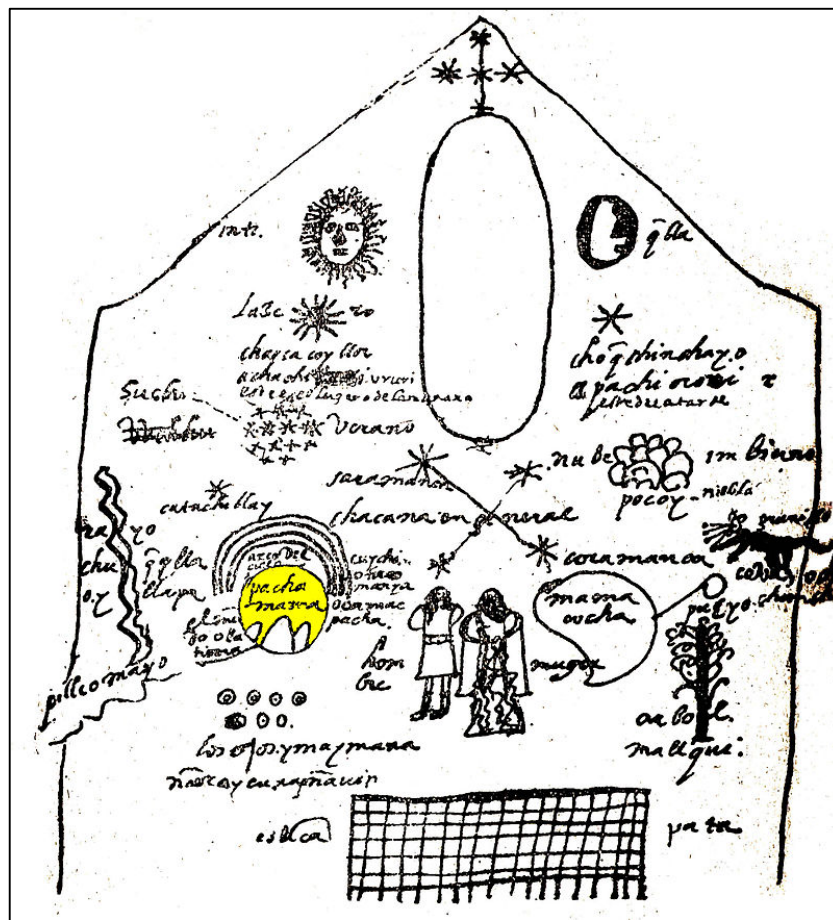
Indigenous understanding of the significance of relations in order to find out about the individual identity, is a fundamental stone that separates the western conception of humans as the center of the world and the condition of subjugation of Nature. To this understanding the human cannot exist without the connection and relation to the cosmos, which is what gives them a reason to be and thus, it is clear the responsibility of humanity regarding the existence and preservation of living and non-living entities of the earth; it could even be said that it is a matter of self-preservation logic. To live in dissociation with the others is only possible in the state of death and therefore, when it is introduced



to indigenous people the individualistic stances of the occidental world, they result in absurd.

In addition, the Andean Eco-Sofia proposed by the author is based upon the renowned cosmogonic drawing of *Quirikancha Temple of the Sun* made on 1613 by Joan de Santa Cruz Pachacuti Yamqui Salcamaygua, an indigenous chronicler (Pachacuti Yamqui Salcamayhua, 1613).

Graphic 1 - Quirikancha Temple of the Sun



Source: Pachacuti Yamqui Salcamayhua, J. d. (1613).

On the drawing a house is designed and inside of it there are the different elements of the cosmos.<sup>39</sup> The importance of the house ('wasi' in Kichwa) lies as a metaphorical representation of the different relations that constitute the existence of the 'Pacha' at the same level, meaning none hierarchical order among them and also a coexistence and codependence among each other. The comparison of economy and ecology in the

<sup>39</sup> For further explanation, see: Estermann, Josef (1998; 2006). *Filosofía Andina: Sabiduría indígena para un mundo nuevo*. Quito: Abya-Yala; La Paz: ISEAT.

indigenous world is given by the author just to underline that there is none separation among these two concepts, that both are understood to be complementary and necessary for the equilibrium of the wasi. Therefore, none abuse can be committed against an entity inside the house because any change in any part of the ‘wasi’ will lead to a change on the others, causing an evident decompensation of the cosmos, imbalance and crisis.

Once established the prominence of relations between the diverse entities and their self-existence; a reference to the guiding main principles in the Andean cosmovision and their interference inside the cosmos must be presented. The description of these principles have been taken mainly from the studies of Estermann (also due to the reference of this subdivision of the thesis), however, this author is not the only one recognizing the different principles inside this cosmovision.<sup>40</sup> There are four principles comprising the axiom of indigenous cosmovision, these are: relationality, correspondence, complementarity and reciprocity.

The first one has been already exposed on the previous paragraphs regarding the substantial role of relations among the different objects inside the cosmos in order to give meaning to all the elements and compensate the equilibrium inside the cosmos. ‘Correspondence’ is the principle that guides the correct equilibrium of the cosmos and explains the echo that the activities carried out by humanity cause in the ‘Pacha’. Thus, the social, economic, productive and consumerists activities of the society must take into consideration their equivalence to the cosmological order when the ideal is to have “one input = one output”, not represented only in the logic of cause-effect but on a qualitative correspondence of rituals symbols and emotions. This correspondence is mentioned to have value with ethics, moral.

The third principle is ‘Complementarity’ and it is explained by the author in the duality of the two sexes: feminine (left) and masculine (right). This complementarity affects every element because it enables them to have a production, reproduction, and preservation of life; hence, the representation as unilateral or isolated means an interruption of the flow of life. The principle of ‘reciprocity’ expresses the justice system

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<sup>40</sup> See: Chulla y Yanantin. *Editorial Garza azul, La Paz, Bolivia*; Beauclair, N. (2005). La filosofía intercultural y el Manuscrito del Huarochirí. *Tinkuy: Boletín de investigación y debate*, (1), 76-82. Cruz Rodríguez, E. (2014); Acosta, Alberto y Esperanza Martínez (comps.). La naturaleza con derechos. De la filosofía a la política. Quito: Abya-Yala, 2011. *Cuadernos Electrónicos de Filosofía del Derecho*, (30), 87-91.

inside diverse interactions and transactions of knowledge, goods, services, duties, etc. The retribution to what has been offered to us is represented in the Andean world on the rituals and symbols that indigenous have, for example, on the simple ritual before drinking an alcoholic drink, when a sorb is spilled to the earth as an offering to the source of life. It is a conscious mode to sustain the balance that will not be detrimental to current generations, the following ones and also to the spiritual and ancestral too.

Finally, remains outside of the four principles mentioned but still related, a final and relevant notion of ‘cyclicity’. To this concept the cosmos is represented in a spiral graphic with a periodic succession of cycles that depend on the rhythms of life, agriculture, stars and weather that cannot be quantified in time or money; unlike the modern era where every element is measured on monetary value and efficiency. The *Pacha Mama* is not an exact substance that will produce everything according to a schedule and that is why all the expectations of the occidental world from it, cause a senseless stress and threaten the collective order of things and life under it. To conclude, one of the most distinctive characteristics of the cyclicity is the notion of the future which lies at the back and the past on the forehead. This evokes a notion of going to the future in physical blindness but as your eyes are focused on the past, then the experience should lead you.

The existence of these principles covers the logic of the cosmos dynamic and its relation with humans in a way that explains the sustainable codependence of both to the correct functioning of the Pacha. Further, it also elucidates a better path for a different development not focused on just one element as currently is the economic one, but also on every aspect that conforms the whole ‘wasi’. These principles demolish the belief that humans are the masters of the world and that our domination has to be accepted in a passive manner with no consequence nor retaliations.

### 3.2 *The humanism and the “Pacha Mama” of Mario Mejia Huaman*

Mario Mejia Huaman<sup>41</sup> has focused his studies on the Latin-American philosophy and he has written several books and articles specialized in the matter of indigenous

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<sup>41</sup> Currently Professor of philosophy, PhD in Education from the National University of Cusco and Magister in Philosophy from the National University of San Marcos.

philosophy and the understanding of their cosmovision.<sup>42</sup> He criticizes Josef Estermann's research on the Andean philosophy attaining to the strict concept of philosophy and its need to rationality in order to exist (Mejia Huaman, 2008). The real value of including this author reflections comes from his use and synthesis of theories and contributions of other relevant authors on the matter<sup>43</sup> as well his proximity to the Andean culture.

This author departs from the conception that indigenous rational knowledge sustains from a different source than the occidental one; it comes from the experiences, inference of analogies and generalization (Mejia Huaman, 2005). The author highlights the myth and the abstract characteristics of the Andean conception of life but questions the level of its rationality as well as the level of rationality on the occidental thought. Proposes a mixture of both tendencies in order to find again a humanism that has been too formal and technicized in the western perspective, and too intangible in the Andean side.

The conception of the world and the universe inside indigenous cosmovision is complex as it cannot refer only to the physical world because the spiritual one is considerably incisive to define the order of the cosmos and the sense in each element. To elucidate the abysmal differences of the western world and the indigenous one, the author offers the following comparison on Table 5 of the different conceptions in the moment that the conquerors arrived to this continent:

*Table 5 - Different cosmovisions: conquerors and Andean people*

CONQUERORS COSMOVISION	ANDEAN COSMOVISION
<b>Religion</b>	
The existence of one only God	It was allowed the existence of "higher" and "lower" Gods, like: Mamapacha (mother nature), Inti (sun), Pachakamaq (creator of the space, time and nature), Wiraqocha (supreme god)
The good and the evil are principles that have real existence	It only exists the fine and the good. The bad does not exist as a real entity.
<b>Cosmologic</b>	

<sup>42</sup> See: "Curso de quechua - 40 lecciones" (2008); "Teqse. La cosmovisión andina y las categorías quechuas como fundamentos para una filosofía peruana y de América Andina" (2011); "Anti. Yachay wayllukuy. Filosofía andina." (2011); "Hacia una filosofía andina" (2012)

<sup>43</sup> Mejia Huaman uses contributions of important authors: Aristotle, Platoon, Bondy Salazar, Dilthey Wilhelm, Walter Peñaloza Ramella, Francisco Miro Quesada Cantuarias, Juan Carlos Scannone, among others.

At the beginning the universe is on chaos.	At the beginning the universe is in order.
<b>Anthropologic</b>	
The appearance of human is allowed through the creation of one sole couple in an Edenic space.	Wiraqocha creates several couples that were sent to the Andes to populate the zone.
It is allowed the loss of the Edenic space due to disobedience.	On the Andes, humans strive to preserve the harmony between their relation with nature.
Men's work and women's delivering and dependence is seen as a punishment.	Men's work and women's delivering is are the highest expression of joy.
<b>Social</b>	
Individualistic conception of the human.	Collectivist conception of the human.

Source: Mejia Huamán, M. (2005). *Hacia una filosofía andina*. Lima: First Editorial, 56-57p.

The referred table serves to compare basic concepts that are still sustained by the occidental world in different fields and help to distinguish the vast difference in the understanding of the worldview that indigenous people have. Once made this, it is easier to appreciate the Andean sense of the Pacha Mama. The regular translation of this term is 'Mother Earth' but the author discusses that it should rather be known as 'Mother Nature' due to the retrained significance of earth and its physical characteristic. Instead, as it has been above mentioned in this chapter and previous ones, Pacha is not just earth but the space, the cosmos, the whole physical and spiritual composition of the whole.

Behind the reasoning made by Mejia Huaman on the spiritual aspect of the Andean conception of the world in face of the concepts brought by the occident; his biggest contribution lies on his explanation of humanism after the comparison and reasoning of several indigenists intellectuals of diverse background.<sup>44</sup> Indeed his proposal of a joint between the occidental and the Andean cosmovision in its interpretation of humanism is a notion that needs to take into consideration the different models of humanism brought by different cultures without overlapping or refusing each other because humanism recalls for the intrinsic values of the person but these values are also composed by the person's behavior towards the people, the Nature, the whole, the "Pacha".

<sup>44</sup> The author mentions the contributions of: Francisco Miró Quesada Cantuarias, Augusto Salazar Bondy, Alberto Wagner de Reina, Víctor Andrés Belaunde, José A. Tamayo Herrera, María Luisa Rivara de Tuesta, David Sobrevilla Alcázar, Luís E. Valcárcel, Uriel García, José Carlos Mariátegui, Rodrigo Montoya, Gamaliel Churata, Ciro Alegría, César Vallejo, Inca Garcilaso de la Vega, Flipe Guamán Poma de Ayala, Fray Bartolomé de las Casas, José de Acosta, Jorge A. Lira, Mons. Luís Vallejos Santoni, among others.

### 3.3 Indigenous people and their cosmovision<sup>45</sup> – Various authors

On this last discussion that makes reference to the relation of indigenous people and Nature, it will be collected some fragments of analysis made by different researchers in Ecuador that will demonstrate coincidences with what the previous authors have said. It is because the diversity of indigenous groups living in the Andean countries, share a similar history marked by the Inka period, colonization time, weather conditions, among others.

María Soledad Vogliano and Maria Fernanda Vallejo Aristizabal (2011) discuss on their article *Insurgir en el ombligo de la bestia (Rebellion in the belly of the beast)* a relevant argument of the influence of the modern world (capitalism) into the social justice systems of Latin America and their effect on the alienation and homogenization of indigenous cultures that understand a different development based on the respect of Nature and the well-being of the whole community. They furtively criticize the current economic model of the modern world, which through its institutions, system and thoughts has embedded in citizen's minds, overall in countries like Ecuador with important indigenous and peasant population, a stigma of the ancestral knowledge of autochthonous groups of being superstitious, archaic, mythical or unreal, with the aim of stablishing hegemony.

The authors present the importance inside indigenous cosmovision of the linkage and relation between the societies and the environment in order to solve survival problems and being able to understand its function, transforming it without ruining it. In this matter, the individualistic speech of the occident is unacceptable. *In the Andean world, rather than knowledge, there are wisdoms that are beyond the epistemic frames and are the basis on which life have woven all peoples of Abya-Yala<sup>46</sup> and humanity* (Memorias del XVIII Foro de Estudiantes - FELAA, 2011).

Through the example of the learning process in the Andean cultures, the authors highlight what has been sustained by abovementioned researchers, that their knowledge

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<sup>45</sup> Specifically the concept of environment was studied since Nature as a holder of rights and as a separate entity from its habitual inclusion inside the word environment is extremely new and on the analyzed texts did not make this differentiation. This inference can be made based on: the understanding of the concepts explained inside the documents analyzed and the dates of them which are too close of 2008 or even before.

<sup>46</sup> It is the name used by the ancient Native American nation "Kuna people" (North West Colombia and South East Panama) to refer to the American continent before the arrival of Columbus.

is not based on theories but on everyday practice, they learn doing and being in connection with the world and “talking” with the Pacha Mama, respecting it and asking for permission at the moment of interaction (Example: planting, harvesting moments). There is no need to standardize the knowledge, just to understand its variability.

An evident fear of the loss of the traditions, wisdom and the total alienation of indigenous cultures is demonstrated by the authors and thus they sustain the relevance of the Andean education according to their cultures. The collective Andean memories is the key element in order to accept the “denied history” and to legitimate the own identity expressed by their language which is plenty of symbols, thoughts, myths, feelings and social reality that needs to be employed under their own methods.

On the thesis paper of Pablo Mauricio Ramirez Velez (2012) *Nature as a subject of rights: embodiment of rights, procedural mechanisms and social impact in Ecuador*<sup>47</sup> he made an analysis of indigenous cosmovision based on the declarations and publications of the Kichwa politician Nina Pacari<sup>48</sup> and the former leader of ECUARUNARI Delfin Tenesaca<sup>49</sup>, among other relevant contributions. Once more, a coincidence of indigenous cosmovision main characteristics is shared by the interviewed.

Humanity and Nature form part of the same whole and together form a living communitarian social structure where every element has its function and its duties. According to Pacari, the mother earth is the giver of life, thus without it the human has no sense and none existence. *The relation with the environment is not that of a human and a thing is that one of a couple in equal conditions, although in most of the cases, Nature is superior.* In this exposition of Pacari, two conditions are exposed: the principles of indigenous cosmovision (the complementarity one in particularly) and the hegemony of Nature over humans, a stance that is totally biocentric and that questions all the system built in the occidental world upon the anthropocentric one.

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<sup>47</sup> The thesis was made in Spanish with the title “La naturaleza como sujeto de derechos: materialización de los derechos, mecanismos procesales y la incidencia social en el Ecuador” in order to achieve the degree of Master of Social and Environmental Studies at FLACSO Ecuador. Available at: <http://hdl.handle.net/10469/5308>

<sup>48</sup> Nina Pacari is a reknown member of indigenous political scene, she has been Minister of Foreign Affairs, Judge in the Sumprem Court, member of various indigenous organizations, and also academic.

<sup>49</sup> D. Tenesaca is a Kichwa indigenous and political leader. He was a pupil of the Bishop of Riobamba, Leonidas Proaño, where he got familiar with the theology of liberation. Later he was director of the indigenous training Center Leonidas Proaño.

Likewise, the example of a living Nature is better expressed by Tenesaca who talks about '*taita Chimborazo and mama Tungurahua*'<sup>50</sup> who on the mythological narrative of indigenous people they even had a sexual relation that gave birth to other mountains: Altar and Carihuairazo. Another clear example is the communication sustained among indigenous people and Nature, represented in the celebration of festivities<sup>51</sup> in harvest periods and change of seasons.

To indigenous people this represented a clear dialogue with Nature that with the arrival of conquerors was forced to forget, accused of being sorcery. This living condition impeded the abusive use of Nature by humans because as it has been represented in examples of the festivities and the mythology, Nature acquiring this vital attitudes (considered in the occidental world possible only to humans) means that it was an active actor already practicing its rights and responsibilities with the whole cosmos; thus, an equilibrated relation of coexistence was possible without having to adopt legal stances, as today occurs with Nature inside the Ecuadorian constitution. Even under the legal personhood of Nature, which should represent a stronger and better guarantee of its protection and preservation from that of the traditional indigenous practice, its applicability has been quite disappointing.<sup>52</sup>

#### **4. Chapter Conclusions**

The storyline of the first three chapters demonstrates the constant existence of other cosmovision and a different Human-Nature relation that has had a real practice inside indigenous groups of Latin-American before and after the colonial time. 500 years of domination of the occidental world has passed and finally attention to indigenous cosmovision is given. A decisive actor of this process is still the Catholic Church due to its historic relations with the state, power and elites, indigenous people and the numerous affiliation members that it still has on the region.

Church's speech regarding Nature on the last documents published since John Paul II have at least evinced and agreed on some considerations: Nature is a main part of the

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<sup>50</sup> "Taita" means father in Kichwa and the Chimborazo is the highest volcano and mountain in Ecuador located in the province of the same name. Tungurahua is another important volcano, which is located also in the province of its same name. On indigenous mythology, several elements of Nature come to live and have a behavior like humans, they fell in love, reproduce, etc.

<sup>51</sup> See Chapter II.

<sup>52</sup> See Chapter IV.



creation and it was not given to humans without any responsibility, thus its use cannot become in abuse; the humanity has to be aware that Nature is not an unlimited resource and human activities risk its existence to the point of suffering harmful and irreversible effects; and, finally, the connection with humanity reflects the integrity of the whole creation and has displayed a non-reciprocal role from the part of humans, reflecting the decadence of human moral condition. This argument highlights that the environmental crisis lays not only on external matters like technology and economy; but it displays a more profound conflict which lies in the spiritual and ethical condition of the society.

Estermann's explanation about the Andean Eco-Sofia in its synthesis is the understanding of a reality in which humans are not the sole essential component of the cosmos and its existence is not necessarily more important than the one of other entities. Human location inside the world only matters as long as it has a correspondent, complementary, reciprocal and cyclical relation with other humans and the living and non-living elements. And finally, there is a demanding responsibility inside the relation of the entities with each other, specially that one coming from humans as they are destined to being guardians. In this regard, Estermann's indigenous representation of their understanding and posture in face of Nature can be briefly compared to the current stance of the Catholic Church regarding the "environmental stewardship".

Special emphasis of recent Popes has been done into the interpretation of the history of creation and the role that humans should play towards it. The discourse of the Church, as well as the one represented by the drawing of Pachacuti, is to represent the earth as the common house where every actor has an important role to play, and humans are not an exception.

On the speech of Pope Francis, it can be read that the 'peak' in God's creation was certainly humans and this has led to a 'misunderstanding' of the events, giving validation, as Lynn White mentioned, to the capitalist system to continue its exploitative practices of individual enrichment at the expense of the suffering of the planet. The Church is now promoting a new attitude and behavior of environmental awareness that positions the human on the role of guardians of Nature due to its inherent responsibilities acquired from the moment the humanity was conceived. Thus, in both visions of the relation of human and the natural surroundings, the role of humans is the one of guardians of the living and non-living elements.

Similarly, the discussion that Mario Mejia Huaman does about the real existence of indigenous philosophy is not of the interest nor affects this dissertation document because it focuses more on the real praxis of indigenous people, their experience and behavior towards Nature with the objective to find correct paths in order to propose a change of men's behavior and reasoning towards environment respect. In this regard, one of the main ideas that derives from the studies and deliberations of Mejia Huaman is the urgent need for the occidental and the Andean world to search for a complementary "rationality" that on the case of the occident is necessary on the fields of the abstract and more spiritual that will encourage their humanistic side. On the document of Benedict XVI *Caritas Veritae*, humanism was also a concern and the suggestion made by the Pope was to return to religion on the search and faith in God. Naturally, the discourse of the Pope was specifying the importance of the Catholic Church over the rest, but if we analyze the basic stances outside from partisan bias; the Church is asserting the same as Mejia, to escape from the pure materialistic reasoning and acquire a more spiritual one.

The sudden and increasing awakening of different theories inside the Church and outside of it, searches new alternatives that confront and restore the crisis and abuses committed by the economic model of the modern world, and gives a sounder voice and a stage to question the own habitudes and source of them. In this hustle, indigenous peoples' ancestral knowledge in Latin America is part of the discourse of international actors like the United Nations or the Vatican. Therefore, precisely in these moments when the Andean cosmovision is observed, the imperative use of intercultural methods and respect for others without any alteration, alienation or paternalistic actions are required.

The authors Vogliano and Vallejo highlight this issue and propose the use of education as the liberalizing tool altogether with the use of indigenous communication methods in its original form and applied by them in order to understand their true history and features of their social needs. But this consideration of the indigenous world cannot be seen as an option or posture taken to comfort only indigenous people, usually considered as the sole deprived one, but to find comfort for the situation of the rest of the population who is also being affected by the environmental crisis, consequence of an exploitative attitude repeatedly emphasized throughout this thesis.

At this point, it cannot be neither ignored the unfortunate status of indigenous peoples whose majority are still living in conditions of illiteracy, reduced access to health, basic

services (INEC, 2012) and a fragile political representation, which cannot empower them with the sufficient resources to reach other audiences. Therefore, the strong social and ecological shift of the Catholic Church<sup>53</sup> altogether with an intercultural turn and their disposal tools like pastoral service and its solid structures in the local territory, can provide access for this knowledge/cosmovision to be portrayed and enhance a better respect for the Nature. Leaving aside the confrontations that the Church and indigenous people have had through history<sup>54</sup>. It can be mentioned positive interactions of both, like the rescue of Kichwa language, preservation through the syncretism of rituals, and the promotion of Abya-Yala editorial house<sup>55</sup> as a beneficial collaboration that this relation has produced. In this regard, the positive products have not only being one-sided (from the Church to indigenous people) but also there exist a relevant influence of the contribution that indigenous practices and cosmovision (by the coexistence with missionary and pastoral services in a bottom-up synergy), have caused on the emergence of drastic changes inside the Church behavior with new movements like the Liberation Theology<sup>56</sup>.

In consequence, the concern now is focused on the methods that are going to be employed in order to promote the appreciation of Andean cosmovision as other possibility of human relation with the Pacha and their interaction. This step has been already made by Ecuador and the proposal of a new development through the Sumak Kawsay and Nature as a holder of rights. Unfortunately, the adoption on the political speech and inside the constitution have not been enough to sustain all the challenges facing a country with economic conditions extremely dependent on natural resources.

Thus, the challenge remains on the civilian awareness and actions that will be motivated by a better understanding of different realities conforming a same world and the acceptance of diverse solutions proposed from religious and ethnical stances. The Church and indigenous cosmovision rely strongly on the spiritual consideration and

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<sup>53</sup> Specially taking into account the characteristics of the Pope who finally has recognized the importance of new theories as that of liberation and its dialogue with other sources of knowledge coming from different sources: academics, other religious beliefs, indigenous people, politicians, NGOs, etc.

<sup>54</sup> This distancing of the periods of confrontation between the two actors, should not be interpreted by no means as ignorance of the terrible disruptions that caused the processes of evangelization in indigenous peoples, or as favoritism towards the action of the Church; but rather as a practical distance to focus on other time in history and for the purposes intended in this thesis.

<sup>55</sup> See: Cucurella, L., & Vallejo, C. (2012). *Abya-Yala y el retorno del conocimiento de los pueblos*.

<sup>56</sup> See: Tomo, I. *La teología de la liberación en perspectiva*. Congreso continental del Teología. 2012.

appreciation of the relation of human with Nature, and despite the abysmal differences among both, they reunite on a sense of moral and ethical imperatives that should guide human behavior.

## **CHAPTER IV – Applicability of Nature’s rights**

### **1. Introduction**

On the first Chapter, it was analyzed the feasibility of the adoption of Nature as a holder of rights inside the constitution, overall from a legal perspective. The main articles were discussed in a socio-legal examination and the general reading was considerably positive. Definitely the legal standpoint made by Ecuador constituted an evolution of law, originated on the country’s condition of plurinational state, which proposes a different interpretation of the traditional paradigms of the society, the economic well-being and the legal system that were established under the occidental influence. This is a first step into a drastic change that has been proposed since the 70s when the formulation of environment law in the international community initiated.

Nonetheless, environmental law and Nature law as proposed in the Ecuadorian constitution are two concepts that have to be considered separately in order to avoid the confusion and the lack of importance of the individual value that the latter has. Undoubtedly, the understanding and acceptance of this separation is one of the most difficult obstacles to overcome that not even inside Ecuador has been yet achieved.

Almost ten years have passed since the approval of Ecuador’s latest Constitution of 2008 where Nature acquired substantive rights, in an occasion occurred for the first time in the world. In this penultimate chapter, the intention is to overview the applicability and impact that ‘Nature as a holder of rights’ has had in the praxis. Certainly, an exhaustive analysis would be subject enough to build another thesis, so what it is proposed in this chapter is to have a general overview the most relevant elements (normative, institutions, programs) that are present in order to fulfill the constitutional mandates and complement them with interviews made to actors involved in the subject and with remarkable cases where demands have occurred under this figure.

There were five interviews sustained with actors inside the public administration and civil society organizations. The people interviewed are professionals that have had a considerable experience with the themes of environment and Nature, by the praxis and their academic background. Alexandra Reyes<sup>57</sup> was the former Director of the

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<sup>57</sup> Alexandra Reyes was working on the Ministry of Environment until July 2016. She has been working as a public servant since 2007, mainly on environmental matters in the Ministry of Foreign Affairs and Human Mobility.

departments of Mitigation of climate change and International Relations of the Ministry of the Environment of Ecuador (MAE in its Spanish acronym); Pamela Rocha<sup>58</sup> is the current Director of the coordination of Strategic Affairs in the Ministry of Foreign Affairs and Human Mobility; Marielisa Teran<sup>59</sup> who worked in the Yasuni-ITT initiative of the Ecuadorian government; Martin Calisto Friant who is a project assistant working for the International Union for the Conservation of Nature and Natural Resources – IUCN (South American division)<sup>60</sup>; and, Pablo Ramirez<sup>61</sup> who is working directly with civil society in citizen participation and environmental education.

The exposure of particular cases in different fields that have occurred in the government of Rafael Correa and the agreements reached (or decision took) on those cases will be exemplified and analyzed in order to give a real argument of the situation of Nature rights inside the country. The cases chosen were: Wheeler and Geer against the Director of the Attorney General's Office of Loja, Mirador large scale mining project, Pachamama Foundation closure, ‘Socio Bosque’ Program, and Yasuni-ITT. They were chosen in order to analyze good and bad experiences of diverse sectors coming from citizen, NGO, governmental and multinational levels.

## **2. Applicability of Nature as a holder of rights in Ecuador**

### *2.1 A legal and institutional overview*

States’ adoption of environmental law, policies and instruments that would enable the control, execution and monitoring of environmental activities have grown considerably, especially considering that this ‘tendency’ started in the last decades of the twentieth century. Ecuador was not an exception to this drift, and several actions were taken. In the international level, the country’s participation in forums, assemblies and ratification of

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<sup>58</sup> Pamela Rocha has been working for almost four years in the Ministry of Foreign Affairs with the environmental thematic.

<sup>59</sup> Marielisa was an analyst of international management inside the Yasuni-ITT from 2011 until 2013, when it was closed by a Presidential Decree.

<sup>60</sup> IUCN is the world’s oldest and largest global environmental organization. IUCN-Sur has been working for more than 20 years on the implementation of projects for the sustainable management and conservation of biodiversity and natural resources in the region. See: <https://www.iucn.org/regions/south-america>

<sup>61</sup> Pablo Ramirez graduated in 2012 from his Master Degree in Socio-environmental studies from the Latin-American Faculty of Social Sciences (FLACSO) and in 2014 from a second Master in Environmental Law in the University Rovira i Virgili in Barcelona. His academic research has been focused in the materialization of Nature as a holder of rights, the case of Ecuador.

hard and soft law instruments of environmental content was consistent and on the national level, the changes started to be seen especially since the 90s.

A constitutional state of rights, has to create the necessary instruments, policy, programs, planning and management in order to apply the mandates of the Magna Carta. In the case of the rights of Nature, the instruments that the government provided in order to fulfil its responsibility were diverse and in different jurisdictional levels. On the planning, the principal institution of Ecuador in charge of guiding the accomplishment of the Constitution and the governmental strategy of Rafael Correa, was SENPLADES (National Secretary of Planning and Development). This institution designed two national plans named *National Plan for Good Living (Plan Nacional para el Buen Vivir)*<sup>62</sup>, to be implemented, the first one from 2009-2013, and the second one from 2013-2017, in agreement with the presidential periods.

National plans do not focus only on Nature but on the whole governmental project, thus they intend to gather a 'holistic' panorama of the political proposal and the constitutional entitlements. The first National Plan had a stronger perspective towards social investment than the second Plan which was focused more on triggering a change in the productive matrix leading the country from producing raw materials to downstream products. At the local level, some responsibility was relied on the decentralized governments, which is regulated under the COOTAD (Organic Code of Territorial Organization, Autonomy and Decentralization).

On what concerns the rights of Nature, several institutions were in charge of preparing an Environmental Organic Code that is expected to be more faithful to the constitutional spirit, it was already drafted and it is still in the stage of discussion prior to its approval inside the Assembly<sup>63</sup>. The civil society is already concern about<sup>64</sup> the content of the draft bill regarding the audience that it is trying to satisfy and the true support that it will provide for the implementation of the Sumak Kawsay. The absence of this legal text has also provoked on the last years that the practice of the protection, control and preservation of Nature have had several legal pitfalls that cannot adequately guide the judicial system

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<sup>62</sup> For more detailed information, see: <http://www.buenvivir.gob.ec>

<sup>63</sup> To follow this process, see: <http://www.asambleanacional.gob.ec/es/multimedios-legislativos/38792-proyecto-de-codigo-organico-del>

<sup>64</sup> See: Newsletter N°74 of the NGO – Acción Ecológica (2015): [http://www.accionecologica.org/images/2005/ALERTA\\_VERDE\\_CODIGO\\_AMBIENTAL.pdf](http://www.accionecologica.org/images/2005/ALERTA_VERDE_CODIGO_AMBIENTAL.pdf)

on how to proceed regarding damages occurred to it. Also it is still on hibernation the urgency to create and institution similar to the ombudsman Office but to Nature that can serve as a key actor on the disputes that have already occurred between the civil society and the state.

The entity responsible of the designing and implementation of the National Environmental Plan was the Ministry of the Environment (MAE)<sup>65</sup>. MAE was created in 1996 but only by 2010 after drastic changes on the public administration that came along with the government of Rafael Correa, the institutional management was able to design the first instrument of managing planning (MAE, 2010) that would allow the ministry to evaluate all the procedures implemented until that time and achieve a proper performance of the institution as the national environmental authority in agreement with the Sumak Kawsay requirements.

Thanks to diverse evaluation and reformulation processes that took over the public administration institutions since Correa's period; it was possible to develop additional policies and instruments that would help to implement the decisions in agreement with the Sumak Kawsay National Developing Plan. On this path, the Environmental National Plan (PAN) aims to go beyond the traditional views of the environment: *conservationist*, according to which natural spaces should be treated in a separate way from social dynamics and *utilitarian*, which considers the value of Nature in relation to its economic value (MAE, 2010). For being the first one of its kind, it is a powerful instrument that tries to assemble a better and more sustainable relation among the Nature, economy and society, which in the case of Ecuador is not an easy task. It was necessary to develop a guiding instrument that will permit the Ministry of Environment to become an empowered institution inside the country's decision-making on environmental concerns. The PAN has quite a challenging task overall in contemplation of traditional vision and actions inside the governmental system that favors the exploitative economic model of the country as its main source of revenues.

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<sup>65</sup> It is the Ecuadorian government agency responsible for designing environmental policies and coordinate strategies, projects and programs for the care of ecosystems and sustainable use of natural resources. It proposes and defines the rules for proper environmental quality, with a development based on the conservation and proper use of biodiversity and resources with which our country. Its mission is to exercise effective and efficient stewardship of environmental management, ensuring a harmonious relationship between economic, social, and environmental axes to ensure sustainable management of strategic natural resources. For further information, see: <http://www.ambiente.gob.ec/valores-mision-vision/>



## 2.2 The interaction of diverse actors on environmental/Nature policy

As mentioned, the Ministry of Environment (MAE) is in charge of the main governmental activities related to the respect of Nature and environmental law. But MAE as a sole entity could not be able to respond adequately to the many tasks it is demanded from it. So, the interactions that this institution has with other entities, as shown on the Table 6, are strategic and the consideration of them in this analysis, helps to evince all the numerous branches that are directly or indirectly related to the matter of the respect, preservation and protection of Nature. It is this entangle of different actors that the multi-approach of the state is needed in order to envision a truthful fulfilment of the constitution and national political plan on the matter of Nature.

Table 6 - Actors involved in the applicability of Nature law

<b>Actors involved in the applicability of Nature law</b>
At the <i>coordination level</i> , MAE is within the direction of the Ministry Coordinator of Strategic Sectors, an entity created to lead policies for responsible use of natural resources for the benefit of Ecuadorians (MCSE, 2016) and under its lead are all the institutions in charge of the rational, efficient and sustainable leverage of the strategic resources. <sup>66</sup>
With regard to the <i>national level</i> , MAE establishes joint efforts with the Water Secretary (SENAGUA), Ministry of Tourism, National Secretariat of Peoples, Social Movements and Citizen Participation, Ministry of Education, National Secretariat for Risk Management and Ministry of Industry and Productivity with which it can undertake programs, projects and several actions according to the requirements and proficiencies.
On the <i>regulatory and control (environmental licensing) level</i> ; projects carried out by the Ministries of Non-Renewable Resources; Transportation and Public Works; Electrification and Renewable Energy; Agriculture, Livestock, Aquaculture and Fisheries; and, Urban Development and Housing; as well as those projects developed by the autonomous governments (GADs) and individuals; must be evaluated and present the respective certification and guarantees according to the specifications of law in order to be granted the licenses.
On the <i>international level</i> , a combination of the contribution of the Ministry of Economy and Finance regarding the allocation of resources, and the provisions of the Ministry of International Affairs and Human Mobility are the most usual coalition in order to assume a position on the various issues of the international environmental agenda (Rocha, 2016).

<sup>66</sup> Under the MCSE coordination are: Ministry of Non-Renewable Natural Resources, Ministry of Telecommunications and Information Society, Ministry of Electricity and Renewable Energy, Ministry of Environment, Water Secretariat.

At the citizen level, the MAE promotes several events and preservation programs that require the socialization with civil society.

Source: Compilation prepared by the author on the basis of data above mentioned

The abovementioned scheme matches with the information revealed by the interviews, which sustain that collaboration and coordination among public institutions, international actors and civil society is present when there is need to collect specific information in order to prepare reports, political postures and insights for international and national use. Nevertheless, the interviews also revealed that the coordination and collaboration has its flaws inside the same institution like a weak share of technical expertise, which in combination of the high levels of personal rotation, creates a void on the correct execution of the institutional responsibilities. Moreover, continuity of the projects and programs is severely affected and this impact on the efficiency and accuracy of all the processes managed in the different divisions of the MAE.

Likewise, a singular case is the coordination and collaboration that should be sustained with the National Secretary of the Good Living (Sumak Kawsay) which in its statute has the obligation to *generate concepts, propose public policies and actions to make accessible and reachable the practice of Good Living by the public administration and the general public at national and international level* (Presidential Decree N°30, 2013) but in practice it has none relation or any joint action as a consultant or enhancer of the rights of Nature with MAE or the Ministry of Foreign Affairs (Reyes, 2016) (Rocha, 2016).

Joint support is substantial overall because MAE does not have enough national budget to sustain all the activities demanded from it; therefore, the international cooperation becomes a vital source (Reyes, 2016). Inside this thematic, the United Nations and GIZ (German cooperation) are the two counterparts from the international cooperation quota that more invest in this public institution (Reyes A. , 2016) but there exist critic towards this cooperation regarding its allegiance to the principles established in the Paris Declaration on Aid effectiveness<sup>67</sup>.

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<sup>67</sup> Paris Declaration (2005) gives a series of specific implementation measures and establishes a monitoring system to assess progress and ensure that donors and recipients hold each other accountable for their commitments. It outlines five fundamental principles for making aid more effective: **ownership:** developing countries set their own strategies for poverty reduction, improve their institutions and tackle corruption; **alignment:** donor countries align behind these objectives and use local systems; **harmonization:** donor countries coordinate, simplify procedures and share information to avoid duplication; **results:** developing countries and donors shift focus to development results and results get

The information obtained by the interview revealed that cooperation is conditioned to donor demands, which is not necessarily aligned with the country's vision and development planning (Reyes, 2016). For example, it was explained that the staff hired by the international cooperation agencies works inside the same physical institution of MAE but they obey to their specific terms of reference imposed by the donor. This causes that employees do not have a direct connection with the institution and there is a lack of a sense of belonging to MAE's vision or projection. Nevertheless, this lack of commitment is not showed only by the personnel hired by the external institutions but also it is seen in the commitment of the employees hired directly by MAE and those of the Ministry of Foreign Affairs (Rocha, 2016) (Reyes, 2016). In this context, the interviews revealed that there is a low or non-existent level of knowledge of the public servants regarding the meaning and conception of Sumak Kawsay, its link to indigenous people ancestral knowledge and the importance Nature acquires from this perspective. According to A. Reyes, after the approval of the Organic Code, the awareness of Nature rights might improve but it is not the sole problem to solve.

It was essential to develop this general overview of the applicability of Nature law from a perspective of complementary instruments and institutional capacity, where different actors come together in an effort to build an 'environmental governance' and have a critical position regarding the accomplishments and obstacles of the constitutional mandates. On a general analysis of the public sector management towards the success of environmental and Nature law, it can be said that it is quite positive, as several actions of change, planning, policy and law implementation were encouraged and achieved in different levels. Nevertheless, the influence of the law and programs do not have a straight forward effect without going through the approval of the political will, which in some cases has showed to arrive to a different conclusion from what it is established by law, and that can be better exemplified in the exposition of practical cases that have occurred since 2008.

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measured; and, **mutual accountability**: donors and partners are accountable for development results (Declaration, P. , 2005).

### 3. Nature as a holder of rights (Real cases)

#### 3.1 *The first case ruled*

The first time that the constitutional rights of ‘Nature as a holder of rights’ have vindicated the rights of the Pacha Mama on a judicial dispute was on March 30<sup>th</sup> 2011. The case Wheeler and Geer against the Director of the Attorney General's Office of Loja. The provincial government had been constructing the roadway ‘Vilcabamba-Quinara’ without the permits required for that kind of activity: impact assessment, secured planning permits for the construction, and the planning for the disposal of debris (Wheeler c. Director de la Procuraduría General del Estado de Loja, 2011). The debris of the road construction were dumped without any precaution along the Rio Vilcambaba, affecting on its width and flow; causing several erosion and flooding to the downriver with the arrival of rains and affecting the landowners nearby.

The particular considerations and relevance of this case resolution (Daly, 2012):

- The figure of “Protection proceedings”<sup>68</sup> was used and considered the only suitable and effective way to remedy the harm caused to the environment, which highlighted the importance to protect the Nature endangered situation and vulnerability.
- The court mentioned the importance of “generational damages”, recalling the sustainability awareness.
- The court admitted probabilistic evidence considering the special characteristics of Nature. This means that in similar cases, due to the condition of Nature as an actor, the damage caused cannot be based only on certitudes but on possibilities and probabilities; leaving the door open to support the assertion of the future damages on studies and more technical proof.
- The burden of the proof to show no damage is in the defendant. This is particularly profitable, taking into consideration that the biggest harm caused to Nature usually are done by enterprises or actors with more economic resources than the ones trying

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<sup>68</sup> Constitution 2008, Article 88. *Protection proceedings shall be aimed at ensuring the direct and efficient safeguard of the rights enshrined in the Constitution and can be filed whenever there is a breach of constitutional rights as a result of deeds or omissions by any non-judiciary public authority against public policies when they involve removing the enjoyment or exercise of constitutional rights; and when the violation proceeds from a particular person, if the violation of the right causes severe damage, if it provides improper public services, if it acts by delegation or concession, or if the affected person is in a status of subordination, defenselessness or discrimination.*

to defend the Nature and, in some cases, their land (example: indigenous groups in the mining or oil exploitations zones).

- The court invoked the precautionary principle, which responsibility relied in the court itself recalling the duty of judicial apparatus of the state regarding the pursuance of the constitutional mandates.

The court ordered to the defendant to: make a public apology, adopt measures to secure the environmental permits, clean up the existing damage, prevent all types of future damages and correct disposal of debris (Daly, 2012). The curious particularities in this case is that previous to the demand, already the Ministry of the Environment (MAE) had knowledge of the case and had made several recommendations to the Provincial Government of Loja (PGL) but they were ignored. After the sentence, only the public apology happened and the other requirements are still 'in process' even when a petition of compliance to the Constitutional Court (Suarez, 2013) has been raised.

This case is relevant by being the first case worldwide to defend Nature as a holder of rights; an also, because of the different positive considerations that the judge applied like the burden of the proof, the protection proceedings and the probabilistic evidence; which certainly stablish advantages for the complainants on this case and future ones. Moreover, it portrays in praxis, that the articles inside the Constitution might be enough to solve demands on the protection of Nature.

Nevertheless, the fact that actions have not been accomplished by the defendant who is part of the government itself (Provincial Government of Loja), reveals the flaw in the enforcement procedures that the system has and must be corrected by the implementation of further and more specific instruments like the establishment of departments of inspection, control and monitoring with the capacity to sanction instead of only offering recommendations; or, a normative that explain the restauration procedures to follow after a sentence.

### *3.2 Mirador large-scale mining project*

The 'Condor Cordillera', a mountain chain shared with Peru in the south of Ecuador at the provinces of Morona Santiago and Zamora Chinchipe, is house not only of very

rare and unique biodiversity<sup>69</sup> but also in its ground holds profitable deposits of cooper (6,5 billion pounds), silver (26 million ounces) and gold (3,2 millions of ounces) that are going to be exploited along 30 years by the governmental concession to a Chinese enterprise Ecuacorriente S.A (ECSA) (Ministry of Mining, 2015).

This constitutes the first case of large scale open-pit mining concession in the history of the country. Before, mining was practiced in small scale and in a more ‘artisanal’ manner. In Zamora Chinchipe, where this project will be developed the main income activities are: agriculture, cattle raising and mining. Likewise, analyzing the provinces with the highest percentage of poor people among ethnic groups, Zamora Chinchipe has the highest percentage, 85% of unsatisfied basic needs (INEC, 2012).

This region, besides holding characteristic flora and fauna, is the house of Shuar and Ashuar indigenous peoples. Their customs and traditions are linked to mother earth and Nature as sources and powers of life and ‘Arutam’ force representing all elements of the earth. *These indigenous people believe in the sacred meaning of the waters that are the source that gives life to everything in their domains and cosmovision* (Eguiguren R & Jiménez L., 2011). The sustainable use of Nature is a cornerstone for survival as their activities are mainly focused on hunting, fishing, gathering of forest products and cultivating their own gardens.

The executorial stage started on December 2015; however, this case has a long background history that will be better represented in the Table 7, in a chronological manner:

*Table 7 - Mirador mining project evolution*

<i>Year</i>	<i>Events</i>
<i>1994</i>	GENCOR is the first enterprise to realize studies of underground resources in the area
<i>1996</i>	The enterprise Billington enters also to realize studies.
<i>1999-2000</i>	Ecuacorriente S.A. (ECSA) acquires some rights of Billington and enters the scene

<sup>69</sup> *The area contains dense cloud forests, with an exceptionally rich biodiversity including several endemic species. The remoteness and, particularly from the Peruvian side, inaccessibility means that species under threat in other areas of the Amazon are still plentiful here. Endangered species found in the region include a local subspecies of the long-haired spider monkey (Ateles belzebuth belzebuth) the spot-winged parrotlet (Touit stictoptera), white-chested swift (Cypseloides lemosi) and the golden-plumed conure (Leptosittaca branickii). The birds Orange-throated Tanager Wetmorethraupis sterrhopteron and Traylor’s forest falcon (Micrastur buckleyi) are not only endangered but also endemic. (Ponce & Ghersi, 2003)*

2000-2005	ECSA starts intensive exploration work with drilling machines and deposits of copper are founded.
2005	The Ministry of Environment under Ministerial Agreement N°137 declares the Condor Cordillera as a protective area of forests and vegetation, including it inside the national system of protective forests and restricting the uses against its conservation.
2006	Organizations of the zone start to gather and there are some confronts between pro and anti-mining groups inside the communities.
2009	The New Mining Law is approved with a strong opposition from different sectors of society. The national government starts to evidence more approval to future mining projects.
2010	ECSA announces that the Chinese enterprise Tongguan has bought the 96,9% of their stocks.
2012	Ministry of Non-Renewable Resources under resolution N°256 subscribe the contract approving the exploitation of Mirador Project, after favoring the respective Environmental Impact Assessments of 2010 and the corrected version of 2011.
2014-2015	ECSA begins excavation and construction processes and started evicting around 16 families of the Shuar community 'Cascomi' that lived in Tundayme, a zone where the project Mirador will be implemented. The official respond, as well as the one from the company is that adequate payments will be given but the unconformities are still present.

*Source: (Rights of Nature, 2013), (INREDH, 2015) (Eguiguren R & Jiménez L., 2011)  
Compilation prepared by the author on the basis of data above mentioned*

Mirador project has raised numerous disconformities, but what is mainly highlighted in this document, are the ones related to the government responsibility in applying Nature law. Mirador is located specifically in the micro-basins of Wawayme Tundayme rivers that originate in the foothills of the Cordillera del Condor. These rivers are used to irrigate agricultural areas, direct consumption of human beings and constitute habitat of animals and plants. Thus from this explanation is inferred that the techniques that are implemented this project can affect directly the whole ecosystem. This guarantees can only be assured if adequate processes, permits and control is executed, and in this case the responsible authorities to implement these processes, are the Ministry of Non-Renewable Resources and the Ministry of Environment, which on the previous analysis, inside this same chapter, was evinced that lacks of adequate inspection process that can generate an obligatory compliance.

In this regard, previous to the subscription of the exploitation contract between the state and ECSA, the respective Environmental Impact Assessments (EIA) were required. Despite the acceptance of this document by the state, the real content of these

documents raised critique and consternation of environmental NGOs specialized in these matters<sup>70</sup>, even the same EIA studies revealed the negative impact on several species that the exploitation was going to generate, (extinction was mentioned) and the method to apply the prevention and mitigation of the damages were not included. Thus, with its approval, the state is the principal responsible of endangering the preservation of Nature and endangered species. Another relevant characteristic is that the grant of mining was carried out without consultation or participation of the community, even though when the Ecuadorian Constitution recognizes this right on the Art. 398. Not guaranteeing this constitutional mandate reveals the drastic change that the government of Correa has had.

There are diverse controversies surrounding the large-scale mining projects that are being approved in Ecuador, mostly because they do not coincide with the government speech of early 2007 when a different development (Sumak Kawsay) reliant on environmental sustainable techniques that respect the right of Nature was going to be encouraged. The role of the Ecuadorian government in these cases is very complex because on the one hand seeks to ensure the observance of fundamental rights regarding Nature, and on the other hand favors extractive activities<sup>71</sup> that endanger the development of the ecosystem, therefore it falls in a predicament with two visions opposed within the same government.

### 3.3 Pachamama Foundation

The 4<sup>th</sup> of December of 2013, the Ecuadorian government through the Ministry of Environment (Ministerial Agreement N°124) ordered the closure of the Pachamama

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<sup>70</sup> Several NGOs have published their concerns regarding the Environmental Impact Assessments (EIA) realized by ECSA and proved by the government. Summarized: *the methods used by the EIA to quantify these impacts and risks are highly subjective, lacking rigor, scientific relevance and clarity and use arbitrary procedures. In addition to this unreliability, assessment of risks and impacts is often based on incomplete or nonexistent results. In most cases, you cannot lend credibility to the findings of the EIA. In many areas, the authors of the EIA recognize their ignorance about the importance of risks or possible impacts. More seriously, the study fails to mention certain risks or impacts that could be catastrophic for the environment and the health of populations in the region. This is the case of "acid mine drainage" and contamination by toxic dust* (Sacher, 2011).

<sup>71</sup> The Mining Law approved in 2009 is another legal instrumental that has raised concern about the real intention of the state in projecting Ecuador as an attractive country for the investment in mining and ignoring its promises on safeguarding the sovereignty of natural resources. Several indigenous claims and mobilizations occurred in that period as a protest to the approbation of this law without any previous consultancy, which is mandatory by the constitution.



Foundation<sup>72</sup>. This entity was established on November 1997, with the aim to protect threatened ecosystems and collective rights of indigenous peoples; and, to promote the preservation of biodiversity and cultural diversity of Ecuador through the strengthening of local communities' capacity to manage their territory in a sustainable manner, in full compliance with the rights of Nature and the collectivities.

The Foundation most remarkable activity was the one carried on for a decade in the struggle of the Kichwa community of Sarayaku who denounced the Ecuadorian State before the Inter-American Commission on Human Rights for granting the concession for oil exploitation in their territories (Block 23 of the Amazon basin), which affected 60% of the people of Sarayaku, without prior consultation with the legitimate owners of the land. The Inter-American Court of Human Rights ruled in favor of Sarayaku in June 2012<sup>73</sup>.

On November 28<sup>th</sup> of 2013, the Ecuadorian government prepared the 'XI South-Oil Round', which consisted on a bid for the 13 hydrocarbon blocks located in the Amazon basin. During this meeting, representatives of Pachamama and the social organization 'La Hormiga', according to the complaint made by the government, began a violent protest and attempted against public order and the physical integrity of the former ambassador of the Republic of Chile, Juan Pablo Lira, and the director of the company "Belorusneft", Belarusian Andrey Nokonov (Dissolution Notification, 2013). This dissolution was based on the Presidential Decree N°16 of 2013 where it is stated the dissolution motivations when an organization follows actions that are not aligned with those declared in its constitution or/and if it has political proselytizing activities that can endanger the national or the international safety of the state as well as the public peace.

The actions taken by the Ecuadorian state in this particulate case, raised national and international consternation (Amnesty International, 2013) due to the authoritarian posture that the state took. This was a negative precedent in the history of social organizations, *There was no investigation, no due process, no right to defense, this not*

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<sup>72</sup>It made part of the 'Pachamama Alliance', a San Francisco-based organization dedicated to empowering indigenous people of the Amazon rainforest to preserve their lands and culture and to educating and inspiring individuals everywhere to bring forth a thriving, just and sustainable world.

<sup>73</sup> See the complete case on:[http://www.corteidh.or.cr/cf/Jurisprudencia2/ficha\\_tecnica.cfm?nId\\_Ficha=206&lang=e](http://www.corteidh.or.cr/cf/Jurisprudencia2/ficha_tecnica.cfm?nId_Ficha=206&lang=e)

*only violates the rights of persons belonging to the organization, but it is also a threat to other NGOs who disagree, criticize and manifest* (Constante, 2013).

One of the cornerstones of the defense of Nature law, is the capacity that individuals, communities and the society in general would have to exercise an adequate legal representation when the moment of violation to Nature's rights comes (Art 73 of the Constitution). These are constitutional obligations that need to be respected and promoted by the government; however, on the praxis, in the Pachamama case, they were disregarded. It is not a matter of accepting the aggressions that 'possibly' were committed by members of the foundation that, which in that case, the considerations that forbids violent acts might be justified (but always under a due process of law); it is a matter of staging an almighty state that does not allow anyone to disagree with it; or else none due legal process will be available for the defendants.

Indeed, the intention of the regimes under the new neo-constitutional tendency is to allow the state a more interventionist approach to the citizens' activities, but this new instrument was promoted and sold to the Ecuadorians as a different intervention that would enhance better conditions for the enjoyment of the liberties of citizens and Nature and promote participatory processes with an open dialogue.

### *3.4 'Socio Bosque' Program of the Ministry of Environment*

It is a governmental program created on 2008 under the direction of the Ministry of Environment which main objective is to promote the conservation of the forests by giving incentives to the landowners through a conservation agreement that offers annual payments per hectare in exchange for maintaining the forests. It has a simple application and was also envisioned to target poor sectors in order to contribute with their socio-economic needs. This program is framed inside the National Governance Policy for Natural Heritage within agreement with the National Planning 2013-2017.

The overall objective of the National Policy is to guide the actions and strategies of institutional management of natural heritage that also enables proper economic dynamics, responding to three fundamental axes: 1) rights, freedoms and capabilities for Sumak Kawsay; 2) economic and productive transformation in agreement with the change of the productive matrix; 3) construction of popular power by strengthening democracy, society and the State. Further, the National Governance Policy materializes in five strategic areas: a) sustainable management of natural landscapes; b) incentives for

conservation and sustainable use of natural heritage; c) integrated management of forests and wildlife; d) biosecurity management and genetic heritage; e) research and monitoring of natural heritage (National Governance Policy of Natural Heritage for Sumak Kawsay ociety 2013-2017, 2013).

This project is within the mentioned strategy and policy, being probably the most successful and renown of its kind inside the country's active actions to mitigate global climate change (UNEP, 2014),(Reyes, 2016), (Rocha, 2016). It is also referred as a good example of execution of the Framework Convention on Climate Change of the United Nations of 1992.

This type of programs represents and portrays an optimal behavior of the state in following the compromises acquired with the Nature under constitutional parameters and within the National Policy. The program is simple but it has projected and implemented important values (transparency, willfulness and participatory partnership) to its promotion. Moreover, the characteristics of the beneficiaries that can apply for this program<sup>74</sup>, shows a more holistic quality, as it is not aiming only for the preservation of Nature, but also to contribute with the needs of the population owning the land. Further, it also considers a sustainability as the contracts are for 20 years, and it is required to submit a plan of how the landowners will be spent the conservation payments, encouraging them to invest wisely in their future.

It also has received some critics and confront difficulties (CDKN Latin America, 2012) as better studies and approaches with communities are needed in order to have a more accurate impact on the most needed population but also on their understanding of the importance of environmental preservation. This program is not the only solution to encourage the protection and preservation of the forests but it is a significant step towards that direction.

The importance of exposing this program inside the analysis of the applicability of Natural law inside the Ecuadorian state, lies on incurring in practical evidence that great accomplishments can be done in order to fulfil the state obligation of protection and promotion of environmental and Nature awareness. Certainly, the program has its flaws (monitoring, participatory planning, quantitative and qualitative accurate data,

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<sup>74</sup> The program gives priority areas that meet three main criteria: i) Threat of deforestation, ii) Importance of carbon storage, water supply services and biodiversity habitat and, iii) Levels of poverty.

coordination with other institutions, among others) and economic resources as well as technical experts are also inside its future obstacles. But on a general overview and in contrast with other cases described in this chapter; it evinces the power of the political will, as an unconditional trigger inside its implementation as it started only after one trial or ‘pilot project’ experience and the rest was more a ‘learning along the way method’.

In other words, ‘Socio Bosque’ program is a practical example of how the capacities to develop normative and programs under the parameter of the constitutional law are possible as long as the political will is going into the same direction. It would be interesting to wonder what would happen if any ‘Socio Bosque’ contract will be offered inside zones where profitable mining or oil resources are founded? Could it confront the political tendency towards exploitative models? The experience of other cases exposes a negative outcome.

### *3.5 Yasuni ITT (Ishpingo-Tambococha-Tiputini)*

The Yasuni National Park is within an area of 928 000 hectares declared as a Biosphere Reserve by the UNESCO in 1989, located in the north-east Amazon basin of Ecuador at Napo province. It is home of some indigenous groups as the Huaorani, Auca, Kichwa and two indigenous groups in voluntary isolation: the Tagaeri and Taromenane (UNESCO, 2011). The unique condition of this place is evident as just one hectare of it has more native tree species than the whole territory of United States and Canada combined (Larrea & al., 2009). In its ground oil deposits were estimated to be nearly 846 000 millions of barrels which could be exploited within a period of time of 13 years (Acosta, Gudynas, Martinez, & Vogel, 2009). The calculation provided that the exploitation would generate a yield of 4 to 5 billion euros and would issue to the atmosphere 410 million tons of CO<sub>2</sub> (De Sousa Santos, 2011).

#### *The proposal:*

Ecuador decided to leave the oil reserves of three wells (Ishpingo, Tambococha and Tiputini) underground, provided that the most developed countries<sup>75</sup> will compensate economically with half of the revenue that Ecuador would have obtained if the

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<sup>75</sup> After, it was decided that the contribution might come from voluntary initiatives inside and outside the country (governments, multilateral organizations, civil society, private companies, NGOs).

exploitation occurred. Thus, if Ecuador was offset by at least 3,6 billion euros, the country was willing to leave the oil in the ground, which would prevent the ejection of CO<sub>2</sub> emissions contributing to climate change, preserve the unique ecosystem existent in the area, respect indigenous territory and promote investment in different areas that would represent an opportunity to the country to detain its dependence in the exploitation of natural resources.

Ecuador was also going to issue “Yasuni Guarantee Certificates (CGYs)” that were going to be able to be fungible in the European’s Union carbon credits market, thus the European countries would have been able to purchase and trade the certificates on the European Trade System as other allowance credits (Finer, Moncel, & Jenkins, 2010). The certificates will also assure that “donor” countries would recover, with interest, in the event that Ecuador explodes the ground. The money gathered would have been addressed to environmentally sound investments (Larrea & al., 2009): renewable energy, reforestation, promote social development in the zone of influence, etc.

*Ecuador’s government action towards ITT success:*

It is not unknown the remarkable damage to the environment that oil exploitation represents: toxic waste, soil contamination, aggressive intrusion to ecosystems, CO<sub>2</sub> emissions, internal conflicts (Niger Delta), international conflicts (Syria); and on the case of Ecuador, one of the worst scenario was seen during the exploitation of Texaco-Chevron (1960-1990) when even two whole Amazonian indigenous groups disappeared: the Tetetes and the Sansahauris (De Sousa Santos, 2011). Unfortunately, Ecuador depends considerably on the exportation of oil, which as mentioned on the first chapter, it is a considerable part of the national GNP and cannot be left aside until a more profitable and sustainable income source is found.

Therefore, the proposal did not just finish on its annunciation to the international community but it demanded Ecuador to prepare adequate mechanisms to be implemented in order to achieve the monetary goal that would drive the country to a post-extractive moment. The special department of Yasuni-ITT was established on 2011 and consisted of 15 members that were divided in geographical zones. This team was in charge of contacting and basically “marketing” the ITT proposal to collect funds (Teran, 2016). The whole project with its structure was, on a first moment, designed to be implemented

within the next thirteen years but only after almost four years, on August 15<sup>th</sup> 2013, the government announced the closure of the proposal and the beginning of the exploitation.

*Its conclusion:*

Instantly, complaints all over the national and international level were starting to rise, specially from civil society. The most representative group that took over the Yasuni cause was “Yasunidos”<sup>76</sup>, a group of people that saw in this action from the government a betrayal to the political speech<sup>77</sup> that lead Correa to power not just once but twice (2007-2008 and 2012) and overall, a speech that had a considerable empathy with the young population (Galvez Mancilla & Bonilla Martínez, 2014). One of the main objectives of this group was to gather enough signatures in order to call for a referendum<sup>78</sup> that could vote on the decision to exploit the Yasuni. However, within the journey to achieve signatures, repression was everywhere, from the creation of pro-government groups “Colectivos 30S” and “Amazonía Vive” that boycotted the gathering of signatures and even incurred on identity thefts to fraud inside the process of qualification of the National Electoral Council, where these groups were filmed controlling the verification process (Machado, 2014) when not even the YASUNIDOS could be present. At last, the referendum did not proceed as several signatures were disqualified in a process that revealed the clear intention of the State to impede the public consultancy.

Under the legal umbrella, the state found shelter inside the Constitution of 2008 where special guarantees to protected areas are given, meaning that exploitation activities have to be banned from these territories; unless it is motivated by an exceptional reason for the common good. Inside the Article 407 a loophole is found as it states that the President has the ability to authorize the exploitation on protected areas on exceptional cases, after a declaration of national interest made by the Assembly. On August 15<sup>th</sup> 2013, president Rafael Correa, took advantage of this ambiguity and closed the ITT

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<sup>76</sup> “Yasunidos” was an atypical group of heterogeneous people who had no political links, nor any previous structure but only a shared desire to struggle for the defense of life and the search for alternative means of existence besides the one imposed by capitalism (Galvez Mancilla & Bonilla Martínez, 2014).

<sup>77</sup> A compromise to protect the environment, question our consumerism attitudes, start a new post-oil era, climate change awareness, nature rights and the defense of life itself (Galvez Mancilla & Bonilla Martínez, 2014).

<sup>78</sup> A referendum might be called by civil society if at least the 5% of the electoral register list is reached (584 116 signatures).

proposal, authorizing the beginning of the exploitation under the permission given to him by the constitution on account of the 'common good'<sup>79</sup>.

*The meaning behind the proposal, why did Yasuni-ITT matter?*

At national and international levels, contradictory discourses and actions were seen. Yasuni-ITT constituted a radical innovative project for the preservation of a unique ecosystem that challenged the hermetic occidental world towards new proposals and responses to the current exploitative model and environmental crisis. On one side, there was the discourse of signing the Kyoto Protocol and all the efforts that the empowered countries were 'looking forward' to make in order to reestablish the harm caused to the environment; but on the other, when a real proposal was introduced and contrary to the established, it demanded monetary cooperation in exchange of reducing CO2 emissions and a change in harmful behavior towards Nature; the international community was numbed.

Ecuador suggested that this initiative should be followed by countries with similar characteristics that are more vulnerable to climate change: mega-diverse developing countries between the tropics of Cancer and Capricorn and which have significant fossil fuel reserves in highly biological and cultural areas (Larrea & al., 2009). Indeed, the ITT initiative proposed a different initiative to generate incomes by preserving the natural heritage of developing countries that have unique flora and fauna and, thereby, change their economic model.

On the national level, the efforts and strategy that must have followed immediately a proposal as ambitious as the Yasuni ITT took too much time in its implementation and only after two years of practice, it was withdrawn. Even smaller businesses have longer return rate periods than this one. On the discourse of President Correa on August 15<sup>th</sup> 2013, he completely blamed the international community response and the responsibility lied mainly on the *empowered nations that persisted on taking advantage of developing countries and the capitalist extractive economic model*.<sup>80</sup>

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<sup>79</sup> There is a whole debate arguing upon the meaning and measure means to understand the requirements to decide what is the 'common good' and how it can be given priority over other rights. See: Art 1 and 30 of the American Human Rights Convention.

<sup>80</sup> "The world failed us," declared the president in his public speech of August 15<sup>th</sup> 2013. "I think the initiative was ahead of the times and we've also had bad luck, since the launch of the initiative coincided with the worst global economic crisis in the last 80 years"

The truth is that the blame was divided. Certainly, the international community did not respond as expected but Ecuador had the principal obligation to manage the ITT campaign in a more efficient and clever way, considering the meaning that this could have generated if it succeeded. Moreover, at that time (2007-2008), while the international crisis was affecting the empowered nations, Ecuador was having one of the best economic moments due to the international price of oil, thus the effort and budget destined to the ITT initiative cannot be founded on financial arguments.

Furthermore, on its beginning, this proposal constituted a perfect example of what the new political and economic strategy of the government of Correa was suggesting since the adoption of Sumak Kawsay in a post-extractive and post-materialistic attitude encouraged to search new income solutions under a “twenty-first century socialism” speech. This proposal sent a message that the search for a post-capitalist moment with a strong influence of indigenous stances and knowledge, meaning also looking back to a pre-colonialist moment to find important values and wisdom of the ancestral indigenous people (Acosta, Gudynas, Martinez, & Vogel, 2009) (De Sousa Santos, 2011); was possible. Thus, when the project was closed without any debate and citizen participation; an abrupt awakening of the Sumak Kawsay dreamers and regime supporters made them realize the double speech of the government and a lack in democracy was clearly felt.

On the national level, Yasuni mattered the most because on one side, it attracted attention from diverse sectors of the population to the same causes: environmental protection, indigenous rights, biodiversity, democracy and the emergence of a new group of young people with different ideals that differ from capitalist imperatives. On the other side, when the proposal was ended by order of the executive and later after the several repressions against Yasunidos and an evident disloyal attitude of the government evinced in several actions like: propaganda, public insults and offences, formulation of clash groups, shady disqualification of signatures, among others<sup>81</sup>.

The executive attitude definitely created a breakpoint on the trust and support that the government had on several matters not exclusively related to nature. The amount of resources and energy employed to defame a group of young citizens which desire was to exercise democracy and preserve a unique ecosystem in the world, definitely affected his

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<sup>81</sup> To follow the full process of the governmental actions taken against YASUNIDOS, see: <http://otra-educacion.blogspot.it/2014/04/ecuador-el-proceso-de-los-yasunidos.html>



image and evince the double discourse that was starting to bloom in the actions taken by Correa. Indeed, gradually his speech of a different development and economy was starting to fade as well as the research and investment in different revenue sources.<sup>82</sup>

#### **4. Chapter conclusions**

Legal and instrumental framework concerning activities that public and private sectors are allowed to incur regarding Nature were exposed but a real understanding of the applicability of the law cannot be sustained only on paper. This is why on this Chapter it was considered of several importance to have an opinion and critic from the inside through the interviews of diverse actors (from the public, private and civil society spheres of different institutions in charge of applying, coordinating, executing and exercise 'veeduría'<sup>83</sup>) to have a more accurate appreciation of the structure and agency that the government is carrying out to execute the constitutional mandates. The other indispensable insight to grasp the applicability, was the one of the projects, programs and cases on the real praxis. They exposed the scope that law and its institutionalization manage to achieve in front of the political pressure.

It has passed eight years since the approval of the Constitution and the construction of law, policies, programs and projects that can guarantee the execution of the constitutional mandates is not completely grounded (Reyes, 2016). The general overview of the normative, interviews and application of cases and programs in the past years, shows that the state has taken some actions and consideration inside the national planning and policies in order to accomplish with the respect, promotion and preservation of Nature as a holder of rights. It has to be settle that it is not easy to be the first case in the world where a different stance of law, finding its source in a biocentric focus, is presented. Being innovative has its challenges and on the journey Ecuador has encounter several limits, obstacles and rejection. Besides, Ecuador is a precursor with an economy extremely dependable on the natural resources and a population that still has high levels of

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<sup>82</sup> See: Escribano, G. (2013). Ecuador's energy policy mix: Development versus conservation and nationalism with Chinese loans. *Energy Policy*, 57, 152-159.

<sup>83</sup> The 'Veeduria Ciudadana' is a mechanism of social participation through which representatives of civil society institutions are grouped in order to make monitoring compliance with obligations, commitments, responsibilities and functions of public entities.

unsatisfied basic needs; thus the regime is swimming upstream on the national and international spheres.

Extractive experience in Ecuador, although generally have helped to keep the economy afloat, have never considered sustainable parameters, redistribution of social inequities or compensation to the territories where the resources were drained. The provinces of the Amazon basin have the highest percentage of poor households: Sucumbíos has the highest percentage nationwide with 87%, followed by 85% Orellana, Napo with 78.6%, Morona Santiago with 75.6% and Zamora Chinchipe with 73,8% of unsatisfied basic needs (INEC, 2012). Moreover, the negative attitude of the government inside these territories affects directly indigenous population lived in voluntary solation and other practicing their own communitarian and self-governance schemes that inspired the Sumak Kawsay.

Regarding the state structure responsible for the constitutional mandates' implementation, it is clear that a better management of the Ministry of Environment is necessary. The institution should not be financed mostly by international cooperation because it is clear that it affects the compromise with the institution and government strategy besides of the risk of obeying conditioned cooperation. The state should have managed the institutional budgets in a better way<sup>84</sup> prioritizing its compromises made on the moments of the electoral speeches of 2007 and 2012. Public servants with better technical (in specific areas of the natural sciences) and managerial skills are needed but also departments of inspection, control and monitoring of the environmental licenses and programs.

In the same manner, not every responsibility has to be laid on the MAE and the presence of more autonomous offices that play an equivalent role as the ombudsman concerning the rights of Nature, is imperative. It was seen, that places where Nature has more risks to be violated are owned by poor indigenous and non-indigenous communities and they do not have the enough resources to claim for law enforcement.

Under the exposure of the analyzed real cases, it was seen that since 2008, time was enough to implement biocentric instruments and accomplish drastic changes if the

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<sup>84</sup> For example, it was seen that institutions as the Secretary of the Good Living, which should have a joint-collaboration with the MAE, has no relation with this institution when Nature inside the Sumak Kawsay National Planning is one of its fundamental pillars. Thus, there is state budget that is being misused and can be relocated to institutions that actually are exercising the constitutional obligations.

political will escort some policies or programs (Socio-Bosque, Vilcabamba road, the initial Yasuni-ITT proposal) but when the intentions started to be dissociated from political intentions (YASUNIDOS, Mirador mining and Pachamama Foundation) drastic and authoritarian obstructive measures are imposed and decreed by the executive regime; thus, this reveals that the normative is too ambiguous in its practice and interpretation and that the powers of the state (executive, legislative and judicial) are not separated. This dichotomy of the state behavior in the praxis shows the double speech that Correa has had during his regime. This ambiguity endangers the ambitious political project of presenting a different development and a more sustainable and harmonious Human & Nature way of life.

## CONCLUSIONS

The utmost ambition of this thesis is to contribute to the valuable and representative project that Ecuador lead since 2007 regarding the adoption of Nature as a holder of rights inside the Constitution and the political plan of a different development under the conception of Sumak Kawsay.

During the thesis designing period, it was evinced that the influenced of the Church was not part of most of the analysis, critics, and rethinking of the project that is not yet solidified inside the Ecuadorian society. Considering the historical influence of the Catholic Church in the international framework of humans rights, and its re-emergence despite the predictions of the secular thesis, this dissertation took the risk to incorporate the influence of the Catholic Church into the Ecuadorian case in order to take advantage of the potentiality to endure better applicability of Nature's rights.

### **1. Church, state and indigenous people**

The first part of this dissertation was to make a historical recount of strategical moments on history that defined the relation of the Church, state and indigenous people.

Since colonial times, the bond between the Church and the state have been extremely close, notwithstanding some periods of Ecuadorian history like the Liberal one. Before the twentieth century, this bond was usually characterized by utilitarian practices of religion by the Spanish Crown and elitist governments (without dismissing the blame of the Church itself) in order to have an extremely effective control over the population and a justification to impose several burdens and punishments. However, the Catholic Church had its own re-thinking and reorganization of true values, actions and intentions, which most remarkable postures were seen on the adoption of the Social Doctrine compendium, Second Vatican Council and the appearing of Liberation Theology that were influenced on a different interaction of the Church and people (bottom-up effect).

The new posture of the Church, was mostly embodied in Ecuador since the second half of the twentieth century through the figure of Monsignor Proaño, who considered himself identified and influenced by Liberation Theology. This moment exemplified a breakpoint inside the Church and the state relation of ambitious power conspiracy to subdue the will of the people. Proaño's close and direct work with the most vulnerable and poor communities (mostly indigenous people) introduced a different relation of the state and indigenous people from the hierarchical and patriarchal one to a more

equalitarian. His influences, recognized by the current government of Rafael Correa and by several indigenous organizations and leaders, verify the reasoning on the conception of this thesis, that positive and transformative outcomes are also possible within the consideration of different actors, like the intervention of the Church and the power that religion and spirituality cause on individuals in their attitudes and behaviors.

Finally, it was elucidated that the disdain of Church influence on the recount of Sumak Kawsay was part of an unproductive bias influenced most by tragic periods of history when terrible acts against the population were committed with the excuse of religion. Nevertheless, relevance of the Church persists to exist due to its permanent presence since the colonial époque, historic coalition with the State, impact on the preservation of Kichwa language, support to the indigenous uprising of the nineties, strong syncretic Catholicism practice of the population, Catholic affiliation of 80% of the population and its physical presence in the entire territory.

## **2. Church and indigenous people regarding Nature**

The second part of the thesis was elaborated on the basis that once established the historical connection between the actors to the Sumak Kawsay conception; it was necessary to consider sustainable reasons for the coherence of future joint-efforts.

Regarding the international community framework on the environmental crisis (Kyoto agreement, Rio+20, Cop21 Paris, etc.), none of the recent events or ratified documents are hard-law material, thus they do not have binding effect or a well-established system of control, compensation, monitoring and sanction for transgressors. Without hard-law instruments or judicial bodies, these alternative options, though valuable, are extremely ambiguous and hindered by economic interests. In this context, the accomplishments and potentiality of a moral order is an alternative that has been taken into consideration by several sources, including the Church.

Environmental law coherently with the fundamentals of law was mostly excerpt from the occidental worldview where only humans were capable of acquiring rights and obligations. The Judeo-Catholic belief was also blamed to have influence on this stance, as humans were exposed usually as the masters inside the creation. However, the Vatican change of attitude and discourse in the last decades used biocentric standpoints to confront the latter critiques and deliver a message to humans of their responsibility towards Nature. Similarly, the Andean cosmovision sustains a harmonious coexistence

with Nature where the person cannot be detached from the cosmos and exercises a sort of guardianship, guided by principles of relatedness, correspondence, reciprocity and complementarity, which its imbalance causes the catastrophes we are experiencing nowadays.

In sum, the discourse of influencing over the moral standards and the respect that people can have towards Nature motivated by a reappraisal of their religious or spiritual beliefs is a substantial part inside the encyclicals '*Sollicitudo Rei Socialis*', '*Caritas Veritae*' and '*Laudato Si*'. Altogether with Andean cosmovision, they both agree on considering a deeper and profound spiritual imperative that can promote a harmonious relation with the Pacha Mama.

### **3. Applicability of Nature as a holder of rights**

Finally, the last argument to validate the hypothesis was made upon the deficiency of Ecuadorian government compliance with constitutional obligations. This was elucidated through the analysis of the institutionalization process, interviews and practical study cases of Nature's legal personhood. The state inability to respond to the demands of Nature, justifies the search for new sources encouraging its compliance.

In the case of Ecuador, the constitution represents the main binding document and the recognition of Nature as a holder of rights mainly relied on the evolution of law and how the contribution of other sources of knowledge such as the one of Kichwa indigenous people has helped on reframing the relation of humans and Nature.

The analysis of Nature's rights institutionalization process showed the implementation of framework normative, plans, institutions and efforts to fulfill the constitutional mandates. Notorious changes have occurred inside the public administration during the period of the president Rafael Correa and they have also been reflected on the subject of the environment. Nonetheless, the characteristics of the neo-constitutionalism combined with the government behavior hidden behind the 'Socialism of the twenty-first century' speech, allows the politicization and intervention of the executive in every national sphere where the political interests have showed to be extremely attached to the economic ones.

The exposure of the case examples reproduced the lack of citizen involvement on environmental causes, which at the same time screens a detachment and ignorance of environmental and Nature awareness. On the one hand, cases like Yasuni-ITT gathered

the attention of a more diverse and numerous public and make the Ecuadorian population question themselves about the employed exploitative models in face of the ecosystem sustainability; but on the other, they proved that the sole adoption of normative does not mean its fulfillment.

Lastly, the increasing ambiguity of the government speech from the initial moment of a sustainable and harmonious way of life to the current exhibitions of coercive means employed to achieve economic and political goals, presented on the case studies of Yasuni-ITT, Pachamama Foundation and Mirador mining, endangers not only the applicability of the law but democracy itself.

Society empowerment and their fully understanding of their constitutional rights to claim for the protection, preservation and restitution of the damages caused to Nature seems to be the only road when the normative instruments cannot be fully exercise due to its clash with political and economic interests. Under this scenario, sources like Church and indigenous people knowledge, suggest to turn to a profounder source lying on the moral and ethical behavior of people, inspired by a sense of spirituality weather it comes from religious faith or from empirical coexistence with the cosmos. The arguments founded on this thesis sustain that the Church is a valid actor inside the moment of the Ecuadorian case. In this regard, the next step is to generate further studies and interaction of civils society and the Church on the actions concerning better behavior and practices towards Nature respect and its restoration.

The potential loss of the Ecuadorian case proposal can represent a national and international failure since its successful portrayal to the international community may constitute the first stone for a different development under a biocentric foundation. It can initiate a process of ‘dematerialization’ and search for that spirituality that will lead humanity to be more ‘humanitarian’ among their own and its surrounding.

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