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## [‘Environmental services’ in the Ecuadorian Constitution: A way to strengthen the monopolization of territories?](#)

In February 2023, the government of Guillermo Lasso called a Popular Consultation in Ecuador with the intention of making amendments to the Constitution. Among the proposed changes, there was an issue that would modify Article 74 of the Constitution to give *offsets for environmental services* constitutional rank.

In this context, it is important to point out that putting the label of *environmental services* on the functions and cycles of nature—such as water filtration in forests and soils, the carbon cycle, biodiversity, and pollination by bees, etc—was born from the logic of the capitalist economy. The role of environmental ‘services’ provider was imposed on nature, under the fallacy that giving nature an economic value would help save it. Putting a price on the functions and cycles of nature was well received by UN agencies, the World Bank, polluting companies and industries, conservation NGOs, and financiers—among others—who sought, and continue to seek, new ways to accumulate wealth and profit.

When talking about *offsets*, we refer to a system whereby certificates issued from a certain area (also called ‘offset credits’) supposedly guarantee that the ‘service’ located in that area is being protected. But what is really being protected is a commodity—which in this case is the offset certificate itself. Nature is turned into disconnected, fragmented, predictable, measurable and comparable units of ‘environmental services.’

The most common offsets are those for carbon dioxide emissions, but there are also offsets for loss of biodiversity and water sources. Certificates allow those who buy them to pollute or destroy in an amount ‘equivalent’ to what is established in the certificate. In the case of carbon, for example, each certificate allows the polluter to emit a ton of carbon dioxide while also allowing the polluter to obtain a ‘green’ image or advertise that they are ‘carbon neutral.’

The constitutional amendment on environmental services that the Popular Consultation in Ecuador sought to enact will not be implemented—because the majority of people voted NO. However, this governmental attempt is a warning about the interests of companies and the pressure they exert to strengthen policies of appropriation and commodification of nature. The case of Ecuador is emblematic, seeing as Ecuador’s Constitution serves as a global example for the recognition of the rights of Nature.

### **The Montecristi Constitution and attempted changes to it**

The 2008 Constitution (called the Montecristi Constitution) was the result of a comprehensive process led by historic and diverse struggles in Ecuador. Among other things, this Constitution (at least on paper) strengthened the capacity of the state, aligned the economy with national and social criteria, created a tax system to redistribute wealth, and dedicated a section to *‘Buen Vivir’* (Living Well) as an alternative paradigm and a guide for the country’s public policies. It is important to

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mention that the concept of *'Buen Vivir'* does not come from the Montecristi Constitution, but from ancient traditions and wisdom rooted in Andean peoples. In this vein, the Constitution also refers to the State as Plurinational.

But perhaps the greatest advancement, unique and historic in the world, is the recognition of Nature as a subject of rights (Art 71-74). Some of these rights include the right to be defended, and the prohibition on the appropriation of environmental services. As an example of the radical force of this inclusion, the Constitution's Preamble begins in the following way: "Celebrating nature, Pachamama, of which we are part and which is a vital part of our existence (...)" This places the intrinsic relationship between humans and non-humans at the centre of the analysis.

Article 74—which the Popular Consultation attempted to modify—stipulates that: "(...) environmental services will not be subject to appropriation; their production, provision, use and exploitation will be regulated by the State."

The issue in the Popular Consultation asked voters: "*Do you agree that individuals, communities, peoples and nationalities can be beneficiaries of offsets, that are duly regulated by the State, and which support the generation of environmental services, amending the Constitution in accordance with Annex 8?*" (1) Had the 'yes' vote won in the Consultation, this would have granted the State the authority to define "the guidelines and offset mechanisms that individuals, communities, peoples and nationalities receive for their help in generating said offsets."

## **The interests behind the Popular Consultation**

To understand the implications of this Consultation in Ecuador, WRM spoke with **Ivonne Yáñez, founding member of the Ecuadorian organization, Acción Ecológica, and activist, feminist and researcher. Yvonne is also a member of WRM's Advisory Council.**

**WRM: The Constitution already includes the idea of 'environmental services'—albeit in a spirit of protecting those 'services' and preventing their appropriation. Could you explain to us, then: What is the specific objective of the constitutional amendment sought through the Popular Consultation?**

Ivonne: At Acción Ecológica we are against the very idea of environmental services, since we know that they are a capitalist invention. The first environmental services were created in the United States in the 1970s to avoid compliance with growing environmental regulations.

Nevertheless, Article 74 of the Ecuadorian Constitution at least clearly prohibits their appropriation. The change that was proposed in the Popular Consultation—to include offsets as a constitutional right—could have easily opened up the appropriation of environmental services to companies or private investors. We know that there can be no offsets without a set of rules mediating those who offer, buy and sell them.

On the other hand, the government's interest in the amendment was to position Ecuador as a provider of environmental services and to demonstrate to carbon traders that there could be a free market for offsets in the country—which would give free rein to all kinds of businesses. This includes digital assets, tokens or values that may be related to the carbon market and environmental services. Digital carbon projects use territories, forests, rivers, biodiversity and Indigenous Peoples' cultures to make shady and highly risky deals (2).

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**WRM: Aren't Payments for Environmental Services already allowed in Ecuador through programs such as Sociobosque, and through the introduction of carbon projects? If this is the case, why was there an attempt to reform the Constitution?**

Indeed, Payments for Environmental Services already exist in Ecuador—for example, through the Organic Environmental Code and its regulations, the Sociobosque and ProAmazonia programs (which include REDD+), and the Ecuador Carbon Zero Program (3).

All of these public policies already incorporate the incentive to offer environmental services as well as an economic acknowledgement or green image for the companies. From this perspective, the [ballot] issue was unnecessary. However, we were able to see how companies that trade in carbon offsets exerted a lot of pressure over the last few months to get Article 74 changed—because they see it as a roadblock keeping them from making all of the deals they want to make.

It is clear that the [ballot] issue on environmental services was an attempt, on the one hand, to elevate the popularity of the government (which is in the dumps), and on the other hand, to help voluntary carbon offset markets gain traction in the country—through subsequent environmental reforms that would de facto allow the appropriation of environmental services. Even though we don't defend the idea of environmental services—which are becoming a strategic State-owned resource—we should at least preserve the article in the Constitution that keeps them from going viral in Ecuador.

**WRM: What would the implications be if offsets for environmental services were approved, taking into account the process and agreements that led to the 2008 Constitution?**

'No' won on issue 8 of the Popular Consultation, which was the issue related to environmental services. In some provinces it won with up to 80 percent of the vote. However, we must analyse this a little more closely. Indigenous Amazonian organizations actually opposed this issue because they advocate that environmental services in their territories should be the property of Indigenous Peoples, and that without State intervention they can directly negotiate Payments for Environmental Services with whomever they want.

Since the issue also included the detail that the State would be the administrator, for indigenous Amazonian organizations this meant more centralized control over environmental services—which could therefore affect the deals they could make autonomously without having to register everything with the State.

Finally, the fact that 'No' has won does not mean that the government will not want to make all the secondary regulatory changes to strengthen the idea of environmental services and, by extension, their trade in Ecuador. We will continue to be vigilant and denounce what these mean for people and for the planet.

(1) [See the issues and provisions of the Popular Consultation, including annex 8.](#)

(2) Acción Ecológica, [Amenazas del Capitalismo Digital: el caso de One Amazon.](#)

(3) The SocioBosque and ProAmazonia programs in Ecuador seek to be a part of REDD+ plans (Reducing Emissions from Deforestation and Forest Degradation). This allows carbon in People's forests to be traded in markets for carbon and other environmental services. [See more in Ecological Action, "De Pacha Mama Sagrada A Mercancía Privada"](#) and WRM, ["15 Years of REDD: A Mechanism Rotten at the Core"](#); The "Ecuador Zero Carbon Program" (PECC) is a market-based environmental program that establishes the sale of 'carbon reduction' certificates under a pay-to-pollute principle. For this program, a portfolio of offsets will be created, as well as the 'Punto Verde'

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brand. See more at Acción Ecológica, "[Ecuador Carbono Cero = ¿Permisos para contaminar?](#)".