WATER INJUSTICE AND CULTURAL POLITICS
IN THE CONTEXT OF MINING CONFLICT IN ECUADOR:
QUIMSACOCHA PÁRAMO AND CUENCA CITY

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This brief discusses mining policy’s meanings and implications for Indigenous people and peasants and how they defend their water and territory in Quimsacocha, a high Andean wetland located to the southwest of Cuenca city, in the province of Azuay in Ecuador. It contrasts the local strategies for resisting mining which invoke the Ecuadorian Constitution (2008) with the government's attempts to reframe and backtrack environmental guarantees.

KEY MESSAGE FOR DECISION MAKERS

- Ecuador’s constitutional guarantees of plurinationality, good living (Buen Vivir) and the rights of nature, were promoted by indigenous and ecologist movements to protect territories and livelihoods.
- These are now paradoxically being used by policy-makers
to support the opening up large-scale mining in the country. The official slogan ‘Mining for the good living’ depicts this.

- This policy brief argues that Ecuadorian policy-makers should pay attention to plural meanings of water and territory and the need to include affected communities in democratic and participatory debate.

**BACKGROUND OF THE QUIMSACOCHA CONFLICT**
- **Policy-makers use their power to reframe the Constitutional rights and shape public opinion.** However, they risk igniting social conflict when these new policy framings differ from how people experience them. The Quimsacocha conflict came from the concession of traditional lands to a large-scale gold mining project — and the experience offers insights into how people’s culture and ways of life inform their understanding of mining policy.
- **Local communities and policy-makers’ different perceptions, values and meanings about territory and water are in conflict.** The Indigenous and peasant Communitarian Water Systems of Azuay (CWSA) oppose large-scale mining in their páramo (a high mountain ecosystem located in the tropics, characterized by its high humidity retention and hydric systems) communities. The waterways of Quimsacocha constitute the inhabitants’ link to territory, identity, livelihoods as well as to aesthetic and religious valuations. In contrast, the government emphasizes the potential economical revenues of the minerals underground.
- **The inhabitants of this ecologically sensitive páramo area claim that mining would pollute the water sources of several areas where their livelihoods are reliant on agriculture and cattle raising.** This pollution also threatens Cuenca, Ecuador’s third largest city which depends on this páramo for part of its water needs. Additionally, urban migration could increase if pollution diminishes the viability of rural livelihoods.

**THE RESEARCH**
The research questions explore 1) symbolic and material strategies used by the CSWA in Quimsacocha to resist mining, 2) how these strategies are linked to concepts in the Ecuadorian constitution such as plurinationality, buen vivir and the rights of nature, and 3) how the government attempts to reframe these concepts in ways that enable mega-mining.

I studied these questions through an interpretative policy analysis of the lawsuit of unconstitutionality of the mining law (2009) through observation and interviews carried out in Quimsacocha, Ecuador between June and September 2016. This led to the following insights:

- **Water is the core discursive linkage** among sectors resisting the opening large-scale mining in Ecuador. These sectors underscore the sacred character of the lakes and demand the protection of the ‘sacred waters’ and ‘mother earth’ under the Constitution.
- **The constitutional recognition of plurinationality and rights of nature, created new cultural politics in social environmental conflicts.**
• Water is disputed as a material element, but also as a bearer of meanings and relationships. For instance, for some people Quimsacocha's lakes are considered sacred and to have healing properties. Rural and urban actors coordinate their strategies to connect the conflict in rural Quimsacocha with Cuenca, which is only 30 km away.

Lawsuit of unconstitutionality of the Mining Law
• In 2009 the main Indigenous organizations of the country (CONAIE and CWSA) filed a lawsuit against Ecuador’s authorities to invalidate the recent mining law. The legal argumentation of plaintiffs and defendants reveals how the same Constitutional concepts are framed differently in order to oppose and promote mining activities, respectively. It also reveals how the notions of water and territory are involved in the conflict.
• According to the plaintiffs, the mining law undercuts the complex systems where the rights of indigenous nationalities and the rights of nature coexist. They demand prior informed consent and argue that the law breaches the right to territory as a pillar for identity, culture and existence, which is irreplaceable and that should not be exploited. Moreover, CWSA argues that “the mining law allows the destruction of nature and her womb from where life flows like water” (CWSA, 2009: 5).

Whereas in the legal rebuttal the defendants contest the anti-extractive invocation of the Constitution:
• The state authorities defined mining as the public interest despite the opposition of the main Indigenous groups of the country whose territories are directly affected by this policy. The principle of plurinationality is reduced to the right of Indigenous groups to enjoy the economical revenues from mining.
• The President stated, for example, “the communities, peoples and nationalities should prioritize the general interest before the particular, [to promote] the good living” (Constitutional Court, 2010:18). The principle of good living (which is an alternative to traditional development with respect to cultural diversity and nature) is equated to developmentalist policies and the revenues coming from extractive industries.
• Moreover, the defendants rejected the alleged breach of the rights of nature and water arguing that sufficient legal controls and high technology standards would protect nature.

Although the plaintiffs lost the lawsuit, this is just one of the several strategies used by the inhabitants of Quimsacocha to fight mining. In the strategies discussed below the plural values of water and territory are displayed in combination with claims to the state institutions (e.g. the Constitutional Court and the city council).

Quimsacocha territorial and waterways defense strategies:
• Since 2005 the CSWA has organized several demonstrations demanding to revoke the mining concessions that negatively affect water sources.

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1 The lawsuit demanded the three main Ecuadorian authorities: the country’s President, the representative of the legislative power and the state general attorney.
The intensity of the conflict has increased since the mining law was approved in 2009.

- In a display of religious syncretism, a stone statue of Virgin of Quimsacocha with a carved chakana (symbol of Indigenous philosophy) on her chest, was placed in front of the lakes in Quimsacocha to watch over the water sources. **Evoking to the ‘sacred waters’ entails a discursive strategy, but also portrays a non-commodifying relationship with water.**

- In 2011 an unofficial referendum in the Communitarian Water Systems of the communities Tarqui and Portete showed that 93% of the inhabitants were against mining activities. In 2015 CSWA collected the necessary number of signatures to start an official referendum about mining in the Quimsacocha hydrological system. However, three years later the Constitutional Court has not given a response to this request for a referendum. Moreover, the constitutional reforms promoted by the national assembly in 2015 restricted **citizen-initiative referendums**.

- CSWA, **rural and urban actors** strive to make the implications of mining visible to residents of Cuenca. In January 2017 **the Cantonal Council of Cuenca declared the canton must be free of metallurgic mining** to protect the Macizo del Cajas biosphere reserve (UNESCO 2013), and demanded the companies stop mining activities in areas such as Río Blanco and Loma Larga. In June 2018 a Court of Justice of Azuay ruling suspended extractive activities in Río Blanco.

**POLICY RECOMMENDATIONS**

- Policy makers should pay **attention to the plural meanings of water and territory**. The communities that resist mining show the complicated interactions between water, nature and society and its legal, cultural, socio-economic implications. These interactions cannot be merely addressed through state promises of economical distribution and environmental technical control.

- Protections for cultural and livelihood relationships require **meaningful governance shifts**. This will help to ensure that policies correspond to people desires, instead of being imposed on them.

- A **democratic and participatory debate should not be reduced to an instrumental technique**. Those directly affected should have real influence in the policy and decision-making. Behind policy lays politics, so powerful interests in mining (e.g the state, transnationals) cannot be steered by mere policy making techniques of inclusion. The active input and involvement of urban-rural movements that aim to protect water resources, contributes to bring the policy-making process closer to what people experience and need.

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1. In December 2015 the official and majoritarian party approved 15 reforms to the Constitution. Among these, the local governments cannot longer call for a referendum about ‘any issue of interest’ but about ‘issues of its competence’.
REFERENCES

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