Erasmus Mundus Joint Master's Degree in Climate Change and Diversity: Sustainable Territorial Development / Maestría en Cambio Climático, Sustentabilidad y Desarrollo

When the River Claims Justice: Ecological, socio-legal analysis and community assessment of the Dulcepamba river restoration measures

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When the River Claims Justice: Ecological, socio-legal analysis and community assessment of the Dulcepamba river restoration measures

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I, ANNA BRUSAROSCO, as supervisor of the student MARÍA LAURA BAYÁ PEÑALOZA, hereby APPROVE the thesis entitled "When the River Claims Justice: Ecological, socio-legal analysis and community assessment of the Dulcepamba river restoration measures".

Udine, 28/08/2025

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Declaration of Mobility

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TABLE OF CONTENTS

FIGURES INDEX

TABLES INDEX

ABSTRACT

Since 2008, Ecuador has been the world's pioneering country in recognizing the rights of nature within its Constitution, adopting a revolutionary framework that promotes coexistence between humans and nature through the principle of sumak kawsay (good living). This shift transforms the traditional understanding of legal rights to include nature as a subject with its own legal standing. In Ecuador, the line of landmark cases evolved from the first case of "El Verdum" Mangrove (2015), which offered soft recognition, to the "Los Cedros" Forest case, which recognized the rights of nature and granted the forest its right to reparation.

This ruling paved the way for further protection and restoration of natural ecosystems in Ecuador, especially in cases involving rivers, which are often damaged by water contamination and reduced flows caused by extractive activities and public negligence. This investigation focuses on the conflict surrounding the Dulcepamba River, which has been in conflict since 2003 due to the actions of a hydroelectric company. The company's operations caused direct harm to both the river and the San Pablo de Amalí local Community, in Bolivar province. For over two decades, this community has struggled against the hydroelectric plant's impacts, including the river´s antropic diversion and the loss of human lives and their lands.

The Constitutional Court of Ecuador selected the Dulcepamba River case in 2019, recognizing its potential to contribute to binding jurisprudence on the rights of nature. While the Court has been petitioned for reparation measures for both the river and the community, the case remains pending a final hearing. Over the years, numerous scientific, technical, and social studies have highlighted the river's vital role in maintaining ecosystem cycles and emphasized the close connection between the river and the local community. The main goal of this research is to examine how the Court can effectively implement reparation measures that address both the river's ecological needs and the community's rights, based on these studies and the community mapping and participation involved in restoring the river. By ensuring the river's rehabilitation, it can continue to perform its ecological functions, which is especially important given the global climate crisis.

Key Words: Restoration, River rights, Ecological justice, Community Assessment, Participatory Reparation, Nature´s reparation rights.

RESUMEN

Desde 2008, Ecuador ha sido el país pionero en el mundo en reconocer los derechos de la naturaleza en su Constitución, adoptando un marco revolucionario que promueve la coexistencia entre los seres humanos y la naturaleza a través del principio del sumak kawsay (buen vivir). Este cambio transforma la concepción tradicional de los derechos humanos, para incluir a la naturaleza como sujeto de derechos. En Ecuador, la línea de casos emblemáticos evolucionó desde el primer caso del manglar «El Verdum» (2015), que ofreció un reconocimiento neutral, hasta el caso del bosque «Los Cedros», que reconoció los derechos de la naturaleza y concedió al bosque su derecho a la reparación.

Esta sentencia allanó el camino para una mayor protección y restauración de los ecosistemas naturales en Ecuador, especialmente en los casos relacionados con los ríos, que a menudo se ven dañados por la contaminación del agua y la reducción de los caudales causados por las actividades extractivas y la negligencia pública. Esta investigación se centra en el conflicto en torno al río Dulcepamba, que lleva en conflicto desde el año 2003 debido a las acciones de una empresa hidroeléctrica. Las operaciones de la empresa causaron daños directos tanto al río como a la comunidad local de San Pablo de Amalí, en la provincia de Bolívar. Durante más de dos décadas, esta comunidad ha luchado contra los impactos de la hidroeléctrica, incluyendo el desvío antrópico del río y la pérdida de vidas humanas y tierras de la comunidad.

El Tribunal Constitucional de Ecuador seleccionó el caso del río Dulcepamba en 2019, reconociendo su potencial para contribuir a la jurisprudencia vinculante sobre los derechos de la naturaleza. Si bien se han solicitado al Tribunal medidas de reparación tanto para el río como para la comunidad, el caso sigue pendiente de una audiencia final. A lo largo de los años, numerosos estudios científicos, técnicos y sociales han destacado el papel vital del río en el mantenimiento de los ciclos del ecosistema y han enfatizado la estrecha conexión entre el río y la comunidad local. El objetivo principal de esta investigación es examinar cómo el Tribunal puede aplicar eficazmente medidas de reparación que aborden tanto las necesidades ecológicas del río como los derechos de la comunidad, basándose en estos estudios y en la cartografía crítica, que involucra la participación de la comunidad en la restauración del río. Al garantizar la restauración del río, este podrá seguir desempeñando sus funciones ecológicas, lo que es especialmente importante dada la actual crisis climática. Así como restaurar el proyecto de vida de la comunidad de San Pablo de Amalí.

Palabras clave: Restauración del río, Derechos del Río, Justicia Ecológica, Participación Comunitaria, Derecho a la Reparación de la Naturaleza.

INTRODUCTION

This thesis examines the socio-environmental conflict surrounding the San José del Tambo Hydroelectric Plant (Hidrotambo S.A) with the Dulcepamba River micro basin, Ecuador, within the broader framework of the Rights of Nature enshrined in the 2008 Constitution. While the jurisprudence of the Constitutional Court has marked unprecedented progress in recognizing rivers, forests, and ecosystems as legal subjects, a gap persists between legal recognition and lived reality. Communities such as San Pablo de Amalí, which have experienced displacement, flooding, and the loss of livelihoods, continue to face the consequences of an invasive project, such as the hydroelectric project of Hidrotambo, despite the constitutional priorization of water rights for human consumption and nature rights over mega projects. The central claim of this thesis is that Ecuador's pioneering constitutional model has opened innovative pathways for ecological justice, but structural limitations, fragile enforcement mechanisms, and the absence of meaningful reparations undermine its transformative potential.

To address this tension, the research combines legal analysis with socio-territorial approaches that place affected communities at the center of the inquiry. The study draws on testimonies, memories, and participatory mapping exercises that reveal how people relate to the river not only as a natural resource but also as a living being that sustains their identity, culture, and spirituality. The thesis structure reflects this interdisciplinary perspective. Chapter one outlines the research problem and methodological framework, using a combination of methods, such as the theory of change and participatory mapping, to better approach the community perspective in the litigation and abroad, as well as their inquiries into reparation measures for the Community and the river.

Chapter two abounds the theoretical framework and literature review bridging constitutional law, political ecology, and critical cartography. It undertakes a comparative analysis of the legal frameworks in Bolivia and Ecuador, and lands examining the jurisprudential trajectory in landmark Rights of Nature cases in Ecuador, such as Piatúa, Monjas, Los Cedros, Mataje-Cayapas, Aquepi, among others. This analysis highlights common patterns in judicial reasoning and the uneven implementation of reparation measures. Chapter three undertakes the Dulcepamba case as the analytical axis, detailing its history, legal trajectory, and community struggles.

Finally, Chapter Four synthesizes the findings and advances proposals to strengthen mechanisms of compliance, monitoring, and territorial reparation, concluding with the discussions in Chapter Five. The significance of this research lies in both its legal and ecological dimensions. Dulcepamba has become a national and international reference point for the challenges of enforcing Rights of Nature in the face of extractive and hydroelectric projects. By combining doctrinal analysis with community

voices, this thesis aims to contribute not only to academic debates on Latin American neo-constitutionalism but also to practical discussions on how institutions and communities can bridge the gap between recognition and realization. In doing so, it aims to illuminate the possibilities and limits of Ecuador's constitutional experiment, while affirming that rivers like the Dulcepamba are not merely sites of conflict but sources of life, memory, and hope.

CHAPTER 1
RESEARCH FRAMING

1.1 RESEARCH PROBLEM

This thesis research aims to identify the advances Ecuador has made in its legal and juridical framework for protecting nature and to analyze their effectiveness in recent litigations, using the Dulcepamba River as a case study. The research question that guided the work was: to what extent the legal and judicial framework on nature's rights in Ecuador is effective in guaranteeing reparation for both the Dulcepamba River and the San Pablo de Amalí community, affected by socio-environmental impacts caused by the conflict with the Hidrotambo S.A. company, considering favorable rulings in previous landmark cases.

Since this case remains pending a constitutional sentence, the research analyzes the legal and judicial framework of nature´s rights in Ecuador related to rivers, as precedent cases, to identify the trend of compliance with reparation measures. To do so, a documentary and literature review of scientific, legal, and community-based studies will be addressed, related to the Dulcepamba River conflict and its socio-environmental impacts, to determine what the community manifests during the whole conflict, and involve the community in the construction of reparation measures for them and restoration measures for the river, as outlined in the constitutional case. The analysis will counter the results projected by the participation of community members with the scientific contributions, identifying the main restoration and reparation measures that should be taken to avoid compromising the river and community rights.

The research acknowledges that there may be some limitations, such as the Constitutional Court's timing in dictating the final sentence. In light of these limitations, two hypotheses have been formulated:

> **a)** With the constitutional recognition of nature's rights and favorable rulings in previous cases, the constitutional remedy in Ecuador has proven sufficient to guarantee effective reparation. The Constitutional Court of Ecuador recognized the reparation and restoration rights expressed by the San Pablo de Amalí community for them and the Dulcepamba river.
>
> **b)** Despite the constitutional recognition of nature's rights and favorable rulings in previous cases, the constitutional remedy in Ecuador has proven insufficient to guarantee effective reparation due to the temporary burden of the Constitutional Court of Ecuador, which hinders

the effective protection of the right to reparation of the Dulcepamba River and has contributed to the situation of defenselessness and constant vulnerability of the Community.

The primary focus of this research is to gain a deeper understanding of how the river's reparation right is manifested, after a line of jurisprudence that has demonstrated certain deficiencies. We will wonder whether it considers the participatory process and intentions of their representatives (San Pablo de Amalí Community) at the moment of pronouncing the reparation measures, or due to the temporary burden variable to pronounce over high risk cases, such as Dulcepamba case, identify if there´s a gap between the jurisprudential line of nature´s rights and the on-the-ground realities.

1.2 METHODOLOGY, METHODS, AND TOOLS

The research adopts the methodology of the action-research at it is based on qualitative approaches, implementing participatory methods and literature review which combines theoretical studies about nature's rights theories, holistic and philosophical approaches with the law framework related to the rights of nature, reparation rights of nature according to Ecuador's local context, but also recurring to other theories and similar legislatures, such as the Bolivian framework (Mother Earth Law and its own Political Constitution). Moreover, it is complemented by a documentary review that analyzes scientific documents about the 20-year conflict in San Pablo de Amalí, as well as the various studies conducted for the Dulcepamba river and the community.

Regarding the participatory methodologies of action research, the work takes into consideration decolonial research approaches. The focus is to address research problems from a community perspective, collaboratively determining how the community wants to be repaired initially, and how it can effectively express its requests and needs during the litigation process. Although part of the methodology uses Western research methods, such as the theory of change and literature review. Nevertheless, the participatory process for constructing reparation measures differs from traditional legal strategies, which were based solely on legal experience, legal principles, and positivist concepts. The construction of the reparation measures for this case is based on the experience of the spokespersons of the Dulcepamba river, who are the community of San Pablo de Amalí, as a form of rehumanization of the research (Udah, 2024, p. 6).

The theory of change[1] is applied to address community participation and perceptions of how the Community of San Pablo de Amalí conceives the reparation right, departing from the main problem

[1] The idea of the ToC approach seems to have first emerged in the United States in the 1990s, in the context of improving evaluation theory and practice in the field of community initiatives (...), this can be understood as a way to describe the set of assumptions that explain both the mini-steps that lead to a long term goal and the connections between these activities and the outcomes of an intervention or programme (...). Other literature views ToC as a process or tool with an

of the river deviation towards the community for hydroelectric purposes. The law researcher Lucia Salazar suggests applying the theory of change to determine the qualitative impacts on nature´s rights law framework in Ecuador and analyzes the sentence paradigm in comparison with the community perspective (Salazar, 2021, p. 95).

Using the theory of change, it is possible to include the community perspective, incentivizing their participation to identify the main problems they face and how to look at the main issues as an opportunity (Moore, 1998, cited in Ames, 2021). Furthermore, the theory of change enables us to analyze how the community of San Pablo de Amalí will address the river's reparation rights, thereby linking their territory and their affectations. In other words, the impacts on the river have also had repercussions on their territories and ways of life. In this way, it is possible to perceive both changes through time and to investigate how the community distinguishes its reparations from those of the river or includes them as an integral reparation of both.

Therefore, applying the theory of change enables the observation of reparation and ecological restoration measures' accomplishments in these cases and the analysis of midterm scenarios applicable to the Dulcepamba River case. This provides the community with the opportunity to identify these challenges and seek alternatives that can ensure complete reparation for the future.

The research also uses critical cartography techniques, such as a counter map, considered essential for the fieldwork to complement the theory of change, visualizing the different impacts throughout the years from the community perspective, involving the participation of the active members. These combined methods allow us to identify how the community sees the river and the territory transformation, as well as weave the reparation opportunities the community can map to visualize it before the Constitutional Court of Ecuador (CCE).

Moreover, suppose the final judgment is deemed insufficient by the community in meeting its expectations. In that case, the representation of reparation measures in the maps will remain open, allowing the community to explore alternative solutions for the emancipation of its territory and the river.

Participatory methods and tools were applied during the fieldwork, which was divided into two phases. In the construction of both phases, the main approach is based on critical cartography, understood as a social process that redistributes the power to name and visualize the territory, rather than as the mere elaboration of a final map. This framework is complemented by critical pedagogy, where all knowledge production must be closed with transformative action. As discussed by Udah

emphasis on conceptual thinking: an ongoing process of reflection, a conceptual tool to explore the changes expected from a set of actions, and a “thinking-action approach” (Valters, 2012, págs. 3-5)

(2024) and Denscombe (2024), emphasis is placed on noting that the data belong to the community; the map, transformed into an advocacy tool, challenges the extractivist and positivist logics that have historically made the memory of the Dulcepamba River invisible.

The data collection process was based on the testimonies collected in 2024 for the evidence phase in the constitutional process. These testimonies revealed how the community endured years of conflict with Hidrotambo S.A.

It considered the collective and individual feelings of how their lives were before the arrival of the hydroelectric project, how they experienced the transformation of the river, and, in some cases, the loss of their properties and homes. The onset of the 2015 floods and their impact on lives, which had been living in a constant state of risk. The criminalization of some leaders and various abuses by the police and military (this was reserved for the proceedings before the Inter-American Commission on Human Rights) were also considered.

The most important aspect of the testimonies is that they formed the basis for the development of reparations measures. 22 of the 63 active members of the constitutional process (34.9%) were asked what they would request from the CCE as reparations, and 17 people agreed that the hydroelectric plant should be removed and that the river should return to its natural course. Based on these responses, the initiative was taken to continue the investigation and develop the following phases to determine precisely how these requests could be implemented and made more visible in the territory.

These testimonies were processed to proceed with their respective codification to better categorize the variables corresponding to the community reparation rights, the river restoration rights, and to understand the community-river relationship, which the community members manifested in their declarations. This codification processed the whole testimonies, with no discrimination of the questions. The software used for this was ATLAS.ti Web.

Inside the ATLAS.ti Web, 17 out of 22 testimonies were processed, as they focused on the specific request for reparation to the river and the hydroelectric plant. The following variables were categorized: Before Hydrotambo´s arrival, Community Impact, Community Involvement, Community Reparation Rights, Community-River Relationship, Landmark Factors, Public Institutional Failures, River Restoration, Socio-Environmental Impact, and Water Concession (for a better appreciation of the variables, consult Annex 1).

Having all this base data processed, it was possible to develop the field work, focusing on the construction of the reparation measures related to the river and the Hydroelectric plant presence that

had more predominance, and going deeper into the reparation senses of the San Pablo de Amalí Community.

The first phase involved an initial encounter with the community to propose critical cartography community mapping. This aimed to map the direct influence area covering the San Pablo de Amalí Community, tracing its past, present, and future perceptions. The coordination of both field work entrances was under the Dulcepamba Project[2]. This is the local organization that provided legal and environmental assistance to the communities of the Dulcepamba micro-basin. They are the ones who are solving the litigation of the San Pablo de Amali Community in the CCE. For research purposes, they coordinated with the leaders of San Pablo de Amali, providing transportation and shelter to facilitate the workshops.

This phase was developed in the second week of April 2025, during the rainy season. The Dulcepamba Project invited the active members of the Constitutional process (63 people), men and women who were the main victims of Hidrotambo S.A. Due to the absence of some 63 active members from San Pablo de Amalí, who were either working or did not attend the call, the field activity was conducted with 17 participants, accounting for 27% of the active members.

TABLE 1.1 Number of participants – First fieldwork phase

Participants	Number	Percentage
MEN	10	59%
WOMEN	7	41%
TOTAL	17	100%

Source: Own elaboration

During the workshop, the community was divided into three groups (two groups of six and one group of five) to proceed with the identification and recognition of their territory with the mapping activity. It was convenient to divide them into groups to guarantee the participation of all present members. This first activity was scheduled for an hour and 15 minutes. At this stage, the community members were discussing between themselves to identify how their territory around the Dulcepamba River looked like in the past, which houses were part of the spaces that are no longer there, where the river used to flow, identify the recreational places mentioned in their testimonies, such as the "Don Aurelio Yepez" natural pool (see figure 4.1, chapter 4).

[2] More about the Dulcepampa Project on the website: www.proyectodulcepamba.org

They also described how their territory looks nowadays (see figure 4.2, chapter 4). It was an activity of group reflection in which they also exchanged opinions on the past and how they related the losses with the new occupation of these spaces by the hydroelectric plant and the new river course.

To conclude the mapping activity, the last minutes were used to identify how the participants perceive the future of their territory (see figure 4.3, chapter 4). They were given total freedom to propose and debate their feelings about the place where they grew up. A brief orientation was provided first, explaining how to relate their future reparation aspirations to the maps by identifying places they wish to vindicate.

Afterwards, it was given an additional time of 40 minutes to interact between the groups and share their maps and dialogue about how they found their territory. During this mapping socialization, some of the members realized that they mapped more places and areas in common; they created an open dialogue space, discussing the houses that were lost to the flooding, and agreed to continue mapping, adding the missing places into their group maps, after looking into the reflections of the other groups.

In the same phase, on the next day, participants identified the principal areas of their territory that were susceptible to reparation. The theory of change methodology was applied using a problem tree to identify common areas in the maps that reflected the main problems and to explore potential solutions, which we termed restoration and reparative measures. During the second day, the participants from the first day were also present (a total of 17 members). Table 4.10 in Chapter 4 shows the systematization of the problem tree.

With the results identified in the problem tree and critical mapping, phase two was planned for the dry season. The main reason was to contrast the territory in the rainy season (April), identifying the risks for the community in phase one, with the lack of river flow in the dry season, and identifying other problems for the river and the community. The second phase was held in the first week of July 2025. The community participation in this phase was limited to individuals who volunteered to share their knowledge of the Dulcepamba basin, where they were raised or born, prior to the installation of the hydroelectric plant. This included those familiar with the old river track and those who had lost their homes. In total, the participation was of 10 community members (15,9% of the active members), with the collaboration of one of the Dulcepamba project directors, Emily Conrad.

The fieldwork covered community geo-referenced mapping, through a walk to the reparation and restoration sites identified in phase one, looking for the river print (as the main restoration measure identified for the river). The goal was to obtain geo-reference points to map using GIS software tools, such as Kobo Toolbox, GIC Form, and QGIS to process the cartographical information. Nevertheless, while walking through the river, an informal semi-structured interview was conducted with 3 of the

participants who wanted to present the different places we were visiting, such as the activities they used to have in the river and the houses that were lost during the flooding.

To complement the community perspective, two formal interviews were conducted with the leading directors of the Dulcepamba Project, Emily Conrad and Rachel Conrad, who took part in the construction of the constitutional process.

The interviews were processed with the ATLAS.ti Web software. The coding of this interview included: Dulcepamba Project Involvement, Socio-Environmental Impact, Legal Strategy, Nature Rights, Landmark Factors, Public Institutional Failures, and Legal Process.

1.3 RESEARCH LIMITATIONS

During the data collection and fieldwork, I encountered several factors beyond my control, some of which I was unable to redirect or manage. However, these factors had an impact on data collection and the results of the research.

The main limitations were:

- **The Constitutional Court delays calling for an audience and pronouncing the final sentence:** The research would have a better analysis effect if the final sentence had been available to verify if the measures dictated by the Constitutional Court reflect the feeling of reparation of the community and the river, after 20 years of conflict. It would have been possible to determine whether the Constitutional Court's line of jurisprudence has continued progressively or has regressed, as in previous years.
- **Rainy season on the first stage of the fieldwork, which hindered the territory and river exploration:** During the first field trip in April 2025, the weather was not favorable. Heavy rains made it difficult to stay longer in the community. On the way, some roads were cut due to landslides, making it uncertain when they would happen again. The main road connecting Chillanes and San Pablo was cut, making it more difficult to arrive. The areas identified by the community in the mapping were covered by water, such as the river, as well as some old lands where houses were in the past. Since it was winter, the river became dangerous, necessitating constant alerts to take precautions in case of flooding.
- **Short period of research to analyze deeply different perspectives:** Due to the limited time for the research, from February to August 2025, certain variables to be examined had to be shortened, such as the effect on the communities that do not have access to water upstream, and what they would have asked for as reparation.
- **Few participants from the community, due to time, internal division and the work of the community members:** In the two field trips, the presence of community members barely

comprised 30% in the first phase and 16% in the second phase, mainly because some members are no longer residing in San Pablo de Amalí due to the loss of their homes and the risk of flooding, and because of work commitments of the community members. Another critical factor is the division of the community between those who continue in the struggle, those who no longer participate, and those who are directly in favor of the hydroelectric dam.

- **Lack of resources to have better visual materials for the workshops:** The materials for the first workshop included the printing of black and white maps, because the INREDH organization that accompanied the first workshop did not have color printing. Additionally, the community lacked a meeting center with different workspaces. The workshop was held in the private home of one of the families in the community, which made it more difficult to work in a small space. Another critical factor was the lack of internet connection and digital projectors, which would have provided visual and didactic material for the workshop.

CHAPTER 2
THEORETICAL FRAMEWORK

The theoretical framework adopted as reference for the research develops the emergence and maturation of the rights of nature doctrine, examining how constitutional and statutory innovations have progressively positioned ecosystems as subjects of law rather than mere objects of resource use. Building on this, the study surveys regional legal frameworks, from Bolivia's Law of Mother Earth, to situate Ecuador's experience within a broader Latin American ecological constitutionalism. Finally, it focuses on restoration and reparation rights for nature, in the case of the Dulcepamba River.

2.1 NATURE´S RIGHTS FRAMEWORK

Before exploring nature's rights, it´s essential to understand their origins and the philosophies that challenged anthropocentric legalism as the sole means of protecting nature. This includes examining other non-Western cosmovisions that have given rise to ecological movements, which promote the concept of nature as a rights holder.

2.1.1 Understanding nature´s functionalities and intersectionalities

Inside megadiverse territories, such as South America, nature is still conceived as a part of the life cycle. For many cultures, nature is intrinsically present in their daily practices and is considered sacred, within all its components. Nature integrates the forests, rivers, air, animals, plants, mountains, and the interrelation with humans in a reciprocal, correspondent, and complementary way (Avila, 2011). Cultures like the Witoto people, in the Amazon rainforest in Brazil, consider the river, "*...has a spirit; it's a living being who deserves to be respected"* (Vanda Witoto, 2022).

From a Western perspective, in 1969, the British researchers James Lovelock and Lynn Margulis gave a name to this natural function of nature, conceiving it as the *Hypothesis Gaia*[3]. This new approach to the Earth presented our planet as a superorganism, a combination of living beings and inanimate objects (the rocks, the sea, etc.), that performs within biomes and ecosystems with the capacity to self-evolve and transform, to finally understand the Earth as a self-regulated organism that allows its own evolution. This function, recognized as symbiosis, presents the interactions between all the organisms: what we call nature.

In other words, the Earth regulates, maintains, and recreates the conditions of life also by using living beings: it is obvious that we could not survive without living beings that produce oxygen. At the end we live in a constant symbiosis relationship, meaning that neither could the rest of living beings

[3] The book was published as *We Belong to Gaia (1969)*, referring to Gaia as the Greek Goddess, the personification of the Earth.

survive without us who produce their nutrients, nor us without them (Zaffaroni, 2011, p. 15). Because of this relationship created by all the beings who are part of the Earth, it's essential to keep the balance, assuring a reciprocal treatment among all the components. Nature fulfills a much more complex function, acting as an intercommunicating system between living beings, which regulates life plans (Gudynas, 2009). All macroscopic organisms, including ourselves, are living proof that destructive practices ultimately fail (Capra, 1997, p. 269).

All these Western theories, dating back a long time, which consider the Earth's vital roles, have had a slow impact on the development of the "Earth" law framework protection. The main reason is that this knowledge was not helpful for the capitalistic system regulated by the positive law. It was not fitting to the exegetic logic to consider a law framework that recognizes the rights of non-human beings.

The nature´s rights expert, Ramiro Avila (2011), mentions in his essay on the law of nature, the Kantian formula of the dignity of the means and the end, to explain that as human beings we are fulfilling a work to fulfill our ends in our different human relationships. In this human logical relationship, nature must be a means to fulfill human ends (ibid., p. 38). Under this premise, he argues that nature is hardly worthy because its end is determined by human needs; consequently, this relationship has been exploited to ensure nature continues to satisfy these unlimited needs, thereby avoiding the recognition of any rights. In contrast, applying the theory of the Earth system reveals that we, as humans, are integral to this symbiotic process. So, human beings need nature to live, and nature also needs human beings. Consequently, the Kantian principle of dignity can be applied with absolute pertinence to this other Earth logic (ibid., p. 47).

The comprehension of this relationship evolved over time, marked by anthropocentric approximations to environmentalism, which emphasized the importance of nature, and biocentric approaches, as seen in ecologism movements advocating for nature's emancipation. The following section will discuss these two approaches between anthropocentric theories that keep pushing out nature to answer ambitious human interests, and how the ecological cosmovisions and theories gain visibility to change the anthropocentric paradigm.

2.1.2 From environmentalism to ecologism

Before ecologism, the concept of nature was reduced to a source of "resources". As a plural category, nature is disarticulated and considered as a set of elements, living or non-living, which some may have current or future utility. Species and ecosystems are objects and may be under human ownership (Gudynas, 2014, p. 19). According to this last author, this utilitarism of nature is one of the articulating components for understanding development as a necessary appropriation of Nature (ibid.).

Under these thoughts, "development"[4] challenged nature's role recognition, especially in those countries that were considered rich in resources but poor in "economy". The desperate need of "underdeveloped" countries, most of them located in the Southern regions of the Globe, led to the exploitation of resources (considered as unlimited) to satisfy the standards and needs of the "developed countries" in the Northern regions. It was poorly considered the limits of natural resources, and the reparations caused by extractive activities were seen just with an economic value.

For Gudynas (2014, p. 31), assigning an economic value to nature to guarantee its conservation should not be the only criterion because it is still thought of as a benefit and seen as a resource; this was called free market environmentalism. This concept emerged after the environment was discussed and treated as a matter to protect and conserve, under the new criteria of development presented as "sustainable," and the new trend to advocate for the environment.

The environmental paradigm replicated the anthropocentric model, treating the environment as a matter to protect for human well-being. The Stockholm Declaration (1972) marked a significant step towards recognizing human responsibility for the environment, ensuring the future generation's needs. This Declaration was very clear in highlighting that the environment is no longer perceived as good at the service of humanity. Still, as an inherent and necessary element for human life, it must be protected (De Luis Garcia, 2017, p. 557). Once more, in this first advance, nature's protection was still treated to preserve human life, which led to the right to live in a healthy environment.

In 1987, the new concept of sustainable development was presented in the Brundtland Report "Our Common Future" to take the development concept as a way to achieve an equilibrium between economic growth, environmental protection, and social equity. On the other hand, it was not until 1992, with the Rio Declaration, that the concept of common but differentiated responsibilities was recognized, giving the "developed" countries a greater historical and financial responsibility to provide aid to "underdeveloped" countries to mitigate and adapt to the environmental challenges.

After Rio, the United Nations Framework Convention on Climate Change (UNFCCC) created an international framework to ensure these responsibilities were addressed and encourage the rich countries to mitigate their damages: it came the Kyoto Protocol in 1997, with the Conference of the Parties (COP) meetings, leading to the Paris Agreement in 2015. Despite these efforts advocating for

[4] After World War II, the world was focused on growth, especially those countries that were the winners of the war, such as USA. This new concept of development appeared to justify unlimited growth, especially for the world´s countries treated as "underdeveloped" and encouraged their progress to reach the category of developed. On the other hand, according to Sachs (2019), the concept of development is shaped by four key aspects: it is seen as a linear and forward-moving process (chrono-political), led by developed nations that set the path for others (geopolitical), primarily measured through economic performance like GDP (socio-political), and driven by the efforts of governments, multinational banks, and corporations. This perspective simplifies the diversity of nations into a binary of rich and poor, often placing newly independent countries under economic guidance (ibid., p. 12).

the environment, they were insufficient to address the climate crisis and halt the growth of nature´s exploitation to satisfy big industries.

From the Southern perspective, those facing environmental damage and degradation effects treated nature, the environment, and social movements to build ecological justice[5], are demanding the National Governments to attend to these nature and Earth demands and make accountable the responsible actors behind these damages. This is a way to revendicate nature's intrinsic values that do not consider objects or species as a means or end in themselves for people (Gudynas, 2014, p. 49). Under ecological justice, values are not imposed, but the set of values is broadened; neither are the measures to be taken predetermined, which actions are forbidden or punishable, but a public discussion is opened to deal with this (ibid.).

Under this lens, the vision of considering nature as a subject to protect has been brought to a political and legal debate by the social movements. It was not an idealization or utopia; instead, it became a fight for ecological justice, aiming to understand the Earth system and remain open to diverse cosmovisions and concepts about the significance of these functions. The philosopher Arne Naess presents this introduction of the deep ecologism from the Indigenous communities' cosmovision. He mentions that the ecological movement departs from a biocentric conception and picks up different reactions facing modernity and fighting against resource depletion (Naess, 1973, p. 97).

One of the more relevant contributions for the thesis purposes is the principle of the "*sumak kawsay*" (Ecuador) or "*sumaq qamaña*" (Bolivia), as part of the Andean cosmovisions that are part of a biocentric conception and one of the main principles of the ecological justice from the South, that revendicates the nature´s rights. What does it mean? Good living. As simple as it sounds, under the Andean Indigenous communities, "good living" involves different cosmovisions, traditions, customs, and a way of life that pretends to live in a balanced way with "Pachamama" (Mother Earth).

According to Eugenio Zaffaroni (2011), more than five hundred years of colonialism, neocolonialism, genocide, and domination could not erase from the cultures of the Andean peoples the cult of the Earth and the ideal of harmonious coexistence of *sumak kawsay*, which today – removed the layers that oppressed it – returns to the surface as a message to the world and especially to the human species at risk of collapse and extinction (ibid., p. 21).

[5] In the lens of ecological justice, the relationship between humans and the rest of the natural world should be addressed (Gudynas, 2014, p. 196). According to the authors Low and Gleeson (1998), Baxter (2005), and Scholsberg (2009), all living beings have the right to enjoy their development as such, to complete their own lives and all forms of life are interdependent.

This Andean principle was inserted into Latin American neo-constitutionalism as a resurgence of the ancestral culture of coexistence in nature and recognition of the Pachamama. This new form of protection of nature was projected to universal constitutionalism, e.g., the emergence of courts of rights of nature (ibid., p. 20). In 2014, the International Rights of Nature Tribunal (IRNT) was created by the Global Alliance for the Rights of Nature. The Tribunal aims to create a forum for people from all around the world to speak on behalf of nature, to protest the destruction of the Earth – destruction that is often sanctioned by governments and corporations – and to make recommendations about Earth's protection and restoration (International Rights of Nature Tribunal, 2022). Nevertheless, this Tribunal does not have a binding force, but it gave the initiative to different Governments to adapt their policies and laws to protect the environment, such as the Tipnis case (Bolivia) in 2019, which enforced the Mother Earth Declaration[6].

The objective of this thesis is to acknowledge how the fundamentals of ecologism that were built inside of the ancestral cosmovisions, took power and went forward towards legal innovation. Noticing that, environmentalism was the first movement to raise the conscience and it should be complemented with ecologism to achieve justice.

As an example of it, some of these new conceptions of what protection and subjection of nature and the environment means were picked up from the highest International Courts, such as the Interamerican Court of Human Rights (ICHR). In 2017, the advisory opinion OC-23/2017 achieved a new jury line, including the different components of nature under the environmental right.

> (…) Unlike other rights, it protects the components of the environment, such as forests, rivers, seas, and others, as legal interests in themselves, even in the absence of certainty or evidence of risk to individual persons. Thus, the right to a healthy environment as an autonomous right is distinct from the environmental content that arises from the protection of other rights, such as the right to life or the right to personal integrity (OC/23/17: Parr. 62-63).

Later on in 2025, the ICHR expressly recognizes nature as a subject of rights, establishing that: "The recognition of nature's right to maintain its essential ecological processes contributes to the consolidation of a truly sustainable development model that respects planetary boundaries (...), is a

[6] The IRNT in 2018 gave a sentence to the State of Bolivia for violating Mother´s Earth Rights. The main reference document to allege these violations is the Mother Earth Declaration (2010), recognized by Bolivia inside the Law 71, also is part of the soft law on Nature´s law framework. The Tipnis case was treated, because of a road project that intended to cross the heart of the Tipnis (Indigenous Territory and National Wild Park Isiboro Securé) and cause damage to the indigenous communities, forest and animals. The Tribunal demanded restoration measures to the Bolivian State, paralyzation of the road, concession of the land to the main indigenous communities and punitive sanctions to colonizations attempts (IRNT, case of the Isiboro Sécure National Park and Indigenous Territory (TIPNIS, 2018 Parr. 7; 88).

contemporary manifestation of the principle of interdependence between human rights and the environment; it aligns with intergenerational equity, precaution, and prevention. (...) It derives state obligations: not only to refrain from causing significant harm, but also to adopt positive measures of protection, restoration, and regeneration, compatible with the best available science and local/indigenous knowledge; in addition, non-regression and full enforcement of procedural rights." (OC 32/25: Parr. 279-283).

This new tendency in high International Courts of environment and nature recognition, with this extra differentiation of individuals to their components (forests, rivers, seas) and the nature cycles, opens a frame to keep moving towards ecologism not only in the big Courts, but now with international standards to be considered in the Interamerican region. Part of this movement came up with regional and national regulations, such as the case of Ecuador and Bolivia, countries that went beyond anthropocentric conceptions and included in their law frameworks indigenous cosmovisions that considered nature as part of their "good living".

2.2 ECUADOR AND BOLIVIA NATURE´S LAW FRAMEWORK

It is not new that countries with great biodiversity, natural wealth, and multiculturalism have promoted Latin American "neo-constitutionalism." These countries incorporated environmental protection and nature conservation into their respective State Constitutions, thereby granting them a higher level of protection and elevating them to the status of rights.

As previously analyzed, the first step was recognizing the environment as a right to be protected in order to guarantee other human rights such as life, health, and intergenerational rights. According to the UN resolution AG 28/07/22, more than 156 countries already recognized the environment as a right in their legal systems, and the resolution gave way to international recognition.

However, within the constitutional and regional scope, the first signs are registered in Argentina (1994), Brazil (1998), Chile (1980), as a right to live in an environment free of pollution. Subsequently, there was a wave of constitutional processes in Venezuela, Ecuador and Bolivia consolidating the "new Latin American constitutionalism", deepening the recognition not only of the environment, but also of nature and its inherent elements, with an intrinsic and independent valuation of each one, especially in the case of Bolivia and Ecuador.

The first country to take the first step towards recognition of nature´s rights was Ecuador in 2008. The Ecuadorian Constitution recognizes nature and the environment as substantive rights, respectively. The most characteristic of this constitutionalism is the focus given by this legal instrument, which comes from its own indigenous roots under the philosophy of "*sumak kawsay*".

The following path of Bolivia is based on the same roots of the "good living" interpreted by the "*sumaq qamaña*" Andean principle. The new constitution in Bolivia, adopted in 2009, demarks a new recognition specifically to "*Pachamama",* as the main subject to keep its strength (State Constitution of Bolivia, 2009, Foreword).

Even though both instruments recognize the right to a healthy environment, each one of them uses different criteria in which nature is concerned. In the Ecuadorian case, nature is inherently recognized as a right with an entire chapter that regulates the scope, the subjects involved in its protection, the guardianship, and the reparation. On the other hand, the Bolivian case is an abstract interpretation that is later recognized in Law 300 of Mother Earth. Moreover, the Ecuadorian Constitution addresses an ecological justice approach, and the Bolivian Constitution encompasses a hybrid between environmental and ecological justice, but neither is concrete.

Eduardo Gudynas (2014) describes the central contradiction of the Bolivian Constitution as part of a particular political ecology that creates a State Constitution functionally to the depth of the extractive development. It contemplates environmental conservation and incentivizes the industrialization of natural resources through the development and strengthening of the productive base (State Constitution of Bolivia, 2009, Art. 9; Gudynas, 2014, p. 105). The functionality of the Bolivian law framework is designed to facilitate industrialization, allowing it to continue growing, but, at the same time, extend Mother Earth's speech with a questionable normative view about its protection and limits of her exploitation.

The following table shows the main differences and similarities between the Ecuadorian and Bolivian constitutions, focusing on their level of protection and guarantees over *"Pachamama"* or nature and the environment. This comparison also allows us to understand in which context we can talk about "*Pachamama´s*" rights recognition in these two pioneer countries.

TABLE 2.1 Constitutional law comparison between Ecuador and Bolivia

Aspect	Constitution of Ecuador (2008)	Constitution of Bolivia (2009)
Recognition of Nature as a subject of rights	Yes. Art. 71-73.	Not directly. It recognizes it´s importance, but nature is not a rights holder.
Right to a healthy environment	Yes. Art. 14.	Yes. Art. 33.
Right to the restoration of nature	Yes. Art. 72.	Not exactly. Art. 342, 347, limits conservation and the sustainable use of natural resources.
Legal action to protect nature/environment	Yes. Art. 71 and Art. 88 - any person or collective is allowed to demand for **nature´s rights.**	Yes. Art. 34 allows individual or collective action, also the State must act on duty, for the **environment** violations.

State obligation to protect nature	Yes. Art. 14 and 73 - the State declares the public interest of the environment protection and must apply preventive and restorative measures.	Yes. Art. 342, 347 and others -articulate environmental protection as a State Duty.
Citizen and Indigenous participation and consultation	Yes. Art. 398 establishes the previous consultation. Active participation in environmental decisions.	Yes. Arts. 343, 352, 30.15 recognize participation and consultation, especially in indigenous people.
Applicable constitutional principles (pro personae, non-regressivity, etc.)	Yes. Art. 11 establishes favorable interpretation and progressivity.	Not exactly, art. 13 appeals to progressivity principles over all the recognized rights.
Inclusion of Indigenous worldview in the constitutional framework	Yes. It integrates the Sumak Kawsay vision (good living) and Pachamama.	Yes, it incorporates the indigenous visions and principles in the art. 8, such as good living (suma qamaña), harmonious life (ñandereko), among others.
Citizen duty to protect the environment	Yes, Art. 83 num. 6, recognizes the citizen duty to preserve a healthy environment and respect nature´s rights.	Yes. Art. 108 establishes the citizen duty of protecting nature and natural resources.

Source: Own elaboration

As can be appreciated, Ecuador has a direct approach to ecological justice, with nature as its main subject. It recognizes the right of nature itself. Therefore, it has the right to reparation and restoration. With the environment, both could be claimed by any individual or collective. In the Bolivian constitutional law, the protection is focused on the environment, which falls within the environmental justice framework. Nature is not recognized properly by the Constitution.

However, the indigenous principles, such as "*suma qamaña*", "*ñandereko*", and "*teko kavi*", are fundamental plural principles recognized by the State, which demarcate a path of "good living" according to different indigenous cosmologies and open a door to nature´s appreciation and respect from the indigenous perspective. Based on this, the Bolivian law contemplates a framework of Mother Earth law. Table 2.2 further compares the Ecuadorian nature and environment law framework and the Bolivian law framework, allowing a deeper analysis of concerns regarding nature´s guarantee.

Table 2.2 Law framework comparison between Ecuador and Bolivia

Aspect	Ecuador	Bolivia
General Environmental Law	Organic Environmental Code (COA, 2018) - Regulates environmental management and biodiversity conservation.	Environmental Law (Law 1333, 1992) - Regulates environmental protection and resource management.

Specific Law Recognizing Rights of Nature / Mother Earth	Constitution (2008) - Nature recognized as a subject of rights (no separate law, directly constitutional).	Law of Rights of Mother Earth (Law 71, 2010): Recognizes Mother Earth as a living being with specific rights such as life, water, biodiversity, and restoration and **as collective character** subject. Law of Mother Earth (Law 300, 2012): Establishes principles of Good Living, harmonious development with nature, and national planning instruments according to the main industries, such as minery, agriculture and fossil fuels.
Resource Management Laws (Water, Forests, Biodiversity)	Law of Water Resources (2014); Forestry and Wildlife Conservation Law.	General protection via Environmental Law (1992); specific attention to sustainable use and biodiversity (Art. 347 Const.).
Prior Consultation and Participation	Constitution (Art. 398) - Prior consultation for projects; draft laws on specific regulation.	Law of Prior Consultation (Law 222, 2012) - Regulates consultation with indigenous peoples.

Source: Own elaboration.

Despite the fact that the Bolivian constitution does not fully recognize "*Pachamama´s"* rights, it has a legal framework that contemplates Mother Earth rights. Unlike the Ecuadorian case, the right to restoration is recognized by law, which means that it is not a constitutional right of Mother Earth, but it grants the same guarantees. Likewise, the way in which the guardianship is exercised is as a collective right, which makes it difficult for any citizen to exercise an action, because a collective consensus is required to claim their rights.

In both cases, there are a series of legal bodies that establish environmental management procedures and a series of compendia to guarantee the protection of nature and the environment for activities that constantly interact, such as the exploitation of natural resources.

It should be noted that in both countries, the presence of extractive activities is still relatively high, despite having a framework that guarantees and delimits human action over nature and the environment. For this reason, the courts of justice developed another binding legal framework over the years based on particular cases, which claimed violations over the rights of nature, from certain activities that have endangered its protection and ecological cycle.

Unfortunately, in the Bolivian case, there are no jurisprudential precedents that can ensure compliance with and support for Mother Earth's legal framework. Conversely, the Ecuadorian case have an advanced jurisprudential framework, with 10 binding rulings (Constitutional Court of Ecuador, 2023). Bosque Los Cedros, Estrellita, Rio Aquepi, Rio Piatua, and Rio Monjas are the most notable

cases. The following section will analyze how the Ecuadorian Constitutional Court has constructed this jurisprudence and how the precedents relate to the current case of the Dulcepamba River.

2.3 NATURE´S RIGHTS BINDING CASES INSIDE THE ECUADORIAN LAW FRAMEWORK

Within the Ecuadorian law framework, the national Courts – especially the Constitutional Court – played an essential role in controlling and interpreting nature´s rights. According to the Ecuadorian Constitution, the Constitutional Court is the supreme Court that controls, interprets, and administers constitutional justice (Ecuadorian Constitution, 2008, Art. 429). The court's decisions are mandatory for the entire public system (Art. 437), creating jurisprudence.

Additionally, the Organic Law of Jurisdictional Guarantees and Constitutional Oversight (LOGJCC) considers that the rulings of the Constitutional Court will constitute binding precedents when the decision is based on the direct interpretation of constitutional norms (LOGCC, 2009, Art. 22). So, both laws give the faculty to the Constitutional Court to create precedents that have the same character of a law, regarding their obligatory nature, and nature's rights can be expanded on their interpretation to guarantee their rights, such as its eco cycle, reparation and restoration.

Nevertheless, the path of the jurisprudence on nature´s rights in Ecuador is demarcated by different periods and events that slowly built a real effect on guaranteeing nature´s rights. Avila and Santa Maria (2023) group these periods, characterizing the impact of the sentences.

In a first grouping, they refer to a “jurisprudence of negation”, which included nature as part of civil law and private property (Avila and Santa María, 2023, p. 15): this was specially in the first new constitutional period (2009-2014). In a second period (2015-2018), they group the rulings as part of a “jurisprudence of invisibilization” that made nature play an administrative role in the environmental normative, to protect nature (ibid.). In a third period (2018-2021), the recognition of nature constitutionally stands out, but with a rhetorical margin, called the “jurisprudence of rhetoric and timidity” (ibid.). Finally, the period of the “jurisprudence of the rights of nature” (2019-2024) (ibid.) highlights the significant advances with clear and profound effects that boosted the jurisprudential development towards nature´s intrinsic recognition.

2.3.1 Towards the construction of the binding line

Going further with the Constitutional Court binding line construction, the following table shows how the Court went through these different periods classified by Avila and Santamaría (2023) and how the different cases and the *ratio decidendi* were built. For research purposes, we will deal only on

mega-project rulings involving water sources to analyze how the Constitutional Court works and modify its interpretation criteria *in dubio pro natura*.

Table 2.3 Binding line on nature´s rights in Ecuadorian jurisprudence

Period	Case/Sentence number	Synthesis of the case	Main resolution
Negation jurisprudence	Soroche (2014) - Sentence No. 0948-12-EP	The hydroelectric company ELECAUSTRO and the water company ETAPA were using these waters, causing a slip that was affecting the rural property and the Soroche river. The action was **denied**.	The Court considered that the slip was caused by a fortuitous event, as a product of a geological failure inside the river stream. The sentence represents the anthropocentric view, since no test was performed to prove if the anthropic activities were perturbing the creek. Therefore there´is an inconsistency regarding nature´s rights (Narvaez, 2025, 281).
	Mangrove Manabí (2014) - Case No. 0796-12-EP	In Manabí, "El Verdum" Community filed a protection action against the shrimp businessman Jefferson Loor for having impeded its right to access the mangrove swamp and for destroying the natural resources, by buying a large part of the area where the commune is located- (Avila and Santa María 2023, 23). On appeal, the action was partially admitted and the businessman filed an extraordinary action for protection. In this case the anthropocentric and individual rights criteria were part of the binding line of the Court.	The Court accepted the action and annulled the sentence that recognized the violation of rights. The protection is conditional on state permits, since the Court considered a violation above the legal security of the businessman, by making its property rights prevail over the rights of nature and declaring that the species are of public interest and that they "belong" to the State. The Ministry of Environment is in charge of verifying, conserving, protecting, replenishing, prohibiting and/or delimiting mangrove forests in the country; and that if one has permits from the entity one can take advantage of the mangrove (Constitutional Court of Ecuador, Case No. 0796-12-EP, 19).

Invisibilization jurisprudence	Yahuarcocha Lagoon (2009) - Case No. 0008-09-EE	Due to high levels of pollution inside the lagoon (urban growth, sewage water disposal and livestock) the President declared an Emergency State, as a duty of the State to recover the degraded natural landscapes and natural resources management.	The sentence declare the constitutionality of the supreme decree, justifying that guaranteeing the healthy environment, nature´s rights are respected. This case keeps dragging the Court's anthropocentric perspective, since it relates the healthy environment with human rights such as health. At this moment the Court remains low on pronouncing intrinsically about nature.
	Vilcabamba River (2018) - Case No. 0032-12-IS	The Municipal Government of Loja, deposited stones and excavation material extracted from a road construction to theVilcabamba river. In the second instance, the violation of the rights of nature was declared and a series of recommendations were made by the undersecretary of environmental quality. However, the Municipality did not comply and another action was demanded by the locals.	In this instance, the Court denied the action alleging that it was a certification from the Loja Provincial Environmental Directorate stating that the Environmental Remediation Plan for the Vilcabamba road had been reviewed and that it complied with the technical requirements. The Court limited itself to a formal control and relied on environmental reports from the defendant agencies themselves, without questioning any bias (Avila y Santamaría, 2023, 24). At the beginning, the violation was recognized and it could be the first case in recognizing the damages on nature itself, nevertheless the ineffective control from the Court limited these advances.

Jurisprudence of Rhetoric and Timidity	Mining activities prohibition referéndum (2020) - Case No. 6-20-CP GMO agrobiodiversity (2021) - Sentence No. 22-17-IN	The city hall of Cuenca in September of 2020 requested to the Constitutional Court the approbation of the referendum to forbid mining activities in medium and large scale in five areas of water recharge in Cuenca. Even that the sentence approved most of the points and questions to approve the referendum. The Court dictated some statements that were not enough.	The Court established that part of the recitals of the referendum were conditioning the vote…- they induce the voter to a response and do not use value-neutral language when conditioning that in order to make the development regime established in the Constitution effective, it is essential to avoid all destructive and harmful activities in water sources , water recharge areas, etc.(Constitutional Court of Ecuador, Case No. 6-20-CP, 29). Finally, it affirmed that the retroactive effects could affect several interests (mining) and rights (nature) (Avila y Santamaria, 2023, 27).
Nature´s rights jurisprudence	Mangroves Mataje-Cayapas (2015) - Case No. 0507-12-EP	Marmeza Company, built a shrimp farming infrastructure on land overlapping the Mataje-Cayapas ecological reserve and was sanctioned and ordered to vacate. The company claimed a violation of its rights and filed a protection action. It argued that it has owned the land since before the reserve was established. This was the first biocentric recognition from the Court (Narvaez, 2025, 308) and the first sentence to introduce the restoration concept.	In the second instance, the Court recognized that nature is a rights-bearing subject and must be protected under the Constitution in harmony with *sumak kawsay*. Restoration should ensure the recovery of its cycles and functions. Additionally, the Provincial Court failed to assess potential harm to the mangrove, a biodiversity habitat, caused by shrimp farming. The impact of the design, construction, and operation of the pools should have been evaluated, especially within an ecological reserve (Constitutional Court of Ecuador, Case No. 0507-12-EP, 15).

	"Los Cedros" Forest (2017) - , Case No. 1149-19-JP/20	In 2017, mining concessions were authorized in the Los Cedros Protected Forest. A protection action was filed for violating nature's rights and failing to consult Indigenous communities. After initial rejection, the Court in 2021 accepted the claim, recognized the violation, and ordered full reparation.	The ruling concluded that mining in Los Cedros violates nature's right to preserve and regenerate its vital cycles, structure, and functions. It warned that species extinction would reduce biodiversity. This would severely impact the ecosystem's ability to recover. Comprehensive protection is therefore essential (Constitutional Court of Ecuador, case No. 1149-19-JP/20, parr. 76, 83, 116, 124).
	Unconstitutionality of the COA – Mangroves (2021) - Case No. 22-18-IN/21	In 2021, some ecological organizations demanded the unconstitutionality of some articles from the COA that allowed the construction of infrastructure and the development of monoculture plantations in mangroves; and that regulate the right to prior consultation and environmental consultation.	The Court recognized mangrove ecosystems as rights-bearing subjects and declared certain activities, such as monoculture and other productive uses, unconstitutional if they harm vital cycles. Public infrastructure was allowed only if it did not disrupt these cycles. The Court reaffirmed the primacy of prior consultation and highlighted the essential value and special protection needs of mangroves (Constitutional Court of Ecuador, Case No. 22-18-IN/21, par: 18, 22, 26, 29, 34).
	Monjas River (2022) - Case No. 2167-21-EP	In the Monjas River basin, pollution and poor water management have caused erosion and ecosystem damage, affecting housing and informal neighborhoods. Ann and Pamela Monge sued Quito's Municipality for violating rights to a healthy environment, health, housing, and nature. Initial claims were rejected. Ultimately, in a special appeal, the Court ruled in their favor and recognized, among other rights, nature's rights (Narvaez, 2025, 356).	The Court held that the Municipality should have avoided discharges causing erosion and should have decontaminated the water. Its omissions created an unsafe habitat, harmed nearby homes, and disrupted the Monjas River ecosystem. Municipal actions affected the river's flow, bed, and banks, accelerating erosion. The Municipality was ordered to ensure the basin's balance and sustainability (Constitutional Court, Case No. 2167-21-EP, Par. 79, 88, 89 95).

	Aquepi River (2021) - Case No. 1185-20-JP/21	In 2015, SENAGUA (water public authority) authorized the use of Aquepi River waters for domestic, irrigation, and tourism purposes, reducing its flow. The people from Santo Domingo de los Tsáschilas filed a protection action, claiming violations of rights to health, water, and nature. After initial dismissal, the appeal was accepted.	In 2021, the Court recognized the Aquepi River as a rights-bearing subject, as part of an interconnected ecosystem vital to life, it went further recognizing the ecological functionality of the river. It ruled that SENAGUA violated its right to ecological flow and that the provincial government failed to conduct mandatory environmental consultations. The Court stressed that disrupting the river's natural flow breaks ecosystem connectivity and harms its cycles and evolutionary processes. It imposed state obligations to protect, restore, and respect the river's integrity (Constitutional Court of Ecuador, Case No. 1185-20-JP/21, par. 54, 55, 60, 65, 69).
	Piatua River (2019) – Case No. 16281-2019-00422	In 2017, a hydroelectric project on the Piatúa River was authorized without prior consultation with the Kichwa People of Santa Clara. Outdated and incorrect data were used, ignoring the endangered biodiversity in the area. Approval was granted to divert 90% of the river's ecological flow, severely affecting environmental balance. In the first instance, a judge denied the protection action, but the Provincial Court of Pastaza overturned the decision (Observatorio Juridico de derechos de la Naturaleza, 2022).	In the second instance, the Court recognized the violations of the Rights of Nature, and determine: the paralyzation of the hydroelectric construction, revoke the authorization for the use and exploitation of the flow granted to the company GENEFRAN S.A., revoke of the environmental license (Constitutional Court of Ecuador, Case No. 16281-2019-00422, 43).

Source: Own elaboration.

The CCE had different stages on the way to fully recognizing nature´s rights. It's very interesting that the path of the binding jurisprudential line hasn't been straight at all. It denied the allegations against nature in 2014 in the Soroche case and the Manabí mangrove, and kept its anthropocentric criteria, neglecting the ecosystems and the human effects on the rivers. However, it was a hole in 2009 with

the Yahuarcocha case, in which the environment was given more weight than pollution and other activities that were compromising the lake and the health of the people.

Even though it took the Court slow advances and setbacks to finally get to 2017, on Los Cedros case that marked a new line that kept advancing forward in new criteria over nature and other collective rights. In the middle, there were some rhetorical shakes in 2018 with the Vilcamba river case that went back to environmental regulations over river's rights recognition, in comparison with the Mataje Mangroves case (2015), which recognized the mangrove ecosystem cycle and the first restoration sentence. This “in and out” on the full recognition of nature in cases involving rivers, ecosystems, and forests showed that the interpretation work of the CCE was divided and lost between anthropocentric criteria attached to the dead standard of codes and regulations and an attempt to approach a biocentric interpretation that appealed to the unknown and bet beyond the law, but to a full recognition of nature.

In the cases involving rivers, this interpretation was marked by the main issue and nature of the case. For example, the Soroche case (2014) and the Vilcabamba case (2018) were very similar: the river was treated as a means for the development of public projects. In both cases, the Court's criterion of ignoring project documentation without questioning whether it is really compromising the river cycle and its ecological flow, has been the main argument to avoid the recognition of the violation of the rights of nature.

Furthermore, in subsequent cases such as the Chibunga river (2021), Aquepi (2021), Monjas (2022), the Court's criteria have evolved, questioning the public actions that have altered the cycles of the rivers and have ordered their repair, committing the State institutions to carry them out. The case of the Piatúa river compromises future litigation involving megaprojects, such as hydroelectric plants. The Court recognizes that the reduction of the ecological flow is a violation of the river's rights and guarantees its protection by suspending the environmental license and halting the work. It remains to be seen if this criterion will continue to evolve or if it will mean another shake in the middle of the construction of a jurisprudential guarantor line in favor of the rights of the river and, therefore, nature.

2.4 REPARATION AND RESTORATION MEASURES FOR NATURE

Before embracing the right of reparation for nature, it is essential to understand what reparation means and how this right evolves from international law[7] towards regional and national laws. The concept itself comes to "redress" the grave human rights violations in war contexts, such as World War II. De Grieff (2006) shares a juridical concept based on the international law perspective, in which the term is used in a wide sense to refer to all those measures that may be employed to redress the various types of harms that victims may have suffered because of certain crimes, emphasizing that this concept must answer to a variety of reparations forms[8] and programs[9] (De Grief, 2006, p. 452). Magarelli (2007) considers that reparations should serve as a vehicle for acknowledging past violations and state responsibility for harms as well as a public commitment to respond to their enduring impacts (Magarelli, 2007, p. 2).

Both consider reparation as a public task that involves a commitment by the State to address grave human rights violations. It is important to acknowledge that this commitment is independent of the historical Governments that might have committed the violations. It is the responsibility of the State to address the reparations and sustain this right over time.

As examples of reparations sustained over time, there are the cases of the dictatorships in Latin America. Between the 1960s and the end of the Century, countries like Guatemala, Chile, Perú, Colombia, and Argentina faced dark periods of dictatorships, civil wars, and Internal Armed Conflict (IAC). After multiple trials, the governments were condemned to proceed with reparation measures for families and direct victims. In the Argentine case, the creation of the National Commission on the Disappearance of Persons was established as a satisfaction reparation form for investigating crimes committed during the dictatorship (CONADEP, 1984). The case of Colombia was one of the latest to address the reparation measures after 52 years of conflict, with the creation of the Peace Accord

[7] Art. 8 of the Universal Declaration of Human Rights (effective remedies). Art. 10 of the American Convention, (adequate compensation), Art. 63 (fair compensation), and Art. 68 (compensatory damages). Art. 9 of the International Covenant on Civil and Political Rights (enforceable right to compensation), Art. 14 of the Convention against Torture (fair and adequate compensation including the means for as full rehabilitation as possible), Art. 50 of the European Convention about "just satisfaction to the victim". Art. 75 of the International Criminal Court Statute (faculty of add reparation relative principles such as restitution, compensation and rehabilitation).

[8] When the author refers to reparation forms, he uses these concepts: Restitution, to restore victims to their original situation, including rights like citizenship, employment, or property; Compensation involves financial redress for a wide range of damages, including physical, mental, and moral harm; Rehabilitation provides medical, psychological, social, and legal support to aid recovery. Finally, satisfaction and guarantees of non-recurrence include truth-telling, official apologies, judicial recognition of dignity, the recovery of remains, sanctions against perpetrators, and institutional reforms to prevent future violations (De Grieff, 1992, p. 452).

[9] In this context, 'reparations' refers to the attempts to provide benefits directly to the victims of certain types of crimes. In this sense, programs of reparations do not take truth-telling, criminal justice, or institutional reform, for example, as parts of reparations (ibid., p. 453).

(2016), Special Jurisdiction for Peace (JEP), and institutional reforms as a guarantee of non-recurrence.

As seen in the mentioned examples, there are multiple ways to determine the reparation over grave human rights violations considering the actors, individually or collectively (De Grieff, 1992; Shelton, 2005; Magarelli, 2007), the impact over the time (Shelton, 2005, p. 103) and the participation of the actors. As De Grieff (1992, p. 455) questions, what should victims, in fairness, receive? Specifically, in the last point, a reparation program must consider the perceptions of society as a whole and should ideally be viewed by the rest of the population as fair and legitimate (Magarelli, 2007, p. 9).

In other words, the participation of victims and victim groups in the design, implementation, and oversight of reparations programs can be critical to ensuring that reparations are meaningful, timely, and effective (ibid*.).* People expect their rights to be recognized and therefore be considered when requesting reparation measures and when developing public programs and policies that may lead to the reparation of their violated rights. Otherwise, this could be viewed as a form of "welfarism" or a purely political act that doesn´t address the remedies for the violations. What distinguishes reparations from assistance is the moral and political content of the former, positing that survivors and survivor communities are entitled to reparations because their rights have been violated. Thus, reparations can serve as a jumping-off point for efforts at social integration that are key to development (Roht-Ariaza and Orlovsky, 2009, p. 2).

Given the oversight of international law contributions to the principles of reparation rights, how can they be related to nature? In what manner can reparation be applied towards non-human entities? Christopher D. Stone (1972) analyzes the first case in the U.S. to question whether trees, rivers, and forests should have the "standing" as corporations or underage people, to protect the Mineral King (Sequoia National Park) from being exploited by big corporations. Even though he didn´t approach the reparation concept for nature, his proposal regarding the standing of nature was the basis for considering that if nature is a rights holder, it can suffer damages and violations; therefore, it demands judicial reparation (Magil and Greene, 2020, p. 55).

This legal and judicial acknowledgment of nature´s rights, as previously developed, addressed the whole standing towards "Earth Jurisprudence". Many authors mentioned this concept as a way to give a name to all the laws and regulations that give formal recognition to the reciprocal relationship between humans and the rest of nature (Filgueira and Mason, 2011, p. 192) or to build a new

jurisprudence to call for nature and embrace the connection between Earth justice and social justice (Pelizzoni, 2025, 7; Koons, 2011, p. 45).

Regarding reparation within this "Earth Jurisprudence", the wave of nature´s right to reparation that began in Ecuador has expanded to other countries and legal systems. In Colombia, the Rio Atrato was recognized as a rights holder by the Constitutional Court[10], and it ordered the State to take concrete measures for ecological restoration, clean up the rivers, halt illegal mining, and design an action plan with community participation. In New Zealand, after 79 years of the Maori lawsuit for the Whanganui river´s guardianship, the Parliament recognized the river´s rights with a legal status through "*Te Awa Tupua (Whanganui River Claims Settlement) Act 2017".* This document also established a symbolic economic compensation to the river and a bicultural co-government between Maorí people and the State to restore their own ecological and spiritual health (Pelizzoni, 2025, p. 230).

In the same year, the High Court of Uttarakhand (India) granted legal personhood to the Ganges and Yamuna Rivers, their tributaries, their glaciers, and surrounding environmental features. As reparation measures, it ordered the restoration of their flow, cleanliness, and integral protection (ibid., p. 232). Unfortunately, due to certain institutional and political limitations, the Uttarakhand government argued that the implementation was unworkable, as it assigned overly broad legal responsibilities to the state government, such as legally representing the rivers and being held accountable for any damages or litigation on their behalf. Afterwards, the sentence application was suspended by the High Supreme Court.

The global line of reparation rights for nature is directed to "restoration" when dealing with cases involving water bodies or ecosystems, such as forests or rivers. Courts have found in restoration a way to exercise reparation for the elements of nature, as in the cases cited above. Therefore, two fields of action must be clearly defined: reparation corresponds to the scope of the rights and guarantees of individuals, while restoration should focus on ecosystems (Gudynas, 2014, p. 179).

To define restoration, it should start from an ecological perspective, which considers the damage, degradation, or destruction of an ecosystem in itself. It should be a process of assisting the recovery of the ecosystem (van Andel, Grootjans, 2006, p. 16).

In the Ecuadorian context, the right of nature to be restored is recognized within Art. 72 of the Constitution, that imposes the obligation on the Ecuadorian state to establish the most effective

[10] Constitutional Court of Colombia (2016), Sentence N°T-622/16.

mechanisms for restoration and to adopt adequate measures to eliminate or mitigate harmful environmental consequences, in cases of severe or permanent environmental impact, including those caused by the exploitation of non-renewable natural resources (Political Constitution of Ecuador, 2008, Art. 72).

Moreover, the restoration right is developed in the *Ley Orgánica de Recursos Hídricos Usos y Aprovechamiento de Agua* (2014), where it is recognized the protection of watersheds and ecosystems from all contaminations, and the right to the restoration and recovery of ecosystems due to the effect of imbalances produced by water pollution and soil erosion (Ley Orgánica de Recursos Hídricos Usos y Aprovechamiento de Agua, 2014, Art. 64). Finally, the Restoration and recovery of water is recognized, and compensation must be divided for individuals who have been harmed and for the recovery of nature and the ecological damage caused (ibid., Art. 66).

According to Ecuadorian norms, the restoration of water bodies addresses water pollution and the degradation of their ecosystems. It is unclear whether large infrastructures, such as hydroelectric dams, that modify water flows, require a specific normative framework. On the other hand, the CCE, in the 2019 Piatua River case, highlighted this inconsistency regarding the impacts caused by other activities, which involve not only water pollution but also the impact of a hydroelectric project that threatened the water flow and the natural regeneration process. As described in Table 2.1, the violation of nature´s rights were recognized.

In this specific case, the Court imposed the following restoration measures: suspension of the hydroelectric project, an environmental audit, annulment of the administrative authorization, and specific management plans for endangered species within the project's influence area.

This line towards an impact to water flows, rivers and lakes developed by the CCE is delimiting the actions of the companies and the power of the State, through its ministries such as the Ministry of Environment (MAATE), establishing the creation of management plans or continuous monitoring systems as in the case of the Monjas River, not only as restoration, but to prevent future incidents. The State incorporates these guidelines into its actions to ensure respect for the rights of nature in subsequent cases.

However, in many of these sentences, as in the case of Rio Piatúa, the measures were imposed in 2019. Still, another case in litigation, such as the Dulcepamba River under similar facts, has hydroelectric companies as perpetrators. The actors have continued their actions without observance of previous constitutional provisions. The role of the State has been reduced in its actions, maintaining

the same standard by which it was subjected before the CCE. Its mandate of supervision and oversight of large-scale projects, such as hydroelectric plants, is questionable.

What can be interpreted is that the work of the environmental authorities in Ecuador still depends on the Constitutional signal to promote their own constitutional mandates. Ecological restoration would not be necessary if environmental authorities paid greater attention to the precedents they have already established, thereby undertaking a new line of administrative supervision in tandem with environmental and nature rights.

CHAPTER 3
DULCEPAMBA RIVER CASE

In the previous Chapter, it was analyzed how the rights of nature have been enforced within the legal framework of Ecuador and how, through the establishment of a binding line by the CCE, there have been restorations of ecosystems and the paralyzation of works that threatened rivers and other bodies of water. Based on these precedents, the case of the Dulcepamba River was entered as a case selected to continue the line of the Court or, failing that, to change it. This Chapter will provide the context of the Dulcepamba River case and explain how scientific support and community sentiment have led to this case reaching its final judicial instance.

3.1 THE CONTEXT

The Dulcepamba River belongs to the micro-basin that bears the same name. It flows into the Babahoyo River sub-basin, which in turn flows into the Jujan River sub-basin, ultimately reaching the Guayas River (Decentralized Autonomous Government of San José del Tambo, 2015). The waters of the Dulcepamba originate in the highlands of the Andean Plateau and flow down to the foothills of the western Andes Mountain range.

The communities within the micro-basin rely on the river's tributaries for human consumption, livestock watering, and small-scale irrigation that supports food sovereignty. Additionally, the river hosts an aquatic ecosystem that includes river otters, various fish species, and macroinvertebrates.

The community of San Pablo de Amalí is one of the communities within the micro-basin. It is located in the province of Bolívar, in the Canton of Chillanes, Ecuador. It is made up of approximately 120 families (480 people) (CEDHU, 2019, p. 2). This is a rural farming community with indigenous and montubio[11] roots (Conrad, 2024, p. 1). Its livelihood depends on the cultivation of cacao, coffee, citrus fruits, bananas, and fishing in the Dulcepamba River.

[11] According to the national house of cultures (2020), the Ecuadorian "Montubios" are half-breed people of peasant origin who live in the rural areas of the country's coastal provinces. They are spread throughout the provinces of Guayas, Los Ríos, El Oro and Manabí, and in other areas to a lesser extent. The Ecuadorian constitution of 2008 recognize them as an ethnic group. https://casadelacultura.gob.ec/2025.php/postnoticias/montubios/

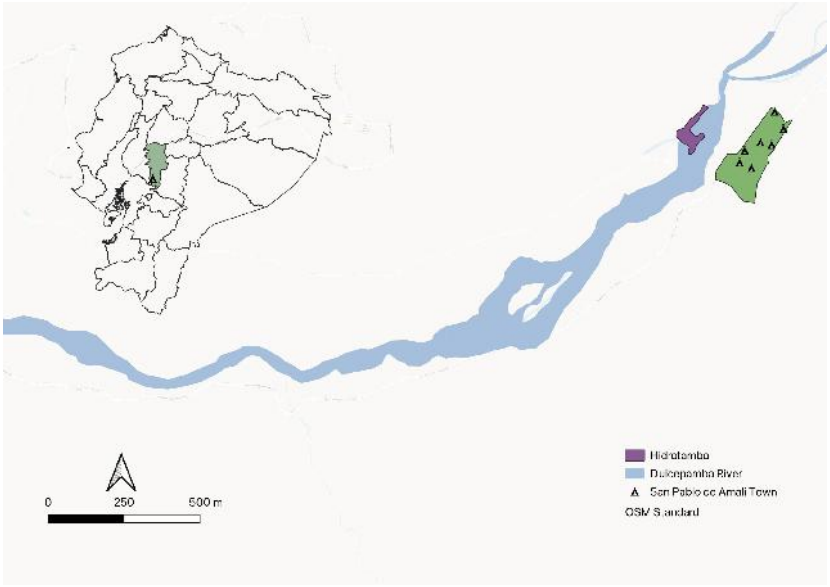

Figure 3.1 Dulcepamba River and San Pablo de Amali Town.

Source: Own elaboration.

The hydrological dynamics of the watershed exhibit distinct seasonal patterns, with a peak in rainfall occurring between December and May, averaging between 93 and 257 mm per month. In contrast, during the dry season – from June to November – precipitations decrease significantly, with monthly averages ranging from 9 to 31 mm (Sánchez & Alvarez, 2024, p. 3). Due to this unimodal rainfall regime, the flow of the Dulcepamba River varies according to the precipitation and corresponding surface runoff during the dry and rainy seasons. Nevertheless, the riverbed had historically adapted to these fluctuations in flow. The river maintained a stable channel and dynamic equilibrium, and the community was traditionally located at a safe distance from the riverbed. No significant impacts from river flooding had previously been recorded in the community. This situation changed with the installation of hydroelectric infrastructures from Hidrotambo S.A. in 2012.

The hydroelectric company Hidrotambo S.A. (hereinafter Hidrotambo) has caused socio-environmental impacts on the Dulcepamba River and the local community. The plant is located on the Dulcepamba River and was designed as a "run-of-the-river"[12] hydroelectric project (Figure 3.2). The hydroelectric facility has a potential capacity of up to 8 MW of electricity, although it generates significantly less in practice (CENACE, 2024). In the aerial photograph, the intake structures built by Hidrotambo can be identified. The green line indicates the water conduction channel. The blue line

[12] According to the UN Climate Technology Centre and network (CTCN) the run-of-river hydropower use the natural downward flow of rivers and micro turbine generators to capture the kinetic energy carried by water. Typically, at a high point along the river a dam is constructed to create a headpond in front of the dam. From the dam water is diverted from the river through a pipeline ('penstock') which leads to a downstream powerhouse. (…) The water in the penstock is pressurized so that the power is strong enough for driving the turbines in the power house and produce electricity. From the powerhouse the water is led back to the river through a channel, which is called 'tailrace' (n.d. Renewable Energy UK, 2006).

shows the location of the Dulcepamba River's original course before it was diverted by the hydroelectric company. The red line marks the distance between the original river course and the nearest house (135.9 m). The orange line shows the distance between the current river course and the same house (35.1m). The yellow arrows indicate the direction in which the spillway evacuates excess water and debris that does not enter the intake channel.

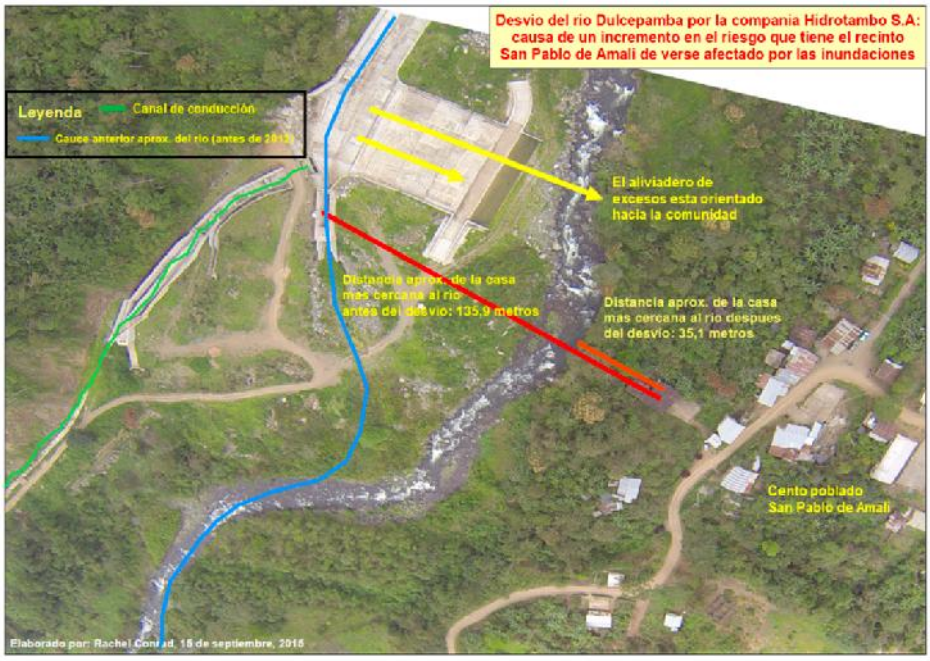

Figure 3.2 Dulcepamba river anthropic deviation distance with the San Pablo de Amalí community.
Source: Dulcepamba Project, 2015.

The diversions caused by the hydroelectric plant have been the main reason why the community has repeatedly opposed the project. Moreover, the community was not consulted regarding the construction or subsequent operation of the facility. These diversions remain in place and continue to pose a threat to the community whenever the river swells during the rainy season. In the following section, the project details and the origins of the conflict will be examined.

The prior consultation process was flawed (2004), as only residents from the parish of San José del Tambo were present, even though the directly affected area (DAA) included three communities: San José del Tambo, Changuil de Vainillas, and San Pablo de Amalí (Environmental Impact Assessment-EIA, 2004). Key authorities such as the National Electricity Council (CONELEC) and the National Water Secretariat (SENAGUA) were also absent during these initial socialization phases (Conrad, 2024, p. 2). As a result, the minimum requirements for a proper prior consultation were not fulfilled.

Despite these technical shortcomings and the lack of proper engagement with the directly affected communities, the Ecuadorian State, through CONELEC, approved and granted an Environmental

License in 2004 for the construction and operation of the "San José del Tambo Hydroelectric Project" on the Dulcepamba River.

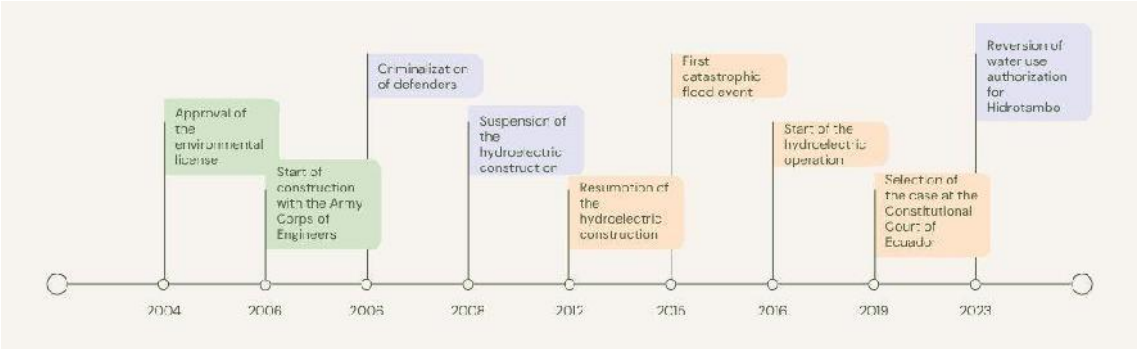

Figure 3.3 Timeline of the conflict with Hidrotambo
Source: Own elaboration.

As can be seen in the timeline, the Project faced two stages. In 2006, the year was marked by numerous conflicts and criminalizations of the San Pablo de Amalí Community[13], which opposed the Project due to a lack of prior consultation and the invasion of their lands through excavations and tube installations. Later on, in 2008, the project was suspended for four years. In 2012, the construction was retaken by another contractor under the same EIA, without involving the Community in consultation, and with the same attacks on the properties of the San Pablo de Amalí people.

The project started operations in 2016. In the meantime, between 2013 and 2014, without being considered in the EIA, Hidrotambo used exorbitant amounts of dynamite to create space for its water intake structures in the river, as well as for its access road, which runs along the right bank of the Dulcepamba River for approximately 3 km (Conrad, 2024, p. 10). That same year, the company diverted the river over 100 m toward San Pablo de Amalí to install its intake and conduction structures within the river's original and natural course. In doing so, the company left the new riverbed just a few meters away from the homes and farms of local community members (ibid.) (Figure 3.2). According to the EIA, this diversion of the river was intended to be temporary, lasting only during the construction of the intake structures (EIA, 2012, p. 142).

Nevertheless, a tragedy[14] occurred in 2015. During the rainy season, part of the intake structure was damaged. Instead of reverting the river to its original course, the company left it in its current position

[13] Multiple attacks were addressed to the opposers of the Project. The attacks came from the state army of Ecuador, which were safeguarding the construction. The conflict escalated to attacks very close to schools. The teachers concluded the year in advance, due to the continuous attacks with tear gas near the school. http://www.llacta.org/organiz/coms/2007/com0140.htm#nota2

[14] On the night of March 19, 2015, a river swell displaced Hidrotambo's stone "wall" located upstream from the intake structures, which contributed to the formation of a blockage in the diverted and narrowed river channel, just downstream from the excess spillway. Members of the community called the police emergency service to plead that the agency compel

and reinforced it with a rudimentary stone wall (Figure 3.4), aiming to prevent the accumulation of excess water and damage to the infrastructure. The debris collapsed the wall, and all of it went towards the community.

Figure 3.4 The Hidrotambo wall to protect its infrastructure.
Source: Rachel Conrad, 2015.

The wall was not part of the work design, nor was it evaluated inside the EIA, nor in any other official document. The changes artificially introduced by the company to the river persisted over time, resulting in soil erosion and permanent alterations to the ecosystem (Conrad, 2024, p. 11).

The events that occurred in 2015 could have been prevented, according to various technical reports, including those from the Ombudsman's office in 2013, which recognized the project risks for the Community, emphasizing “the erosion at the base of the cliff that supports the land where the houses are located, could potentially cause a landslide” (Defensoria del Pueblo, In situ report, 2013, p. 6). A year later, it exhorted SENAGUA, CONELEC, and Hidrotambo to apply preventive measures, due to a potential risk of collapse (Defensoria del Pueblo, In situ report, 2014).

After the tragic events, the Ombudsman´s office and the Electricity Regulation and Control Agency (ARCONEL) identified the need for protection works to prevent a similar flood from damaging the intake structures (Defensoría del Pueblo, In situ report september, 2015; ARCONEL, Inspection report N° DNCG-0815-074, 2015, p. 11). Despite the tragedy and reports from the authorities,

Hidrotambo to open its drainage gate, in order to at least relieve some of the water flow accumulating behind the blockage. However, Hidrotambo did not take any action. As a consequence, it eroded the riverbanks undermining farmland, twelve houses, the only access road to the community, and, most tragically, claiming three human lives (Defensoria del Pueblo, In situ report, 2016).

Hidrotambo hadn´t built the containment wall based on technical studies; it remained with temporary works on breakwaters (Defensoría del Pueblo, In situ report, December 2015).

In 2016, the Environmental and Transitional Energy Ministry (MAATE) identified activities that are not included in the EIA and requested to Hidrotambo to remove the material that is affecting the natural course of the river, in order to prevent further harm to the environment and to the downstream population, while also ensuring that this removal does not alter the river's natural conditions (MAATE, MAE-DNCA-2016-0073, 2016).

Since then, impacts such as landslides affecting productive land, pig farms, houses, and the access road to the river – caused by the hydroelectric plant during the rainy seasons – have occurred every year (2017, 2018, 2019, 2020, 2023) (Conrad, 2024, p. 15). Many people abandoned the community and sought alternative places to live in San José del Tambo, especially those families who lost their homes. Some others send their children far away during the rainy season to avoid exposing them to another flood.

3.2 THE CONFLICT

This second stage involves how the conflict between the Hydroelectric company and the San Pablo de Amali Community unfolded. How the process evolved from an administrative process involving water and property rights to the Constitutional path demanding rights for the river.

3.2.1 From territorial conflict to water conflict

The conflict between Hidrotambo, the community, and the river expanded to include other causes generated by the company's pervasive presence in the territory. While the downstream communities were reclaiming their territory, the upstream communities were also affected by the use of the river's water.

According to the database of the Dulcepamba Socio-Environmental Project, Hidrotambo has not stopped presenting administrative opposition to more than 3193 requests for water use submitted by communities in the watershed, to increase the flow of water draining to its power plant, despite the constitutional priority of water uses[15] that prioritizes community and nature uses over industrial uses (personal communication, July 2, 2024).

These oppositions to water rights have affected the quality of life for families, as households have had to wait longer on average to have their water rights confirmed (averaging 6 to 8 years) compared

[15] According to the Ecuadorian Constitution, energy sovereignty will not be achieved to the detriment of food sovereignty, nor will it affect the right to water (Constitution of the Republic of Ecuador, 2008, art. 15).

to the average waiting time for Hidrotambo's unopposed processes (2.4 years) (ibid.). People's access to public funding for irrigation systems is limited; if communities do not have water use authorizations, they may face severe sanctions (Organic Law on Water Resources, Water Uses and Development, Art. 151 (c), 2014).

Consequently, it has become a crossroads for the communities and a constant administrative battle, from requests to the Local Water Authority to appeals to higher instances, such as the MAATE, which can take between five and seven years to be resolved.

3.2.3 The legal battle with Hidrotambo

In 2017, SENAGUA granted Hidrotambo a new water and controversial[16] use authorization (1345-2016). Within the Dulcepamba River basin, there has been a hoarding of available water resources for prioritized uses, constant harm to aquatic life and the vital cycles of nature, due to an ecological flow that is minimal, inadequate, obstructed, and at times entirely absent. Furthermore, the river channel, as well as the lives and productive livelihoods of the San Pablo de Amalí community, have been severely affected by ongoing erosion, undercutting, and anthropogenic flooding caused by hydraulic infrastructure and the diversion of the river (Conrad, 2024, p. 22).

Multiple institutions, such as the Ombudsman´s office, acted on behalf of community rights to reverse water concessions that hinder access to water use and irrigation (ibid.). In 2019, SENAGUA, as the maximum authority at the moment (the MAATE absorbed it), issued a new Resolution[17], modifying (but not revoking) Hidrotambo's water use authorization. It established a redesign and reconstruction within the next two years, limiting its operation to the winter months (December to July), leaving a minimum ecological flow of 1.46 m^3/s of water, installing a hydrometric station on the Dulcepamba River upstream of the catchment site, and conducting gauging campaigns at the project's catchment site.

Nevertheless, Hidrotambo did not comply with the Resolution. It attempted to delay the process by filing actions before the Constitutional path, alleging violations of due process. Initially, the resolution of the Water Secretariat was annulled. On appeal, the communities of Dulcepamba again had hope when, in 2022, the Provincial Court of Tungurahua ruled in their favor, reinstating the administrative resolution (Paz, 2022).

[16] Later, the same water authority published a new report (SENAGUA SDHE-Q-18-19-293) determining that the 2017 water authorization haven´t observed the minimal water flows to the water users in the Dulcepamba river basin (Conrad, 2024, p. 22).
[17] SENAGUA. Resolution of the Extraordinary Appeal for Review 2018-008, 2019.

In March 2023, a new flood occurred, undermining the only access road to the San Pablo de Amalí community and the land belonging to community members, while also putting more than ten houses at risk, according to Mongabay (2023). As a result of these investigations, the Risk Management Secretariat issued a report categorizing the community as vulnerable and holding Hidrotambo responsible for the wall that protects its facilities, as the cause of the diversion (Risk Management Secretariat, Report Nº. SGR-IASR-05-2023-016, p. 26).

Due to these new catastrophes, citing the company's persistent non-compliance with the grave breaches of the obligations established in Administrative Resolution No. 2018-0[18], as well as violations of the Organic Law on Water Resources, Uses, and Exploitation. The MAATE resolved in May 2023 to revoke the water license, an unprecedented milestone (Dulcepamba Project, 2023).

Unfortunately, despite the sacrifice of an entire community, the company has failed to comply without any repercussions from any public authority. This led the community in January 2024, under the support of the Dulcepamba Project, to request the forced execution of administrative resolution 2018-008, which is also unappealable. To date, there have been no pronouncements from MAATE, and the execution is awaited.

The lack of administrative enforcement throughout the years of Hidrotambo´s negligent operation was one of the main arguments for presenting the protection action to the Constitutional Court. Initially, the river did not appear as an affected party.

In 2019, the CCE proceeded to select the case, along with four other cases under the theme of impacts on the rights of nature. According to Emily Conrad, one of the Dulcepamba Project correspondents, the petition presented to this Court did not consider the rights of nature as one of its main approaches (personal communication, June 7, 2025). However, the CCE considered it optimal to select the case to continue expanding its jurisprudence in this matter. The selected cases were: Los Cedros Protected Forest, Aquepi River, Dulcepamba River, Sinangüé, and Monjas River *(*ibid*.)*.

Curiously, the other cases with which the Dulcepamba River entered the Constitutional Court's selection chamber have already been sentenced, and the respective restorations have proceeded with the recognition of nature. In the case of the Dulcepamba River, the reason for the delay is unknown, and it is still awaiting a ruling. It was not until 2024 that the presentation of evidence was called for.

[18] Among the key violations identified were: the complete obstruction of the ecological flow; the failure to redesign and reconstruct the intake, conduction, and flow regulation structures—including the required return of the river to its original course and the implementation of protective measures against erosion and flooding caused by the hydroelectric plant; and the absence of a hydrometric station to monitor the flow levels of the Dulcepamba River: https://www.proyectodulcepamba.org/20230124-boletin-reversion-inspeccion

Along with the constitutional process, the river has faced other administrative processes, as mentioned above, before the MAATE. However, it is essential to clarify that the public institutional vision does not emphasize the river as a subject; it is based solely on technical conclusions regarding its flow and the persistent risk to the community of San Pablo de Amalí. Nevertheless, because of these processes, different studies were conducted on the Dulcepamba River to analyze the reduction of its ecological flow, loss of biodiversity, change in soil use, and the anthropic deviation of the river caused by Hidrotambo.

3.3 THE SCIENTIFIC BACKUP

The production of these scientific studies is what sustained the more than ten years of administrative and judicial proceedings. Unfortunately, despite all the legal and scientific support, the Company did not make any corrections to its initial project, increasing the risk to the community and altering the natural state of the river.

3.3.1 River deviation

Part of the scientific evidence presented to the CCE reported that the natural flow of the river was manipulated and altered to accommodate the hydroelectric infrastructure and its operations.

During the land use change study, it was identified that the breakwater wall is an anthropogenic stone structure that diverts water from the river to the hydropower plant (Espinosa et al., 2022, p. 4). In the same study, using satellite images from 2001 and 2012, the dynamic stability of a river was primarily achieved, indicating that the flood flow passes through a single channel that has formed a defined slope and maintains its cross-section over time, with no anthropic intervention (ibid. p. 5).

In another study of the University of California, Davis (2017) showed that the flooding in 2015 could not be classified as a natural disaster, as the rains did not cause an unusual flood (Newmiller et al., 2017, p. 60). The model used in the study indicates that when Hidrotambo's right of use is added to the minimum required ecological flows approved by CONELEC in 2012, the total exceeded the average daily flows at San Pablo de Amali on 69.25% of the days during the period of record (ibid., p. 3). The rainfall-runoff and riverbed conditions in March 2015 were low compared to other historical storms that didn´t cause any catastrophe, such as the 2015 events (ibid., p. 4).

The study identified that the blocking of the river was caused by debris accumulation in Hidrotambo´s water intake structure. This displaced stream flow creates new pathways for water, resulting in higher water levels and potentially contributing to erosion and other damage in flooded areas (ibid., p. 23). Comparing historical hydrological models of the Dulcepamba micro basin with the 2015 flood

hydrograms reveals that the model's results and statistical analysis of floods contradict the findings presented in the Hidrotambo S.A. report.

Even for this extreme flow, an unobstructed flow presents no risk of flooding on the left bank and in the town of San Pablo de Amalí (ibid., p. 72). It was a rainfall-runoff event with a periodicity (return period) of 6 years (ibid., p. 2).

In summary, the report indicated that the March 2015 event on the Dulcepamba River would not have caused the damage that occurred in San Pablo de Amalí without other human activities at the site, particularly the constructions within the channel, the detour of the flow, and the obstructions by debris.

In 2023, the Risk Management Secretariat reported that after the construction of the Hidrotambo hydroelectric dam, the community had experienced changing conditions related to the alteration of the riverbed, evolving from a stable to an irregular one as part of the environmental impacts (Risk Management Secretariat, Report No. SGR-IASR-05-2023-016, 2023, p. 12). Furthermore, among the conclusions and recommendations, it is noted that the company should remove the breakwater wall and conduct engineering works to redirect the river to its natural position (Risk Management Secretariat, p. 26).

This particular event was the first proof of Hidrotambo's negligence. It also set a precedent in the territory and along the course of the Dulcepamba River, modifying it and altering its direction (Figure 3.5). These studies support the current Constitutional Court case, demonstrating that if the hydroelectric structures were not present, the river would flow normally, even though potential rainfalls would occur, as it happened in the past.

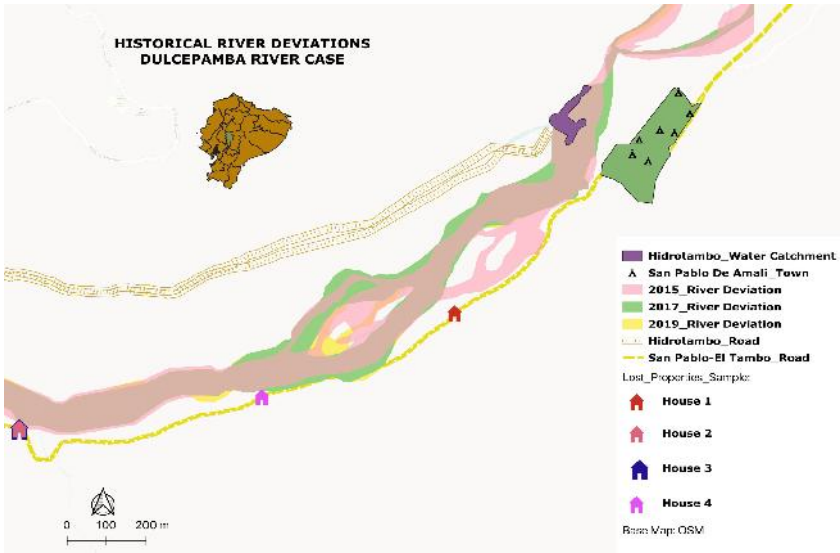

Figure 3.5 Historical Riverbed deviation consequences over houses and ecological flow.
Source: Own elaboration.

3.3.2 Land use change

Part of the effects accompanying the detour of the river's natural course were changes in land use, beyond the environmental impact identified in its respective 2012 EIA. Over the years, the adverse effects have led to a reduction in the ecological flow, the use of dynamite for road construction, and the formation of islands[19] due to the events of 2015.

A study of land use change with remote sensing over a 20-year period of satellite images of the Dulcepamba River surroundings, conducted by water resources expert Jorge Espinoza and his technical team at the Central University of Ecuador, confirmed that the river maintains dynamic instability[20] in its channel as a result of the formation of the breakwater wall made by the hydroelectric plant in 2016, and that for this reason there are significant changes in the channel of the river and new affectations to the town, the populated area, and the San Pablo de Amalí road (Espinosa et al., 2022, p. 6).

Technically, a geomorphic unit is "structurally forced" if a structural element "forces" its creation or enhancement. Structural elements can include natural inorganic features, natural organic features (e.g., large woody debris, hereafter LWD), and anthropogenic features (e.g., walls, bridge piers, riprap) (Wheaton et al., 2015, p. 178). In other words, forced elements can alter flow patterns and generate bars, pools, and other features that would not exist naturally.

Whereas, within the direct influence, it was observed that the populated area of San Pablo de Amalí, where its inhabitants carry out productive agricultural activities and where their houses are located, was reduced by 0.91%. In the evaluation of the four time periods (2001-2012, 2012-2014, 2015-2016, and 2017-2019) analyzed, there is a clear decrease in the undisturbed area, village, populated area, and in the islands of the riverbed, which means the river gained ground compared to other surface categories. (Espinosa et al., pp. 5-6).

The study concluded that the changes identified during the investigated period in the different categories that comprise the landscape units were mainly due to human activity (Espinosa et al., p.

[19] The study led by the PhD Jorge Espinosa in 2022, determined that the islands formations in the river that occupy space in the main channel were formed mainly by sediment or rocky material brought by the 2015 catastrophe in the Dulcepamba case. The latter is mainly due to the fact that the river channel seeks to reach its equilibrium slope, developing islands and meanders. (Espinosa et al., 2022, p. 4).

[20] The Dynamic instability it's part of a categorization when there are evident changes in its channel because the river continues to flow through a single channel, there is movement of non-cohesive bottom and bank material, and there is frequent natural cutting of meanders and islands (Wheaton et al., 2015, p, 177).

6). Once again, the evidence regarding the river redirection confirms that the hydroelectric infrastructure has manipulated it.

3.3.3 Reduction of the ecological flow

Hidrotambo, since March 2016, has been capturing the river flow to generate electricity through canals and pipes, delivering water to the powerhouse about 2.7 Km downstream, and then returning it to the river. This has resulted in the river having a minimal or sometimes nonexistent ecological flow for those 2.7 km. Since then, the river has nearly run dry during the summer season each year, affecting local biodiversity and the water supply for downstream communities (Conrad, 2024, p. 18).

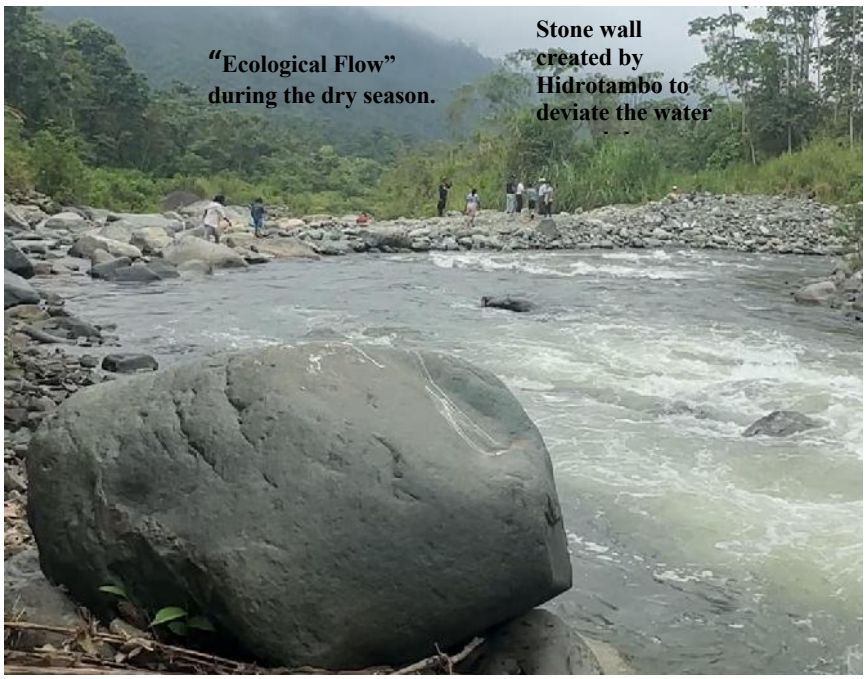

Figure 3.6 Photo showing the actual condition of the river flow during the dry season.
Source: Own source, 07/05/2025

During the data collection fieldwork (07/05/2025), it was observed that before the water deviates, the riverbed maintains its flow consistently and moves with it toward Hidrotambo's water capture structure. Although the dry season has just begun, the flow has remained constant. As shown in Figure 3.7, there is a significant change in the water force due to the detour of the river flow for at least 2.7 Km until the river joins other streams further.

Figure 3.7 River Flow changes, before and after the Hidrotambo stone wall.
Source: Own source, 07/05/2025

The Ikiam University from Ecuador, conducted a study of the ecological flow in four sectors of the Dulcepamba River, before the intake and detour of the river, after the intake and detour of the river, before returning the water to the riverbed, and after returning the water to the Dulcepamba River. The results show a reduction of more than 97% of the flow after the intake of the Hidrotambo hydroelectric project (Naranjo et al., 2020, p. 15).

In section P1 (upstream of the catchment), the flow ranged from 2.020 to 2.302 m^3/s, while in section P2 (downstream of the catchment), the flow was between 0.049 and 0.103 m^3/s. In section P3 (before the water returns), the flow varied from 0.110 to 0.250 m^3/s. These results indicate that the tributary rivers in the study area contribute approximately 0.120 m^3/s. Despite this contribution, the main channel of the Dulcepamba River does not meet the ecological flow of 1.46 m^3/s (ibid., p. 15).

In conclusion, the study has emphasized that the 97% reduction in flow has directly impacted flow velocity, river hydromorphology, and riparian vegetation. This has resulted in a significant decrease in dissolved oxygen, as well as increased conductivity and water temperature, among other factors that influence the normal development of aquatic life. It also recommends modifying the catchment flow detour structure to ensure the maintenance of the necessary ecological flow without disrupting the river's hydrobiological connectivity (ibid, pp. 22-23).

The study has raised a series of questions about the continuity of Hidrotambo's EIA over many years and the permanence of the stone wall that has impacted the Dulcepamba River cycle for ten years. Every winter, the river becomes an imminent danger to those who live along it. On the other hand, during the summer, the river's absence becomes more noticeable as the months of July through October pass, even when the company's water use is suspended. Hidrotambo has caused a series of damages over the years, resulting in an imbalance in the river's cycle and the entire ecosystem it shelters.

3.3.4 Biodiversity loss

As previously analyzed, the impacts of Hidrotambo on the river micro-basin create a chain of effects. The river deviation causes land use changes that increase with the forced reduction of river flow, ultimately leading to ecosystem imbalance and biodiversity loss.

The same study conducted by Ikiam University identified several impacts on the river micro-basin ecosystem. One of the effects of the stone wall is that, as well as acting as a barrier, it also generates the loss of connectivity in the habitat (Naranjo et al., 2020, p. 16).

Furthermore, about the river ecosystem health, the site located before the water catchment by Hidrotambo presented the highest abundance of pollution-sensitive macroinvertebrates (indicators of good aquatic ecosystem condition). The second site (downstream of the catchment) presented the second highest abundance value; however, pollution-resistant macroinvertebrates (indicators of poor aquatic ecosystem condition) were in the majority, representing 56% of the total abundance. This increase in the abundance of macroinvertebrate indicators of poor aquatic ecosystem condition responds to the barrier generated by the intake works of the Hidrotambo hydroelectric project (ibid., p. 19). On the other hand, regarding other living creatures that used to inhabit the Dulcepamba River, Hidrotambo's EIA acknowledges that the river may contain a variety of *Astroblepus* species, some of which are listed on the IUCN Red List.

The biological assessment conducted by Hidrotambo in 2018 indicates that the threatened yet endemic species (found in the river) is the cachetigris parakeet *(Brotogeris pyrrhopterus*). It is threatened nationally in the Vulnerable category and globally in the Endangered (high risk) category. The report of this species suggests restoration and conservation activities in the influence area of the hydroelectric project, which was recognized by the same auditor team of Hidrotambo company, Condoy, and Castillo in 2018.

The same is true for the report of the fish commonly known as shad (*Brycon posadae*), a species assessed as near threatened according to the IUCN, which was identified in the catchment area (ibid.).

Subsequently, in 2023, a comprehensive investigation was conducted on the presence of *Astroblepus*. The Biodiversity and Climate Change Research Center of the Indoamerican Technological University conducted a study of the aquatic life of the Dulcepamba River basin, focusing on species of the *Astroblepus* family. As part of the study, they collected specimens of the *Astroblepus* fish and sequenced their DNA to identify their specific species. The study resulted in the discovery of a fish species that had never before been found by the scientific community in the Andean region of Ecuador, Colombia and Peru (Torres, 2024, p. 25).

A comparison with the Cristal River basin (located in Montalvo, Ecuador, very close to Dulcepamba river) shows that the basin averaged 4.66 fish per minute, while in the Dulcepamba River, it dropped to 1.33 fish per minute. The most affected places are precisely the dry arm (0.67 fish/min) and the area below the powerhouse (0.97 fish/min) (ibid., p. 13). The new potential species belonging to the *Astroblepus* has a very reduced distribution, limited to a watercourse that, in times of high water levels, can almost dry up and become critically endangered (ibid., p. 28).

As part of the results, the study once again confirms that the ecological alteration is due to the operation of Hidrotambo, resulting in negative impacts on aquatic biodiversity and the ecological integrity of the river. In contrast to other scientific studies, this study concludes that the evidence suggests the rights of nature are compromised in contexts where human infrastructures, such as hydroelectric plants, interfere with their ecological integrity and biodiversity (ibid., p. 30).

In particular, this study examines the aquatic impacts that are integral to the river's natural cycle. It not only demonstrates a new cause for protecting the river with a new native species identified, but also encompasses all the anthropic effects generated by the hydroelectric plant's operations and infrastructure. Demonstrating that, although a small hydroelectric plant, it is causing a profound impact that has compromised the biological and ecological cycle of an entire aquatic ecosystem.

3.3.5 Scientific Analysis with community reparation measures requests

The following are the results of the scientific evidence that forms part of the technical studies presented to the CCE in the case of the Dulcepamba River. The results of these studies identify the current state of the Dulcepamba River and the various anthropogenic fluctuations it has undergone since the establishment of the hydroelectric project. This scientific evidence forms the basis for understanding the territorial changes, the socio-environmental impacts, and the requirements of the San Pablo de Amalí Community to the CCE on behalf of the river.

Through the next map is shown how the different studies from: Newmiller, 2020, The Risk General Secretariat, 2023 (SGR), IKIAM University, 2020 and Central University of Ecuador (Espinosa, et

al, 2022) agree the main problems that triggered the river's diversion, changes in land use, reduction in ecological flow, and loss of biodiversity. All of these studies attribute anthropocentric effects to the presence of Hidrotambo's infrastructure.

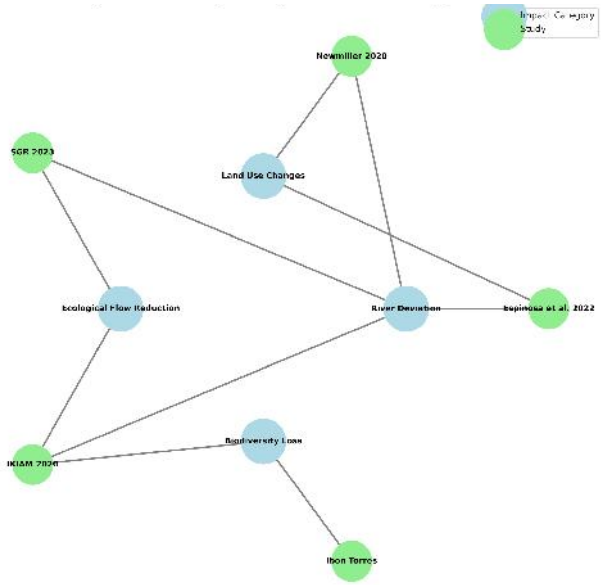

Figure 3.8: Impact evidence map
Source: Own elaboration

Moreover, the scientific contributions have complemented the evidentiary phase in the litigation against Hidrotambo. Whereas the common conclusions in each of their studies are also the basis for the community's demands. Even though the community didn´t have technical and scientific expertise, their knowledge of their territory has been the cornerstone for the construction of reparatory measures and the consolidation of these studies.

3.4 THE WAY TO ACHIEVE RESTORATION RIGHTS OF THE DULCEPAMBA RIVER

The previous sections recount the entire legal and technical process through which the Dulcepamba River and, in particular, the San Pablo de Amalí community have been undergoing for more than 15 years. The Dulcepamba River has been treated as a servile object to the interests of the Hidrotambo hydroelectric dam since the first technical studies in 2004. Likewise, the public authorities at that time employed an anthropocentric institutional approach, which limited studies and evaluations without a specific categorization of the environment. At that time, nature did not figure as part of the criteria or a future responsibility for ecological restoration.

In the words of Dulcepamba Project Director, Rachel Conrad, the EIAs prepared for the Hidrotambo project in 2004 and 2012 were conducted by private consultants who made minimal effort to gather rigorous data on watershed hydrology, local water needs, flood risks, aquatic life, and more. The same

document admitted that “it was not possible to realize the volumetric flow calculation for the Dulcepamba River at the site where the dam will be built, nor in any location upriver or downriver. The volumetric flow was, therefore, visually estimated only” (Conrad, 2024, p. 436).

The EIA didn´t consider the social impact over 140 rural communities, ignoring the hydrological realities of the Dulcepamba watershed and the constitutional prioritization of water use for human consumption and agriculture for small-scale farmers over water use for industry, SENAGUA awarded Hidrotambo the right to use the 6.5 cms design flow Year-round (ibid., p. 443).

Part of the work by the same author identified some legal loopholes in the Ecuadorian EIA Law (CODA) that reflect a lack of control over the hydroelectric project. Article 180 of the CODA leaves the preparation of the EIA in the hands of the company, creating a conflict of interest and favoring “complacent reports” that avoid risks (ibid., p. 448). In the specific case of Hidrotambo, the company self-regulated and continued with the Project in total independence, without any supervision of its initial structure.

The Ecuadorian environmental law has indirectly supported the consolidation of projects such as Hidrotambo, the same categorization proposed by the MAATE categorizes hydroelectric plants such as Hidrotambo (8 MW) as second level (1-10 MW), that is, low impact, exempting them from comprehensive EIA despite their cumulative effects (ibid., p. 457). The technical criteria outlined in the law prove to be inefficient: the impact does not depend only on the amount of energy produced, but on the multidimensional effects caused by the hydroelectric project.

The case of the Dulcepamba River reflects all these legal and technical inefficiencies, which questions how it could be managed leading to its long-term restoration and what other risks and threats it faces being a watershed that covers an area of 500 km^2 (Newmiller et al., 2017, p. 17) that goes down from the highlands to the coastal subtropical zone.

A recent study by the Salesian Polytechnic University from Ecuador, has shown that the micro watershed that comprises the canton of Chillanes is possible, through hydrological restoration (Sanchez and Alvarez, 2024, p. 17), demonstrating that because of its location, San Pablo de Amalí Community is in high risk susceptible to retain water, stressed vegetation and high rainfall area (ibid., pp. 10-12).

The case of the Dulcepamba River has solid scientific evidence to prove that it's possible to restore the river. Unlike other cases, it's endorsed by community support that has been able to express its desire for reparation through the return of the river to its natural course, as well as a series of documents that hold this petition.

CHAPTER 4
RESULTS AND FINDINGS

This Chapter presents the results and findings in accordance with the stated research objectives. An analysis was conducted to identify trends in compliance with reparation measures ordered by the CCE in precedential cases related to rivers and water bodies. This was done to evaluate adherence to judgement supervision in such cases. Subsequently, utilizing the theory of change and community mapping methodologies, the results from interviews and testimonies gathered during the Dulcepamba Project are systematized to elucidate the participation process of the San Pablo de Amali community.

4.1 Trend of compliance with reparation measures dictated by the CCE

This section presents the main findings of the research, organized by precedent cases in which Ecuador's legal and judicial framework on the rights of nature has been applied to rivers. The analysis focuses on the extent to which reparation measures ordered by the Court have been implemented, to identify compliance trends.

Concerning the matter of the thesis, the following cases are part of the nature´s rights jurisprudence classification, as were previously identified in Chapter 2 by Ramiro Avila (2023).

Table 4.1 Aquepi River, Compliance analysis

Reparation Measures	Status	Evidence Source
Cancelation of "The Multipurpose Aquepi Project"	Complied	MAATE resolution (2022)
Restoration of flow & removal of structures	Partially complied – Main channel cleared, minor diversions remain	MAATE inspection (2023)
Binding environmental consultation	Partially complied - Measures for socializing reparative measures. No records of further binding consultation.	GAD Province – Santo Domingo de los Tsáchilas (2024)
Ecological restoration plan	Partially complied – plan drafted but not implemented	GAD Province – Santo Domingo de los Tsáchilas documents (2024)
Permanent monitoring system	**Not complied**	No operational monitoring stations

Source: Own elaboration.

Observed results: The cancellation of water extraction led the MAATE to establish water protection areas covering 67,563.45 hectares (2022). However, restoration is incomplete, and monitoring absence makes long-term assessment difficult.

Identified gaps: Delay in implementing ecological restoration plan, no operational monitoring undermines enforcement.

Table 4.2 Monjas river, Compliance analysis

Reparation Measures	Status	Evidence Source
"Ordenanza Verde Azul" implementation	Partially complied – pollution reduction programs initiated, enforcement weak.	Municipality of Quito reports (2024)
Execution of complementary plan	Partially complied – habitat recovery in pilot zones, not basin-wide	MAATE & municipal records (2024)
Water quality monitoring stations	Complied - Installed in 3 key points	Municipality of Quito environmental management reports - (2023 - 2024)
Inter-institutional coordination	Partially complied – coordination committees exist but meet irregularly	Meeting records (2024)
Community participation	**Not complied**	Citizen Observatory (2024)

Source: Own elaboration.

Observed results: Improved water quality indicators in pilot zones, but high contamination persists downstream. The presence of monitoring stations allows for data collection, but not yet for effective enforcement. The main work executions are slow.

Identified gaps: Lack of basin-wide implementation, weak enforcement of pollution control measures, absence of sustained community involvement, accumulation of documentary studies and documentation, but no work has been performed yet.

Table 4.3 Mataje Cayapas Mangrove, Compliance Analysis

Reparation Measures	Status	Evidence Source
Community monitoring program	**Not complied**	No formal monitoring structures.
Restoration of the affected ecosystem	**Unknown**	No clear records

Source: Own elaboration.

Observed results: Some restored mangrove zones show early ecological recovery. Community capacity for monitoring remains underdeveloped.

Identified gaps: In this particular case, there was no mention about how to proceed with the ecological restoration of the mangrove. The outcome is the lack of enforcement, and restoration efforts are concentrated in limited areas, with no Court supervision.

Table 4.4 Piatúa River, Compliance Analysis

Reparation Measures	Status	Evidence
Revoke water-use authorization	Complied (in effect since 2019)	Provincial Court ruling (2019)
Revoke environmental license	Complied (in effect since 2019)	Provincial Court ruling (2019)
Paralyze the project	Complied (project halted since 2019; no public reactivation)	Provincial Court ruling (2019)
Species-specific management plans (90 days)	**Unknown**	
Training of officials (60 days)	**Unknown**	

Source: Own elaboration.

Observed results: The core restitutive measures, revocation of license and water authorization, and halt of the Project, have been maintained since 2019. Nevertheless, this case was selected by the CCE in 2020, due to innovative motives regarding mega project infrastructures and indigenous people. Until today, the Court has not pronounced a binding sentence.

Identified gaps: The lack of evidence about the other reparation measures limits the verification of full compliance beyond the halt/revocations.

Table 4.5 Los Cedros, Compliance analysis

Reparation Measures	Status	Evidence Source
Nullification of concessions	Complied	Constitutional Court judgment (2021) - ARCOM database update
Ban on extractive activities	Complied	MAATE and ARCOM statements, 2022
Withdrawal of machinery	Complied	TERRA NYU Report (2024)
Restoration of damage	Partially complied – MAATE delays with the documents and part of the monitoring and restoration is led by the community	TERRA NYU Report (2024)
Conservation plan	Partially complied – Draft plan in progress	MAATE planning document (2024)

Source: Own elaboration.

Observed results: Mining operations ceased, and concessions were annulled, preventing further damage. However, the mid-long-term effects of the sentence are still pending after 4 years, such as restoration works and the formal adoption of a conservation plan.

Identified gaps: Lack of active restoration projects to reverse exploration damage, limited follow-up to ensure the complete removal of all mining-related infrastructure, and a lack of coordination between MAATE, the Ombudsman Office, and the local community.

Table 4.6 Unconstitutionality of the COA (Mangroves case)

Measure	Status	Evidence Source
Annulment of COA provisions	Complied	Constitutional Court ruling (2022)
Suspension of regularizations	Complied	MAATE circular to provincial offices (2021)
Restoration of affected areas	Partially complied – some reforestation projects in Esmeraldas and Guayas	MAATE marine–coastal management reports (2023–2024)
Strengthening of enforcement	Partially complied – inspections increased, but infractions persist	MAATE marine–coastal management reports (2023–2024)
Community participation	**Unknown**	

Source: Own elaboration.

Observed results: The ruling closed legal loopholes for regularizing illegal aquaculture in mangroves and halted ongoing legalization processes. Restoration and enforcement efforts have started but remain fragmented, and community participation mechanisms have yet to be institutionalized. There´s no complete information about the progress on restoration. The projects are limited to international organizations, such as Conservation International, that are developing new standards for EIA for mangroves.

Identified gaps: Restoration coverage remains limited in proportion to the affected area, enforcement capacity is still insufficient to deter new illegal activities, and a lack of participatory structures and clear reports undermines long-term protection efforts.

Once this individual analysis is performed, the overall consolidated measures and compliance status across Aquepi, Monjas, Mataje-Cayapas, Piatúa (*this particular case is not considered in the following table, since it still in process at the CCE*), Los Cedros, and COA–Mangroves are identified in Table 4.7.

Table 4.7 Overall Compliance Counts

Case	Complied	Partially complied	Not complied/Unknown
Aquepi River	1	3	1
COA–Mangroves	2	2	1
Los Cedros Forest	2	2	0
Mataje-Cayapas - Mangrove	1	0	2
Monjas River	1	3	1
TOTAL	**7**	**10**	**5**

Source: Own elaboration.

Finally, to identify the reparation measures across cases, in the next Table, the pattern categories will show compliance levels. It reveals which types of measures tend to face the most non-compliance. Moreover, it will allow us to analyze which reparation measures dictated by the CCE are loose and define the trend of compliance with future cases, based on these patterns.

Table 4.8 Trend Compliance by pattern category

Pattern Category	Complied	Partially complied	Not complied
Accountability	0	1	2
Biodiversity Management	0	0	1
Ecological Restoration	0	3	1
Enforcement	1	3	0
Governance/Policy	2	1	0
Infrastructure Correction	0	0	1
Licensing/Revocation	3	0	0
Monitoring Infrastructure	1	2	0
Participation	0	1	4
Planning	0	2	1
Risk Mitigation	0	0	1

Source: Own elaboration.

The compliance trend in Ecuador's nature rights reparation measures is characterized by a persistent gap between judicial orders and their material execution. Measures that require long-term, resource-intensive, and participatory processes, such as ecological restoration, installation of monitoring infrastructure, and community involvement, underscore non-compliance. In contrast, administrative acts with immediate legal effect, such as license suspensions, tend to achieve higher compliance.

From the pattern-based compliance analysis, it is often partial rather than full. Ecological Restoration emerges as the category with the highest rate of non-compliance, followed by Participation and Monitoring Infrastructure. These patterns allow us to study the landscape of sentence enforcement in Ecuador, in the most emblematic cases involving the rights of nature. This leads us to find gaps in oversight between the CCE, public institutions such as MAATE, and civil society as spokespersons for nature.

4.2 The Dulcepampa Project involvement

As it was previously introduced in Chapter 3, the whole process of the Dulcepamba case took 20 years of litigium, between administrative, judicial and now constitutional procedures. During these multiple processes the community faced many of their actions on their own, with multiple obstacles such as access to justice, financial costs of the judicial processes and delays. In 2016, the Dulcepamba Project was consolidated and provided legal assistance to the communities of the micro-basin, and especially to San Pablo de Amalí in its legal battle against Hidrotambo S.A.

To better understand the live process and what are the actual obstacles that the Community is facing inside the Constitutional Process, an interview with the Dulcepamba Project Directors, Emily Conrad and Rachel Conrad, was conducted. These interviews analyze how the Constitutional action was consolidated and identify the actual judicial loopholes that have caused a process that normally takes three years on average to take six years without a verdict.

4.2.1 Analysis of the Interviews with Dulcepampa directors

Focusing on the main topics of the legal process, the interviews considered how the Dulcepamba Project was involved, the legal involvement, and the main barriers they are facing in this case. The analysis deal also with an interpretation of the Dulcepampa contributions to understand how the whole legal process was handled, visualizing how the Project implemented the strategy and identifying the gap between administrative and judicial rulings and the reality that the community of San Pablo de Amalí continues to face.

Table 4.9 Dulcepamba Project Interview analysis

Topic	Emily Conrad	Rachel Conrad	Interpretive notes
Dulcepamba Project Involvement	**[00:26] Emily:** When I arrived, the hydroelectric plant had already been built, and the year before had brought the biggest, most destructive flood… I did know the place a bit beforehand, but only as a visitor.	**[00:47] Rachel:** Beginning in 2013 I worked with members of the Dulcepamba River Basin communities to carry out socio-environmental analyses… Back then I did not know many legal details, but I understood there was a dispute over water access, the integrity of the Dulcepamba River, and the rights of the San Pablo de Amalí community. **[06:55] Rachel:** The first legal action we filed was an extraordinary appeal for review. Although initially our organization did not intend to take legal action. The intention was solely to conduct a socio-environmental analysis of the Dulcepamba River Basin and the impacts that the Hidrotambo Hydroelectric Plant has generated or could generate in the Dulcepamba River Basin and its communities. We wanted to give the communities solid baseline information they could use in legal or political action.	At the beginning the organization, was just involved to offer environmental analysis and technical resources. Over the years, they expanded and started to present legal assessment to the Community who was facing alone the whole process with Hidrotambo. Both experts discuss reparation needs, but Emily emphasizes direct community harm and urgent support during floods, while Rachel focuses on structural/legal remedies and equitable resource allocation. Together, they frame reparation as both immediate relief and systemic reform.
Initial actions (First stage)	**[02:56] Emily:** Right after the flood *(2015)* there was an attempt at mediation led by the Ombudsman's Office. (…) After about a year of on-and-off meetings they finally agreed Hidrotambo would build a retaining wall downstream on the left bank to protect the town. Everyone signed off, but in 2016 they were "building" the wall—just piles of loose rocks on both banks. (…) Those so-called walls, were swept away in about five minutes *in 2017*, which is dangerous because the rocks can block the river further downstream. **[06:43] Emily:** So even though they'd been acquitted, the problems of floods and	**[03:18] Rachel:** In 2012 a constitutional protection action—then called an amparo—was underway, alleging violation of the right to prior consultation. I was not involved in that case, but the community lost it. **[04:26] Rachel:** Manuel Trujillo, then president of the community, filed an action claiming Hidrotambo had diverted the Dulcepamba River toward San Pablo de Amalí to build its intake works. *(2014).* **[05:33] Rachel:** That action also invoked other rights—like the right to life—but it still failed.	At the beginning the community took the justice on their own hands. Looking to have justice for a severe lack of formal procedures and rights violations, like prior consultation. Unfortunately, without a proper legal assessment they lost their individual petitions. Until, in 2015 the big, announced flood happened, calling the attention of the authorities, who decided to mediate, like Emily clarifies. Unfortunately, this wasn´t enough and the Dulcepamba Project involves legally.

	droughts kept recurring—in 2019, 2020 and 2023.	None of those early cases raised the Rights of Nature; they focused on the community as the directly affected party.	
Legal & Judicial Processes (Second stage)	**[09:33] Interviewer**: In 2019, what strategy enabled you to get the case selected by the Constitutional Court? **[09:42] Emily:** We took a long time to file the protection action—we finally submitted it in early 2019 (maybe the last days of 2018)—because of: (...) that mediation was supposed to yield repairs and protections but failed. Second, we had no money or lawyers—no resources for litigation. **[10:27] Emily:** In 2018 we prepared the action with the Ombudsman's Office. At that time Gina Benavides—very progressive—was the Ombudsperson. Her team included many human-rights activists. In Bolívar province the delegate was Wilfrido Acuña, who also worked at INREDH and helped draft the action. **[12:29] Emily:** The appellate Court rejected the action with almost no reasoning, so we filed an extraordinary protection action, which the Constitutional Court admitted twice. The Court admitted it (…) in its Selection Chamber, to develop jurisprudence. Although our case wasn't initially framed around nature's rights, the Court selected it to create precedent on corporate nature-rights and collective rights, and on industrial projects that provide basic services yet can violate human and nature rights.	**[07:14] Rachel:** Over time we gained more legal expertise and forged alliances with human-rights organisations in Quito such as INREDH and CEDHU. With that support we decided to litigate. Our first legal filing was an administrative one: an extraordinary motion for review filed with SENAGUA, the National Water Secretariat (now the Ministry of Environment and Water), challenging Hidrotambo's water concession. **[09:03] Rachel:** We asked SENAGUA to redistribute water constitutionally and to reassess the hydraulic works (…). SENAGUA ruled in our favour: Hidrotambo must now leave at least 1 460 L/s in the river at all times. Unfortunately the company still fails to comply during the dry season, so the river remains critically impaired. **[15:59] Interviewer:** How did you reach the Constitutional Court? **[17:41] Rachel:** Two lawyers from the Ombudsman's Office helped us assemble the constitutional protection action (…), we therefore filed a protection action asserting the rights to life, a dignified life, a healthy environment, property rights, and the Rights of Nature—after an extreme flood in March 2015.	Emily recounts the strategic litigation timeline, reliance on allies like the Ombudsman's Office, and procedural delays. Rachel adds context on earlier legal actions on administrative routes. Highliting, the ineffectiveness of the actions, even when the Community won. So, they went to the highest instance, appealing the Constitutional Court Judgement. At the end the case was selected, due to innovation of the nature´s rights jurisprudence.
	[14:24] Emily: Ours was the first of five cases the Court chose specifically for nature and collective rights: Dulce Pamba, Río Aguarpí, Los Cedros, Sinangüe and Río Monjas. Four of those five	**[13:25] Interviewer:** At some point you said the river was 'almost dead.' Did conditions improve after the review action, or does the river remain in critical condition?	Emily highlights delays in the constitutional process and state inaction over time, while Rachel contextualizes institutional

Institutional Performance & Barriers	now have rulings (mostly 2021–22) (…). While the others moved quickly, ours lay dormant for more than five years, until an evidentiary phase in 2024. **[17:04] Emily:** For over five years the file slept, even though we kept requesting that it be fast-tracked because of imminent flood risks and because victims were in critical condition—or had already died—without justice. **[22:04] Interviewer:** Do you think case selection **[22:04] Emily:** Yes. Unfortunately nature and collective rights aren't yet fully institutionalized in Ecuador's judiciary, so much depends on each judge's inclinations.	**[14:01] Rachel:** It is still critical. Even after we won, Hidrotambo ignored the ecological-flow order, and the flow SENAGUA set was itself insufficient. **[22:02] Interviewer:** Why has Dulcepamba waited so long for a ruling, while the other cases already have judgments? **[23:08] Rachel:** (…) Those other cases appear to have more resources behind them, enabling more research and public outreach, and the Court may respond to that visibility.	shortcomings in terms of procedural gaps and lack of technical rigor. Both agree institutional failures exacerbate harm and future incidents that endangers the river and the Community.
Intersectionalities	**[05:23] Emily:** We watched the water carry the rocks away. We helped Don Manuel move (…) because he was sure his house would go again. His didn't collapse, but his neighbour Laura García's rebuilt house did, that same night. (…) The problems of floods and droughts kept recurring in 2019, 2020 and 2023. **[08:45] Emily:** In that 2019 flood, Diego Hernández's grandmother died because she needed dialysis but couldn't leave town in time. **[18:05] Interviewer:** How many people involved from the beginning have died waiting for justice? **[18:05] Emily:** In total about five people, well, four and a half—have died waiting. Also, Lucho Hernández's mother died in 2019 because she couldn't get dialysis when the road was cut. Ligia Salazar, once very active, died of COVID.	**[24:12] Interviewer**: Since the case was selected, further damage has occurred. Would a timely ruling have prevented it? **[24:31] Rachel:** Yes. A prompt ruling could have prevented more harm to the river and the communities. Every rainy season since 2017 the Dulcepamba's left bank erodes, sending floodwaters, debris and sediment toward San Pablo de Amalí and destroying the only access road. **[26:40] Rachel:** Isolation brings medical emergencies; people cannot reach care and disrupts education because students cannot get to school. **[32:12] Rachel:** I would only say this is a profound failure of the principles of precaution and prevention, which should be central to any case involving impacts on Nature and are integral to the Ecuadorian Constitution and legislation. For more than a decade we have seen severe impacts (…). State authorities have acknowledged	Both directors analyze the other factors that are part of the case and were not conceive by the Court or the Administrative authorities during these years. These intersectionalities are the facts that many people kept facing the floods in different periods, losing their homes, family members and their lives waiting for justice. As Rachel emphasizes, none of the State institutions considered the prevention and precaution principles in this case. Which demonstrates that delays in process, are compromising nature and collective rights.

		Hidrotambo's responsibility in many reports, yet they have not applied these principles. (…) Effective action to protect the river and the communities is still lacking.	

Source: Own elaboration.

4.2.2 Analysis of interviews and testimonies with the Community

The interviewing process was divided into two phases. On the one hand, the process of interviewing active members of the San Pablo de Amalí Community to identify their requests for river remediation measures was based on the testimonies presented to the CCE. Since this is a community that has undergone multiple legal proceedings for more than 20 years, a formal interview on the same subjects would have resulted in revictimization. Likewise, later in the joint community mapping work, semi-structured data was collected through group conversations to identify the places mentioned in the testimonies.

On the other hand, the second phase of interviews was conducted during an initial meeting with the Dulcepamba Project to identify the legal process that has been carried out during its advisory and support services until the selection of the case in the CCE. In a second meeting with the community, during the second fieldwork of the tour of the sites of the Dulcepamba River micro-basin, the community members shared their memories on the places they would like to see repaired, through stories told during the tour.

The following maps are organized by thematic areas categorized in the testimonies, to first identify the community's primary demands that have led to the development and identification of reparations measures. The structure of these maps shows in the center of the node, the code that groups together all the questions that participants have described by different topics.

For example, the community-river relationship central node addresses questions about *How the river relationship has changed*, *the river's state before the hydroelectric plant's arrival?*, and the diverse feelings expressed by community members regarding winter living. The lateral nodes have different sizes and colors on this map, as they describe the frequency and type of emotions that people expressed in response to the floods and how these emotions shifted from nostalgia to fear.

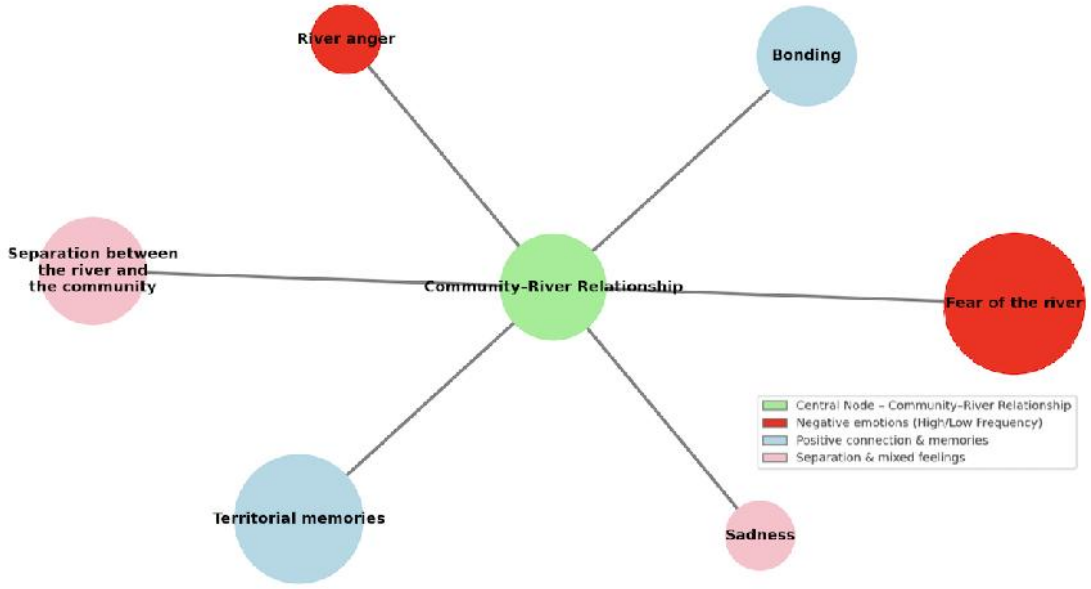

Figure 4.1 Thematic map of the Community-River Relationship, based on testimonies collection
Source: Own elaboration.

In Figure 4.1, it can be appreciated how the Community expressed their memories about: *How was life before the hydroelectric company arrived?* As a higher frequency, 9 of 17 of the testimonies described their life with nostalgia, expressing territorial memories of the river, such as traditional fishing, natural water pools, and a harmonious river. 5 of the testimonies described a bond with the river, utilizing phrases such as:

"*…we were always connected to its sound, (…) the Dulcepamba River is more than a river to us (…) the river used to be our friend and provider"* (D.P, testimony, July 20, 2024).
"...we´ve always wanted the water to be free, rivers to be free" (B.C, testimony, July 20, 2024).
"...when the people talk to me about the Dulcepamba river, it´s as if they´re talking about a son, a friend that I must protect" (D.H, testimony, July 20, 2024).

But then, a change of emotions was noticed, from positive to negative: 6 of the testimonies manifest a separation between the community and the river. They express that:

"*...the river is no longer friendly, it´s destructive"* (D.P, testimony, July 20, 2024).
"...we live here because we have nowhere else to go…" (L.G, testimony, July 20, 2024).
"children today don´t even know what it was like. Everything has changed now, even living here requires careful consideration" (M.P, testimony, July 20, 2024).

In a low frequency, 2 of these testimonies expressed sadness. Part of the community river-relationship transformation, 11 of the testimonies manifest a high frequency of fear of the river. 2 of the testimonies expressed – with a low frequency, but a significant emotional importance – the river´s anger:

"*It must be very angry, deeply resentful due to the way it's been treated and its inability to defend itself. If it were a human being, I'm sure it would run away in self-defense. It's a living being, shaped by thousands of years, and when you destroy it, it will be furious"* (D.P, testimony, July 20, 2024).

This emotional arc, from affectionate memories to fear and perceived hostility, reflects not only the river's ecological changes but also the community's shifting sense of safety, belonging, and reciprocity with the river, describing a worn-out relationship since the hydroelectric plant's arrival.

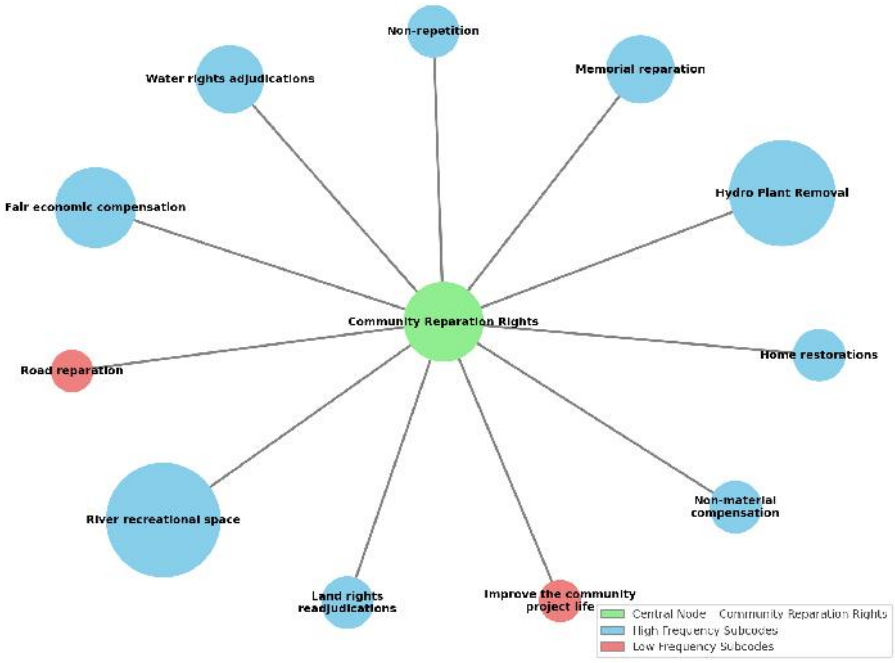

Figure 4.2: Thematic map of the Community Reparation Rights, based on testimonies collection
Source: Own elaboration.

Figure 4.2 illustrates how the community envisions reparation as a combination of environmental, social, and symbolic actions to restore their collective and individual rights, considering the restoration of the river, too. The most frequent demand, with 13 testimonies, is to retake the river as a recreational space, conveying a vision of the river as a safe, accessible place for recreation*: "...We didn't have an artificial pool in the community, so the river was our recreational space" (*D.H, testimony, July 20, 2024).

Close behind, 11 testimonies out of the 17 call for hydro-plant removal, often described as both a technical requirement for ecological recovery and a symbolic act of justice. As part of the question *What would you ask the Court for as reparation?* people replied:

"*...the hydroelectric plant should be removed."* (R.J, testimony, July 20, 2024).

"I would like them to leave" (B.C, testimony, July 20, 2024).

*"...we want them to leave, to let the river be free, to stop bothering, that's what we want" (*O.S, testimony, July 20, 2024).

6 testimonies express the need for fair economic compensation to address tangible losses such as destroyed crops, damaged homes, and reduced income. In a medium frequency, 4 testimonies mention memorial reparation, to honor those affected who cannot bring back their lost families or recover the production capacity of their lands:

"*...They compensate the families who lost loved ones, and they provide health and psychological assistance. We want the damage to be recognized. The pain can't be erased, but there must be justice"* (M.P., testimony, July 20, 2024).

"I would like reparation for the people who lost their crops, animals, and family members" (D.H., testimony, July 20, 2024).

Lower frequency subcodes reveal more specific or personal forms of reparation: 2 testimonies mention home restorations, land rights readjudications, non-repetition guarantees, and non-material compensation, while one testimony points to improving community project life and road reparation. Though less common, these reflect important individual needs and vulnerabilities some community members went through during all these years of conflict.

Across testimonies, these demands reveal the intersectionalities of the river reparation rights with their community reparation rights. The prominence of both river recreational space and hydro-plant removal signals a dual aspiration: to reclaim the river as a shared, life-affirming space, and to remove the structures seen as a symbolic reparation of these years of injustice and as a way to bring back the dynamism and life of the river.

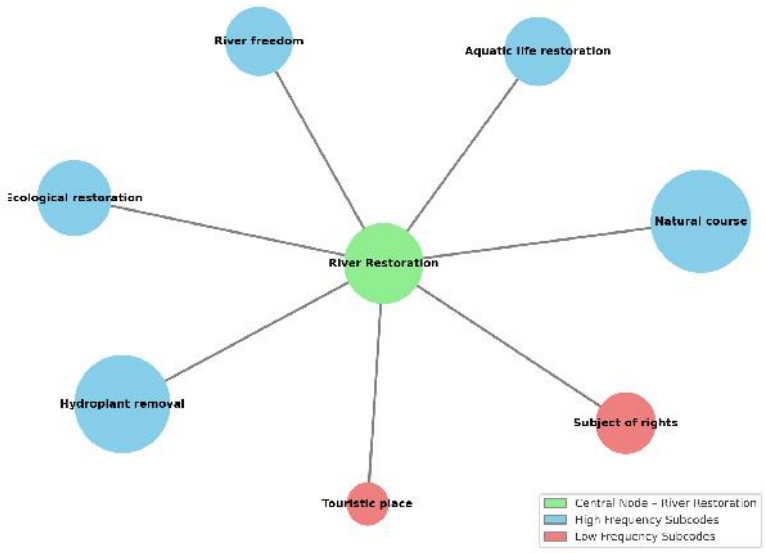

Figure 4.3: Thematic map of the River Restoration based on testimony collection
Source: Own elaboration.

Figure 4.3 reflects how the community frames river restoration as a central pillar of ecological justice and restoration. The highest frequency of replies to the question: *How would you ask for reparation?* is represented by 10 testimonies, asking to restore the natural course of the Dulcepamba River. Closely linked, 7 testimonies advocate for hydro-plant removal. This code matches the previous one in the community reparation node, differentiating with the specific question about: *What would you like the Court or the Company to do, regarding the river?*

Also, people are aware of how the hydroelectric infrastructure removal is necessary to restore the ecological flow and as a symbolic act to end a period of ecological harm:

"*The construction would have to go. That's what would have to happen for it to return to its natural state*" (A.T. testimony, July 20, 2024).

"Like I said, what I want is for them to leave, to disappear so that the river can return to its natural flow. Perhaps over time, fishing could return, allowing us to catch food for ourselves and for visitors who come here as tourists to enjoy the river beaches" (R.Q. testimony, July 20, 2024).

Ecological integrity appears as a recurring theme: 5 testimonies call for ecological restoration measures to rehabilitate the riverbanks, prevent erosion, and stabilize the watershed: "*They must let the water flow, because now only a little bit comes in the summer, just a trickle. It's not enough to bathe or for the fish*" (L.N. testimony, July 20, 2024).

4 testimonies emphasize aquatic life restoration, recalling the fish and biodiversity that once sustained cultural practices and local diets. An equal number (4 testimonies) used the term "river freedom", framing rivers as living entities that must flow unimpeded:

"*We want them to leave, to let the river be free"* (O.S. testimony, July 20, 2024).
"*We've always wanted the water to be free, rivers to be free, because they naturally form little pools, and any young person or child likes that*" (B.C. testimony, July 20, 2024).

Other demands, while less frequent, carry significant symbolic and legal weight. 3 testimonies call for declaring the river a subject of rights, aligning local struggles with Ecuador's constitutional recognition of nature's rights. One testimony envisions the restored river as a tourist attraction, tying ecological recovery to economic and cultural revitalization of the community members.

Taken together, these demands portray river restoration as more than a technical repair project. For the community, it is an act of healing, reestablishing ecological balance, honoring the river's intrinsic rights, and reclaiming a space that is central to their identity, livelihoods, and future well-being.

The testimonies are classified in a systematic way that matches the results of scientific studies. The community has expressed its main desires for reparation: returning the river to its natural course, removing the hydroelectric plant, restoring the river's aquatic life, and recognizing the loss of their territories.

Both documents, the testimonies and the scientific studies, when combined, create a solid structure within the constitutional litigation. On the one hand, the scientific part is strengthened by the empirical knowledge of the community and humanity that is given to the territorial transformations of the river. On the other hand, the community's testimonies are reinforced by a technical component that substantiates their feelings of reparation.

4.3 Results of the participatory mapping

The results of the participatory mapping are divided into two stages. The first visit to the community marks the beginning of the fieldwork, where techniques from critical cartography are applied, including the *countermap* and the theory of change process, as illustrated through the tree problem. The second stage of the fieldwork covers the *mapping walk.* At this stage, a hike through the river print and the identified locations from the first stage took place to consolidate the georeference points and proceed with data processing using QGIS.

4.3.1 Results of the first stage of the fieldwork - Counter mapping and tree problem

During the first stage of the fieldwork, 17 community members gathered in various working groups. Each group was assigned three maps. The map provided was a *Google Earth-based* map that used current satellite images of the Dulcepamba River micro-basin, which includes the area where the hydroelectric plant and the community of San Pablo de Amalí are located.

In the first activity, they represented what the territory looked like before the arrival of the hydroelectric plant, the current situation, and how they would like to see their territory in the future. Although they worked with a static map, the community members identified each of the places with great dynamism. Figure 4.4 shows how, using memory and dialogue among peers, they identified where they used to fish, go swimming, and where the “peña del duende[21]” was located. Below is a

[21] The “peña del duende” was part of a giant stone rock that the community believed to be the home of an elf. When Hidrotambo arrived, they proceeded to dynamite the rock to make way for the road. The community said: “The elf was the protector of the river, and after they dynamited his home, he left and became angry and damaged the Hidrotambo machines.” (F.B, personal communication, April 09, 2025).

table with excerpts from each group. The maps from Groups 1 and 3 can be found in Annexes 2 and 6.

Figure 4.4 Group 2 map (past)
Source: Fieldwork 04/10/2025, Community of San Pablo de Amali

TABLE 4.10
Systematization of the Group Mapping (Past)

Group	Perception of the past	Key identification on the map	Highlighted elements
Group 1	They remember a territory with houses, properties, and connecting roads between communities before the hydroelectric project.	Location of houses and properties that were damaged or removed due to the construction of the hydroelectric plant and the river diversion.	- Denunciation of removed houses. - Use of post-its to mark effects. - Satellite reference of the area from the water intake in San Pablo Alto to San José del Tambo.
Group 2	They remember a diverse environment around the river, with recreational spaces and abundant aquatic life before the hydroelectric plant.	Location of places such as the pond in the current water intake area, the 'duende' rock, and the original course of the river.	- Identification of abundant fish with green marker. - Mention of houses lost in winter landslides and due to construction. - Reference to destruction of natural elements for hydraulic works.

Group 3	They remember a river full of fish, with crystal-clear water and lush vegetation.	Collective representation of the original river course and the natural environment before the project.	- Participatory construction using flipcharts and natural materials, symbols and drawings evoking ecological abundance. - Direct connection with the environment during the activity.

Source: Own Elaboration

In this first activity, the groups have memories of a more intact and connected territory. Houses and properties were central to the territorial memory, both because of their location and their social and family value. They show the presence of an abundant and healthy river. In all three stories, the river was not only a natural element, but also a hub for recreation, subsistence, and community cohesion. This loss of connection with the river is perceived not only as physical, but also as an alteration of the territory's identity.

The same dynamic was used to create the other maps. The participants used sticky notes to express how they felt about the changes to the river. The table below shows the conclusions reached by each group for the actual view of the river territory. The maps created by groups 2 and 3 can be found in Annexes 4 and 7, respectively.

TABLE 4.11
Systematization of the Group Mapping (Present)

Group#	Current perception	Key identification on the map	Identified risks
Group 1	The territory has gone from being a peaceful place to one in constant danger.	New river course (green marker) that threatens homes in San Pablo Bajo, especially during the winter season.	- Possible new landslide from the San Pablo Alto intake. - Blockage of the river that diverts the flow towards the community. - Direct threat to people, animals, and homes.
Group 2	The main emphasis was on the physical and connectivity hazards that affect daily life.	Proximity of the new river course to the main road and to the houses.	- Flooding of the road during the rainy season, isolating the community. - Constant danger for nearby homes. - Impacts on agricultural production and the tranquility of households.

Group 3	Negative impacts of the hydroelectric plant beyond the physical risk.	Current state of the river with reduced flow in the summer.	- Loss of biodiversity. Water pollution. -Community conflicts. - Emotional burden: sadness, anger, and nostalgia.

Source: Own Elaboration

Within the analysis of the three groups using critical mapping tools, such as the *counter map*, all three groups identified the physical risk posed by the river. They agreed that changes in the riverbed and hydrological modifications represent a direct threat to homes and people, especially in winter. They also reflected on changes in land use, with constant flooding affecting agricultural production, mobility, and access to other communities. Finally, when exchanging dialogues and recalling their experiences, feelings of loss and concern are shared, reinforcing the emotional connection with the territory.

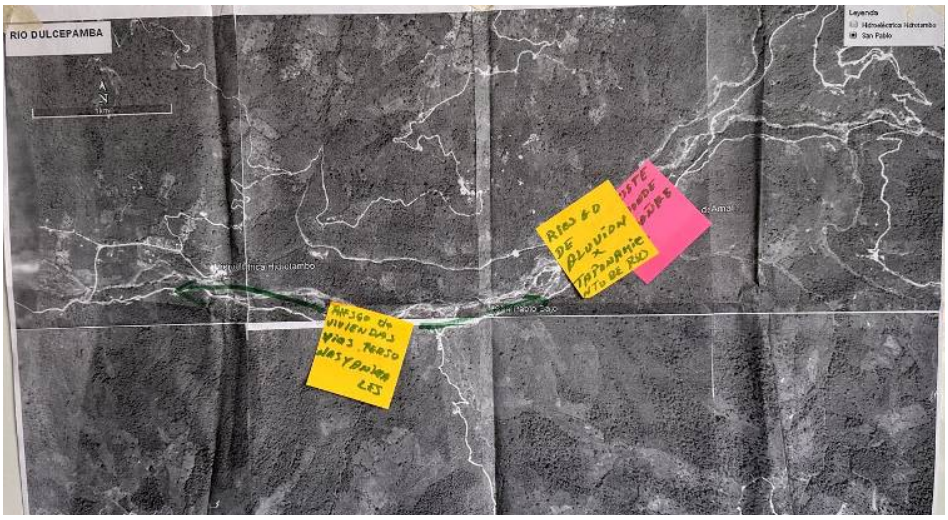

Figure 4.5 Group 1 map (present)
Source: Fieldwork 04/10/2025, Community of San Pablo de Amali

The last mapping creation showed how the Community would like to perceive their territory and which are the main places that they would like to see restored. The table 4.13 systematize how the different groups see their territory in the future. For the complete appreciation of the maps from groups 1 and 2, check the annex 3 and 5, respectively.

TABLE 4.12
Systematization of the Group Mapping (Future)

Group#	Future perception	Key identification on the map	Reparation measures and aspirations
Group 1	They acknowledge that it is not possible to fully reverse the damage, but they aspire to partial recovery and risk mitigation.	Current location of Hidrotambo and its infrastructure.	- Removal of the company and annulment of concessions. - Compensation for lost homes and properties. - Return of the river to its natural course. - Construction of flood protection that does not affect aquatic life.
Group 2	They aspire to a safe territory with community-based water management.	Location of Hidrotambo and water concessions in the Dulcepamba River basin.	- Removal of the hydroelectric plant. - Return of the river to its natural course. - Removal of stones at the San Pablo Alto intake to facilitate redirection. - Reversal of concessions granted to Hidrotambo. - Facilitation of water concessions to affected communities.
Group 3	They envision a future of ecological justice and respect for the rights of nature.	Symbolic representation of the river regaining its natural course and function as a space of life.	- Return of the river to its natural course. - Recovery as a space of life for the community and biodiversity. - Respect for the rights of nature and the communities.

Source: Own Elaboration

The last mapping activity consolidates what it was first declared in the testimonies. As a common agreement, all the groups show the natural river course recovery, and the Hydroelectric plant is gone. All three groups have a comprehensive vision of remediation. It should be noted that Group 1 introduces an important nuance: it recognizes that it is not possible to reverse everything. It therefore proposes complementary protection works that could mitigate future floods, such as those of 2015.

Figure 4.6 Group 3 map (future)
Source: Fieldwork 04/10/2025, Community of San Pablo de Amali

For the second stage of the fieldwork, the Community was gathered to build the tree problem. Identifying the main problems pointed out in the mapping activity, they provided a socialization space for them to become more concrete about the actions to be taken for reparation and restoration. The following table identifies the categorization of problems that arose during the dialogue between groups as they socialized their maps. Then, the intervention areas were identified. The identification of these places was fundamental to proceeding with the second fieldwork and designing a route that includes the places indicated by the Community and follows the main course of the river, which runs through part of the intervention areas.

Table 4.13
Systematization of the tree problem - Theory of change

Problems categorization.	Intervention areas	Expected reparation/restoration
Disappearance of sacred sites/cosmovision	"Goblin stone", Lincamancha slope (baptisms and medicinal waters).	Recovery of the Lincamancha slope. Close to Hidrotambo´s main road.
Disappearance of recreational sites	Natural Pool Aurelio Yepez	Erection of the hydroelectric powerhouse. Closure of the hydroelectric plant.
Early migration	-	-
Loss of the main road	Main road San Pablo de Amalí - San José Del Tambo	Return of the river to its original course.
Loss of territory due to flooding	Erosion of the left bank of the river. 12 houses lost and 7 plots of land/landfills.	Return the river to its original course and remove the stone wall that diverts the river.
Loss of property due to hydroelectric power plant infrastructures	4 damaged properties.	Fair compensation for lost properties.
Risk to the lives of those who have their homes near the river	6 families in risk.	Return the river to its original course and remove the stone wall that diverts the river.

Loss of biodiversity	Variety of fish: ratones, ramas. Mammals: water dog (otters).	Close the hydroelectric plant, restore the river to its natural flow, and remove the stone wall that diverts it.
Water rights and uses of the Dulcepamba River	3200 water requests paused.	Closure of the hydroelectric plant and prioritization of water rights for consumption.

Source: Own Elaboration

4.3.2 Mapping representation

Applying the theory of change, as described in Chapter 1, it was possible to determine the representative places that community members manifest in their testimonies to be restored. As a second phase of the fieldwork, it was possible to walk over the river print (where the river used to have its original course). During this walk, the community members, through semi-structured interviews, led the mapping passing through some emblematic places. The focus of this walk was to geo-reference data collected in the first fieldwork, which corresponded to the problem tree (Table 4.13). It was regarded, reflecting the transformation of the Dulcepamba river course, which passes through the communities of San Pablo Alto and San Pablo Bajo, from the past, the actual situation of the river, and what they expect to see in their territory in the future.

It was considered to make this route during the summer season, given that in winter many of these places along the route are covered with water or difficult to access. We attempted to do this hike in winter, but access was prevented by the different courses created by the river at that time. To reflect the winter episodes and land changes between seasons over the years, the mapping layers were based on previous studies conducted by the Central University of Ecuador in 2022. The base layers covered the years between 2010 and 2020, through remote sensing data processing.

Figure 4.7 Winter scenario
Source: Own Elaboration, based on the river layer of Espinosa et al., 2022.

During the field work, some of the participant community members led me to their homes to geo-reference them (homes at risk in the figure 4.7) and assess the proximity of the river during the winter season. The four homes near the river (see Figure 4.7) are so affected that their inhabitants can´t even sleep, and some families are forced to send their children away; luckily, it matches with part of the vacation season. "*Every winter, it's a problem for us. We can't even sleep. When it starts raining, the water drags everything, and we no longer sleep. Winter has become a problem.*" (L.G. Personal Communication, July 06, 2025). "*For example, the Jiménez family, the Guamán family, when we talk, they tell me: 'Dieguito, I'm afraid, we're leaving. I sent my kids to sleep in El Tambo.' 'I sent them to live in Quito for this winter.*'" (D.H. interview, July 20, 2024)

According to the QGIS measure tool, the distances between homes, the road, and the river in this season are as follows:

Table 4.14
Distance between homes, the main road and the river

Location / Family	Sector	Distance (m)
Jimenez family home	San Pablo Bajo	9.0999
Freire family home	San Pablo Bajo	36.559
Guaman family home	San Pablo Bajo	11.190
Fourth home (name in reserve)	San Pablo Bajo	126
San Pablo Alto Road sector (San Pablo de Amali Town)	Sector 1	18.164

San Pablo Alto Road sector (San Pablo de Amali Town)	Sector 2	119.875
San Pablo Bajo Road sector (homes at risk area)	Sector 1	14.035
San Pablo Bajo Road sector (homes at risk area)	Sector 2	81.929

Source: Own Elaboration

It is important to note that the measures may vary according to the runoff recorded each year. These measures considered the riverbed in 2019, as processed by Espinosa et al. (2020). However, the risk to homes remains imminent (see Figure 4.7), as the river has been eroding toward the right side, which is the urban side, since 2015.

Figure 4.8 Guaman´s family house (backyard), winter and summer season view
Source: Own source

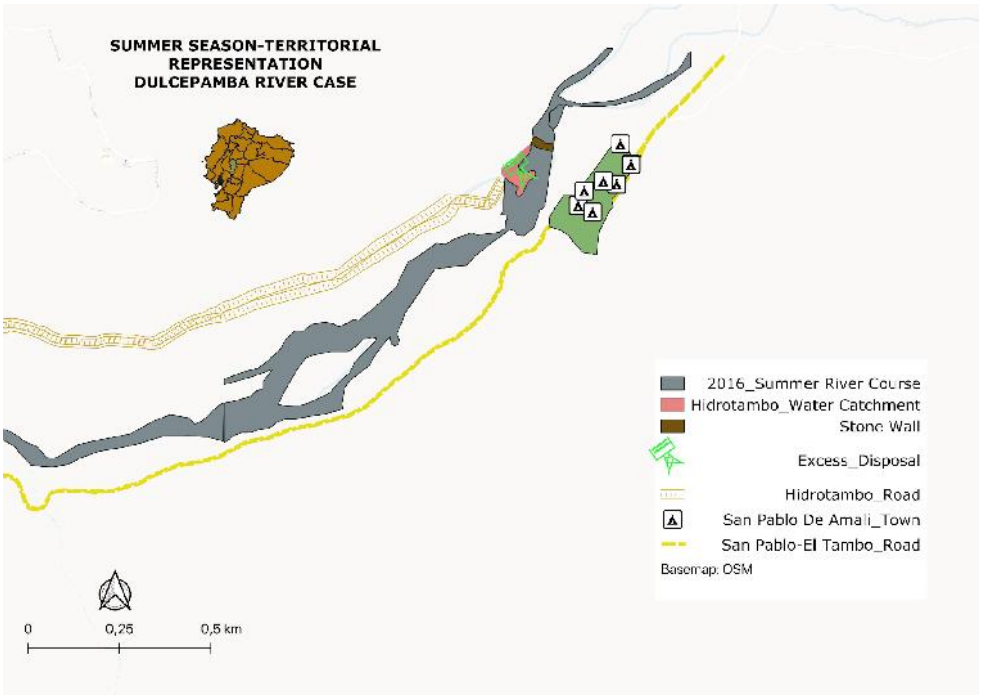

Figure 4.9 Summer scenario
Source: Own Elaboration, based on the river layer of Espinosa et al., 2022

In this summer scenario, the risk decreases for the people. Unfortunately, the ecological flow of the river is compromised and has decreased too. As pointed out in previous scientific studies, the river is diverted during this stage as well. This time, the stone wall (the brown-shaded area in Figure 4.9) directs all the water upstream towards the hydroelectric plant, and the ecological flow is reduced to 97% (Naranjo et al., 2020, p. 15). For a live view, see Figure 3.6.

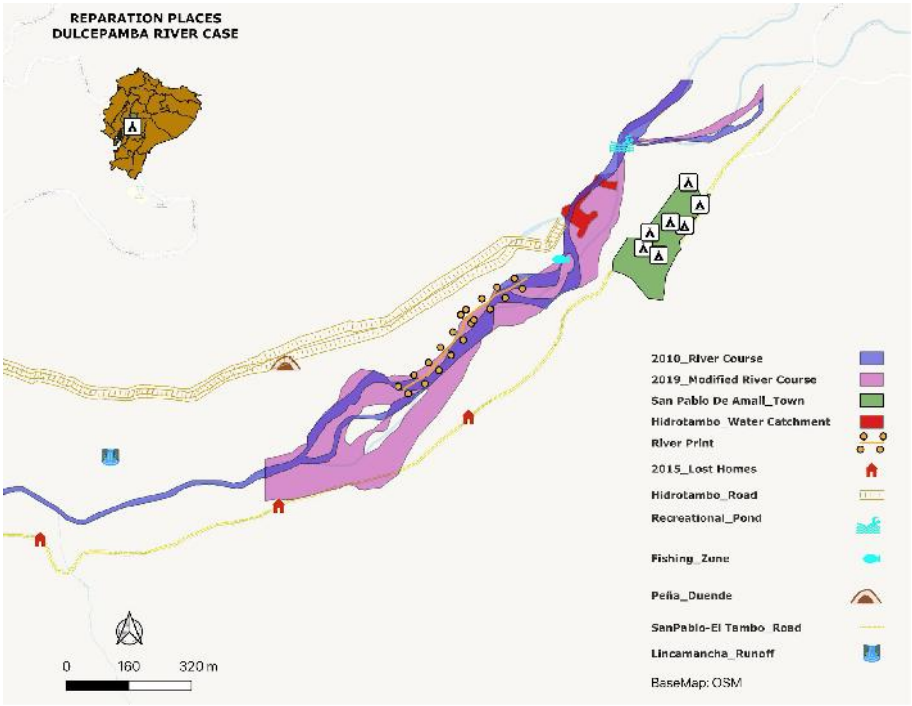

Figure 4.10 Field work route, places for reparation/restoration
Source: Own elaboration, based on the river layer of Espinosa et al., 2022.

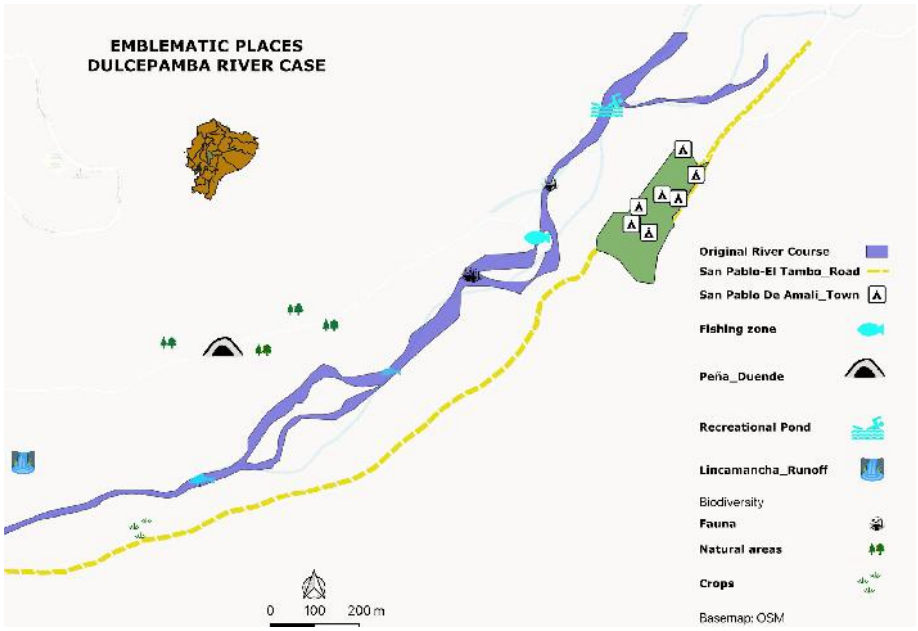

Figure 4.11 Field work route, emblematic river places for restoration
Source: Own Elaboration, based on the river layer of Espinosa et al., 2022

The georeferenced points on the maps in Figures 4.9 and 4.10 are the result of the second field trip. Figure 4.10 shows how the river course looked before, compared to how it looks after the arrival of the hydroelectric plant. The orange dots on the map represent the old course of the river, which corresponds to the river's footprint (see figure 4.10 for a live view). The whole map visualizes how the community would like to see reparation and restoration for their community, lands, and the river course.

Figure 4.12: Field work route, river print
Source: Own elaboration, 07/05/2025.

Figure 4.11, focus on the emblematic places that were part of the river basin and part of the daily life of the community. The map shows how the future could be seen with the respective restoration and reparation measures. The community expects to see the river as a recreational space, to recover its ecological flow and aquatic life. So, they can see the river as it was. It is important to emphasize that

many of these changes require prior technical studies. The map shows what the community wants to present as reparation for themselves and restoration for the river.

The contribution of the participatory mapping with the San Pablo de Amalí Community in this research allows the territory and its changes to be seen from a living perspective of the river. The testimonies that were the impulse for identifying the Community members' desire for reparation were consolidated in a graphic form, which will continue to contribute to the constitutional process that remains open. These maps make the reparation and restoration tangible to the parties involved in this legal process, who are not familiar with the territory.

CHAPTER 5
DISCUSSION, CONCLUSIONS, AND RECOMMENDATIONS

In this final chapter, we will discuss the results by objective and analyze the fulfillment of the hypotheses formulated in Chapter 1. Furthermore, we will examine how the legal and judicial scope of the framework on nature's rights in Ecuador can influence the constitutional ruling for reparation for both the Dulcepamba River and the San Pablo de Amalí community, considering favorable rulings in previous landmark cases.

Finally, the participatory process in reparation and restoration rights will be complemented by its crucial role in effectively guaranteeing the rights of nature and the communities involved, as well as in implementing the respective conclusions and recommendations.

5.1 DISCUSSION

The research began with understanding how this process of transformation came from an anthropocentric regulatory system to a biocentric conception. It started with classical constitutionalism, characterized by a rigid understanding of law, and evolved into the consolidation of Latin American neoconstitutionalism, which is more inclusive of the environment and extends beyond that to nature. In the words of Carbonell (2009), these are constitutions that are not limited to establishing powers or separating public authorities but contain high levels of “material” or substantive norms that condition the actions of the State through the ordering of particular aims and objectives (Carbonell, 2009, p. 5).

The main examples of Latin American neo-constitutionalism are the Constitutions of Ecuador (2008), Bolivia (2009), and Venezuela (1999). The Ecuadorian Constitution was a pioneer in recognizing the rights of nature in the region and around the world. The evolution of law was also accompanied by ecologism and politics to transform a philosophy into something tangible that could guarantee the rights of nature, such as the Political Constitution of the State and further nature´s jurisprudence.

The Constitution as a political and regulatory instrument has not been sufficient to guarantee nature´s rights. As a relatively new legal system, which has been in place for less than 17 years since its enactment, the obstacles have been visible, limited by political, administrative, and economic factors (Acosta, 2017; Ávila, 2011). As evidenced in the results in Table 4.7, among the most emblematic cases that were part of the wave of nature jurisprudence in Ecuador, only 7 of 22 reparations measures handed down by the CCE were complied with (Aquepi River, COA-Mangroves, Los Cedros Forest, Mataje-Cayapas Mangrove, Monjas River). 10 measures were partially complied with, while 5 were not complied with at all.

The gap identified between sentences and their material execution delays the process of a full recognition of nature´s rights. Institutions such as MAATE, Prefectures, Municipalities, the Ombudsman Office, and civil society do not apply the full ecologism criteria. Not even environmentalism, since the main principles, such as prevention and precaution, were not considered in the Dulcepamba case, by the same MAATE. At the end, there's no communication or direct control and supervision between the CCE and the institutions involved. The nature´s rights adoption is not institutionalized.

The case of the Dulcepamba River stands out due to the prolonged delay in the final verdict, as well as the persistent failure to reverse key structural damage, including the diversion of the riverbed and obstruction of the ecological flow. Factors that keep the constant state of vulnerability of a whole community and the river.

Analyzing the possible scenarios for the Dulcepamba river and the San Pablo de Amalí community, we find that the results of previous precedents show that the level of compliance with remedial measures that require long-term commitment is low. Factors such as the lack of enforcement mechanisms, the absence of independent monitoring, and weak inter-institutional cooperation pose long-term threats to a future reparation scenario for the river and the San Pablo de Amalí community.

Focusing on the Theory of Change applied in the participatory phase revealed that, for the community, reparation is not only a legal issue but also a social process that involves restoring the river's life and recovering the economic and cultural activities associated with it. In that case, some of the reparation measures demanded by the community could be handled in the short term, and depending on the judge’s criteria and inclination, on the new “biocentrism” of the law.

Cases such as the Los Cedros Forest, Piatúa, and Aquepi demonstrated that immediate measures, including project suspension, cancellation of the environmental license, and project paralyzation, achieve high compliance levels, as they do not require long-term planning. So, the reparation measures identified and recognized by the Community of San Pablo de Amalí, depending on the *ratio decidendi,* could be accomplished in a short to medium term.

Regarding the participation process of the community of San Pablo de Amalí, it was relegated from the start of the project's development without any consultation. This marked the beginning of the conflict between the community and Hidrotambo S.A. Somehow, the community and the river lost their voice and were forced to live with a project that wore out both actors. The damage caused by Hidrotambo to the river and the community has been progressive, meaning that it has worsened over

time. Figure 3.5 shows the process of degeneration of the river and the rest of the territory since the arrival of the hydroelectric plant.

These damages have led to a change in the relationship between the river and the community, with a growing distance between both, and feelings of fear towards the river, which substituted the previous relationship of respect and care. Some members of the community express: "*…all we have left is the memory"* (L.N, testimony, July 20, 2024). The collection of data *in situ* has given back to the community its voice, recognizing its right to participate and be consulted on how they would like to be repaired.

The principal finding of the participatory mapping and the analysis of previous testimonies is the integrity with which the community members discuss the river´s reparation rights and their own rights. These are not separate rights: they call both together to ask for justice. Along with the scientific studies, a solid basis is expected within the constitutional litigation. Studies such as the one presented by the Indoamerican University of Ecuador (2024), about the *astroblepus* fish species, give an added value aspect to what has been highlighted by the community regarding the loss of native fish:

"*…There were a lot of fish, and people could choose how many they wanted to take. Uh-huh... they would choose only the big ones and leave the small ones there. There was one they called the little ratón. There was another, they called a kind of tilapia too, (...). There were others, several varieties that I no longer remember. If people were hungry, they could go to the river and fish*" (S.G, interview, July 20, 2024).

The walk through the river print for the fieldwork activities became a communitarian initiative to remember how the river was, and which emblematic places used to be part of the territory. The community members' knowledge of the river was a key factor in geolocating these points. Many of them had not traveled these paths for a long time, as they expressed during the walk along the river: "*We no longer passed through here... because it also became a private place*" (F.B., personal communication, July 6, 2025).

However, their memory led to the revival of those spaces and reflection on the sense of reparation through critical cartography. The use of this methodology made it possible to complement the initial work done with the counter map during the first visit (see Figures 4.4, 4.5, and 4.6) with the georeferenced data from the second visit. Together, maps were created with a critical view of the territory, covering part of the Dulcepamba River micro-basin in the community of San Pablo de Amalí.

The results of the winter scenario maps (Figure 4.7) and summer scenario maps (Figure 4.9) showed the change in the river's dynamics indicated by studies conducted by the Central University of Ecuador (2022) and UC Davis (2017), with the added value of showing the proximity of the river to homes in winter. This demonstrates the dangerous conditions reported by the communities in their testimonies: *"...when it rains heavily, we can't even sleep. The river suddenly diverts from above." "...We couldn't sleep anymore. I remember how the river was screaming; you could only see the reflections of the water bouncing everywhere..."* (L.G., interview, July 20, 2024).

Finally, the maps in Figures 4.10 and 4.11 integrated the whole reparation and restoration measures, presenting a new, hopeful vision of their territory. It showed the changes in the landscape and how it could be transformed. The CCE has a complete and integrated material that vindicated the participation of the community, which was ripped out and silenced since the beginning of the hydroelectric project.

This sentence presents an opportunity for the Court to re-establish the jurisprudential line constructed over the years, to determine the rights of the river and the community over corporate interests, and to prove that a community's water rights take precedence over hydroelectric power use. Likewise, it is the duty of the CCE to supervise and enforce state institutions, such as MAATE, to have mechanisms in place that can guarantee the rights of nature according to the precaution and prevention principles.

As Rachel Conrad, from the Dulcepamba Project said: "*...State authorities have acknowledged Hidrotambo's responsibility in many reports, yet they have not applied these principles, especially prevention, even though the impacts are well documented. Effective action to protect the river and the communities is still lacking".* (Rachel Conrad, interview, July 11, 2025).

The emphasis is placed on the long waiting period of the CCE after selecting the case. After analyzing the trend compliance of previous cases and statements from the Dulcepamba Project (Table 4.9), the Dulcepamba River case is the only one of the cases selected in 2019 that does not have a ruling. In a case where there is an imminent risk to the community, a total loss of the river's dynamism, and consecutive non-compliance with MAATE administrative resolutions, enforcement mechanisms should already have been implemented.

Therefore, hypothesis b) proposed at the beginning of the investigation is confirmed: Despite the constitutional recognition of nature´s rights, and favorable rulings in previous cases, the constitutional remedy in Ecuador has proven insufficient to guarantee effective reparation due to the temporary burden of the CCE, which hinders the effective protection of the right to reparation of the Dulcepamba

River and has contributed to the situation of defenselessness and constant vulnerability of the Community.

5.2 CONCLUSIONS

The legal and judicial framework on nature's rights in Ecuador has proven to be relatively effective in guaranteeing reparation for both the Dulcepamba River and the San Pablo de Amalí community, based on the previous landmark cases that were analyzed in this research and the trend of compliance of similar cases.

Why relatively and not completely or ineffective? The discussion analyzed the results of the trend in compliance and showed that the CCE has proven to be more effective with short- and medium-term reparation measures than with those that require a broader commitment and collaboration with public institutions responsible for complying with the rulings.

This can be attributed to multiple factors, including a lack of direct and consistent enforcement of rulings on nature rights. Social actors and advocates for nature require law enforcement agencies to support their actions and coordinate efforts to proceed with the respective measures of reparation and restoration. Likewise, budgets and financing must be defined to comply with long-term measures that guarantee the progressive restoration.

Therefore, in the case of the Dulcepamba River, as long as there are no intermediary factors or entities between the CCE and other public institutions, such as MAATE, it is expected that an incomplete scenario will result, one that cannot fully guarantee the reparation and restoration measures requested by the Court.

On the other hand, it is essential to note that community participation in the development of reparation and restoration measures in cases involving a long history, memory, and battle is crucial to give back a voice to communities that have been silenced from the outset. By taking them into account, their right to reparation and, in the case of the river, restoration, could be consolidated. At the same time, patterns of connection between the river and the community can be identified and form the basis for the river's reparation measures. Especially with a community that sees itself represented in a river and has been able to communicate its rights.

Finally, the use of critical cartography and the theory of change have proven to be key tools in giving visibility to the community's rights to repair and river rights to restoration. The use of maps developed through critical and social analysis has allowed the community to visualize and represent what their repaired territory would look like. It is essential to emphasize that both methods, when combined with

a critical view of the law, form crucial resources that promote social and community participation, providing a new focus on the rights to reparation and restoration in cases involving communities and nature.

5.3 RECOMMENDATIONS

To conclude the research, the following recommendations are offered for further studies on this matter or related topics involving nature´s rights and reparation measures, as well as the application of critical mapping and the theory of change. Furthermore, some additional recommendations can be made within the Ecuadorian legal framework.

1. For future research on historical conflicts in which there has been a consistent lack of participation and consultation, the connection between territories and communities is a key area of study. The application of critical cartography and the theory of change is jointly consolidated as participatory methods for expressing and demonstrating the deepest desires of a community and nature.

2. The construction of reparation measures and the identification of the nature´s right to restoration must involve a participatory process to guarantee that the reparation rights are effectively implemented. The law should evolve towards a more participatory approach, moving closer to a progressive stance of biocentrism.

3. The Ecuadorian legal framework should consider having an intermediate stage between the selection of the case for binding jurisprudence and the issuance of the final verdict, in order to avoid procedural delays that compromise the guarantee of rights. This is especially important in cases where there is evidence of an imminent risk to the rights of nature and collective rights. The case of the Dulcepamba River demonstrates that the absence of precautionary measures in the constitutional process has left the community vulnerable to ongoing risks of flooding and the river's continued decline in ecological dynamism.

4. Finally, it is recommended that a more rigorous entity or mechanism be established to consistently monitor compliance with final judgments, particularly in cases involving long-term reparations measures. This is because it is evident that most cases involving the rights of nature have been only partially complied with, due to a lack of enforcement by the institutions responsible.

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ANNEXES

ANNEX 1

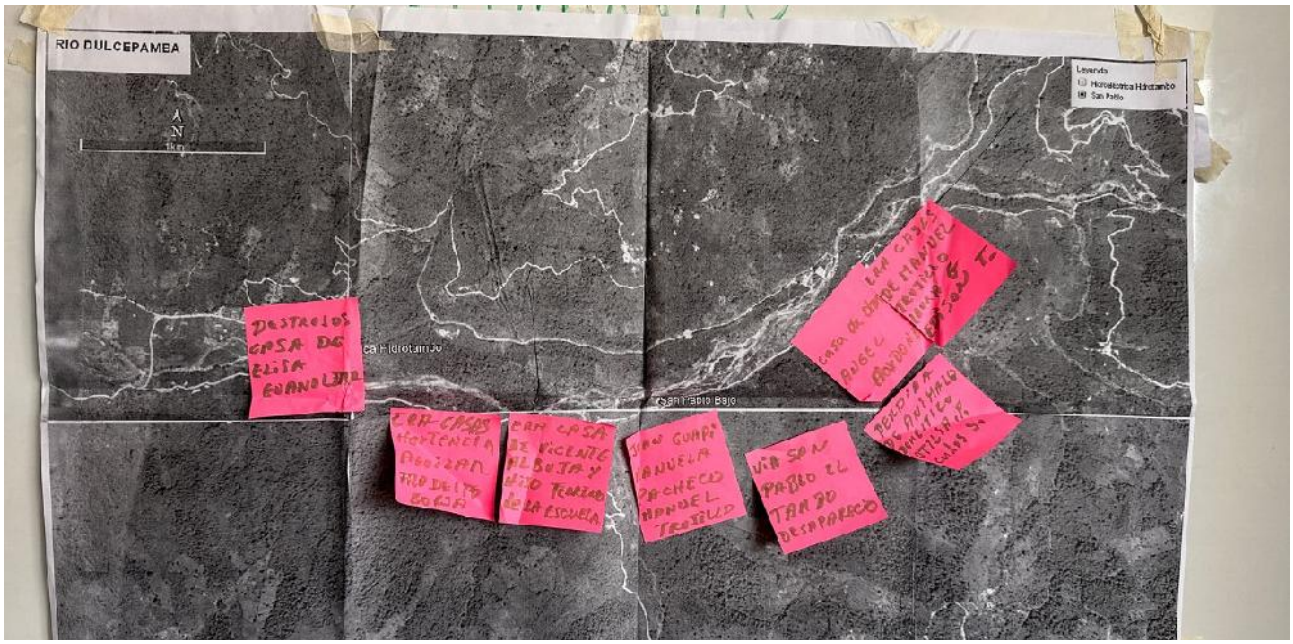
Testimonies Variable Categorization

Main Code	Subcode	Quotes N°
Before Hydrotambo´s arrival	Recreational Space, Community Harmony, Territorial Changes, River Course, Fishing Activities, Rainy Season, Natural Beauty.	56
Community Impact	Community Harm, Land and Properties Losses, Fish Loss, Food Security, Loss of lives, Property Damage, Community Safety, Emotional Distress, Lifestyle Disruption, Mobilization Difficulties, Economic Losses, Proximity to the river, Isolation, Social Division, Community Activities, Cultural-Generational Disconnection, Invasion, Quality of Life, Recreational Loss, Trapped Sensation, Agricultural Impact, Education Disruption, Family Displacement, Healthcare Access, Sleep Disruption, Violence, Water Access.	133
Community Involvement	Historical Significance, Traditional Fishing, Recreational Space, Community Engagement.	18
Community Reparation Rights	Hydro Plant Removal, Fair Economic Compensation, Memorial Reparation, Water Rights Adjudication, Home Restorations, Land Rights Readjudication, Non-Repetition, Non-Material Compensation, Community Peace, Community Project Life, Road Repair.	38
Community-River Relationship	Territorial Memories, Separation between the Community and the River, River.Community bonding, River Anger, Sadness, Fear of the River.	37
River Restoration	Natural Course, Hydroelectric Plant Removal, Ecological Restoration, Freedom, Subject of Rights, Recreational Spaces, Touristic Place, Wall Removal.	40
Socio-Environmental Impact	Artificial River Diversion, Flooding Events, River Health, Aquatic Life Loss, Ecosystem Disruption, River Drought, Ecological Degradation, Water Access, Aquatic Biodiversity.	95

Source: Own Elaboration

ANNEX 2
COMMUNITY COUNTER MAPS

Fieldwork 1 - Group 1 Map of the past



Source: Fieldwork, community of San Pablo de Amali

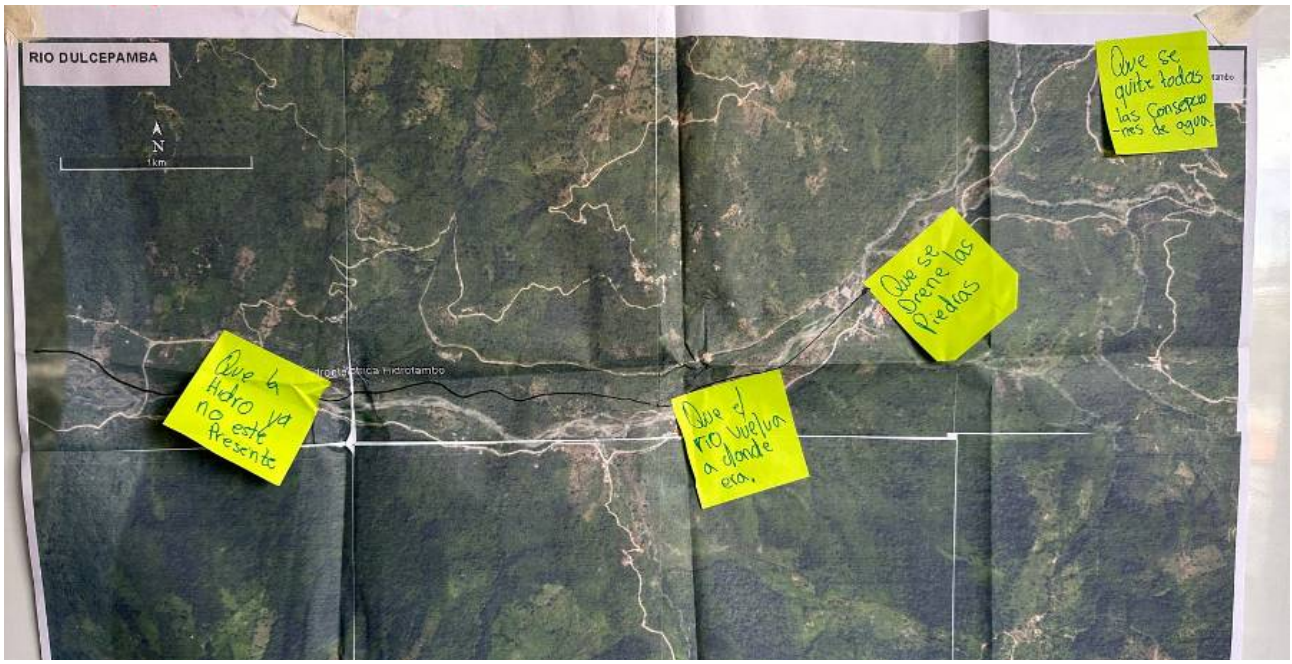
Fieldwork 1 - Group 1 Map of the future

Source: Fieldwork, community of San Pablo de Amali

Fieldwork 1 - Group 2 Map of the present

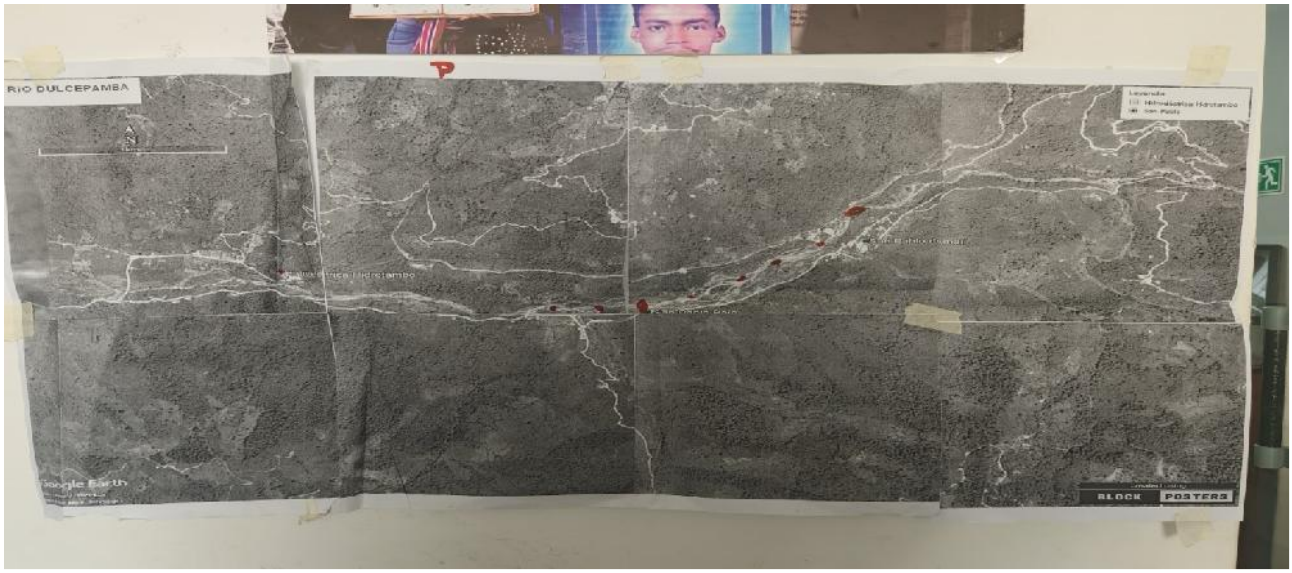
Source: Fieldwork, community of San Pablo de Amali

Fieldwork 1 - Group 2 Map of the future



Source: Fieldwork, community of San Pablo de Amali

Fieldwork 1 - Group 3 Map of the past



Source: Fieldwork, community of San Pablo de Amali

Fieldwork 1 - Group 3 Map of the present

Source: Fieldwork, community of San Pablo de Amali

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