The Impact of the Rights of Nature

Assessing the Implementation of the *Los Cedros* Ruling in Ecuador

A Report by:

The NYU More Than Human Life (MOTH) Project

The Earth Rights Research and Action (TERRA) Program

NYU School of Law

June 2024

NYU LAW

moth

center for HUMAN RIGHTS & GLOBAL JUSTICE

First Edition TERRA Clinic at NYU Law
& NYU MOTH Project, June 2024

Published in the United States by the New York University More Than Human Life Project and the Earth Rights Research and Action (TERRA) Program at NYU Law.

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Executive Summary

A growing number of judicial rulings have recognized the legal personhood of nonhumans, attributing to them certain rights as well as intrinsic value. Yet, as this movement has continued to evolve, a question regarding its efficacy, particularly with respect to judicial rulings, has remained: have these legal victories achieved material impacts for nature or are they primarily symbolic in nature?

One landmark case in the rights of nature jurisprudence provides an opportunity to probe this compelling question: the *Los Cedros* ruling. In 2021, the Constitutional Court of Ecuador ruled in favor of the Los Cedros Forest, a highly biodiverse cloud forest between the Chocó and the Tropical Andes regions of Ecuador. The case had been filed in response to mining licenses that had been granted by the government for exploratory work within the bounds of the Forest Reserve. It ultimately landed in front of the Constitutional Court, which found that mining activities would cause environmental degradation in clear violation of the right to a healthy environment, the right to water, *and the rights of nature*—specifically, the rights of the Los Cedros Forest and its species to exist and to regenerate via healthy life cycles. The Court held that the violations of fundamental human rights and constitutional rights of nature required an annulment of the mining permits. It declared the environmental registration void and held that activities threatening the rights of nature—including mining and *all types* of extractive activities—were prohibited within the Los Cedros Protected Forest.

Yet, innovative and compelling rulings like *Los Cedros* are not sufficient, in and of themselves, to protect the rights of the more-than-human world. Equally important is the effective implementation of those decisions, which ultimately determines whether they make a difference on the ground. Therefore, protecting the rights of the more-than-human world—or "more-than-human" (MOTH) rights—requires paying close attention to the implementation of rulings as well as continued efforts to hold governments and private actors accountable to those rights.

In this report, the More Than Human Life (MOTH) Project and the Earth Rights Research & Action (TERRA) Program at New York University School of Law assess the implementation and the level of government and corporate compliance with the Constitutional Court's orders in the *Los Cedros* ruling. The assessment is based on a combination of qualitative methods, including two field visits to the Los Cedros Forest (in October 2022 and May 2024), a systematic review of primary and secondary sources, as well as interviews with key actors in the enforcement of the ruling. Compliance scores have been assigned to evaluate the current level of implementation of each court order. Each score is accompanied by an analysis of the factors that make up each order's implementation status.

The report provides an empirical and legal baseline for efforts to monitor the implementation of this landmark decision. In addition to documenting the status of the ruling and the situation on the ground, the report aims to bolster the protection of the forest, the rights of the humans and nonhumans that rely on it, and the international recognition of this decision as a key precedent in the legal advancement of nature's rights.

The reports shows that the enforcement of the rights of nature and rulings like *Los Cedros* can be effective tools to protect endangered ecosystems whose survival and flourishing are essential to addressing the triple ecological crises of global warming, biodiversity loss, and pollution. Unlike many other forests and ecosystems that have succumbed to the pressure of mining and other extractive projects in different parts of the world, Los Cedros remains a source of water and life for humans and nonhumans, thanks to the protection provided by the Constitutional Court's orders. The study found that mining operations have indeed stopped in Los Cedros and no mining infrastructure remains in the area.

However, the implementation of the Court's ruling is still incomplete and there remain important challenges for the long-term survival and protection of Los Cedros. This report identifies implementation gaps associated with the Ecuadorian government's actions and omissions, threats to the forest stemming from mining activities in surrounding areas, and insufficient support for the scientists and community members who have dedicated their work and life to the protection of the forest.

The report thus concludes with recommendations for a range of relevant actors, from the Ecuadorian government, civil society, and scientific community to international agencies and organizations. If *Los Cedros* is to remain an icon of biodiversity protection and the rights of nature worldwide, they will all have to redouble their efforts to implement the ruling and protect the forest.

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I. Introduction

Widely hailed as one of the most important environmental cases of the 21st century, the *Los Cedros* decision by the Ecuadorian Constitutional Court illustrates a global trend towards the recognition of the rights of nature. Indeed, *Los Cedros* stands as one of the most robust and promising legal cases among the 493 initiatives on rights of nature that, according to the Eco Jurisprudence Monitor, have been pursued in forty-four countries and international venues like the United Nations.[1]

In addition to recognizing the Los Cedros Forest as a subject of rights, the Court revoked permits for mining in the forest that had been granted to Ecuador's state mining company, Empresa Nacional Minera (ENAMI), and its Canadian partner, Cornerstone Capital Resources (Cornerstone). Additionally, the Court imposed a strict blanket ban on all future mining or extractive activities within the confines of Los Cedros.

The ruling has broad implications not only for Ecuadorian law and biodiversity but also for legal systems and ecosystems around the world.[2] Indeed, the judgment has already been used as a basis for subsequent rights of nature litigation.[3]

Yet, innovative and compelling rulings like *Los Cedros* are not sufficient, in and of themselves, to protect the rights of the more-than-human world. Equally important is the

1 This figure includes court decisions, constitutional provisions, national or local laws, policy instruments, and nonbinding declarations. Roughly two-thirds of them have been approved. *See* Kauffman, C., et al. (n.d.). Eco Jurisprudence Monitor. Retrieved from https://ecojurisprudence.org/.

2 Peck, M. R., Desselas, M., Bonilla-Bedoya, S., Redín, G., Durango-Cordero, J. (2024). The Conflict Between Rights of Nature and Mining in Ecuador: Implications of the Los Cedros Cloud Forest Case for Biodiversity Conservation. *People and Nature*, 3-4.

3 *See, e.g.*, Ecuador Constitutional Court, Case No. 253-20-JH. (2022); Ecuador Constitutional Court, Case No. 253-20-JH. (2023); Ecuadorian Constitutional Court, Case No. 265-23-EP (2023); interview with Inty Felipe Arcos Torres (Biologist, Fundación Imaymana and Consortium for the Sustainable Development of the Andean Ecoregion); interview with Paul Gualotuña (Zonal Director of Intag, Municipality of Cotacachi); interview with Viviana Lizeth Morales Naranjo (Attorney, Professor, University of the Americas, Simon Bolivar Andean University).

effective implementation of those decisions, which ultimately determines whether they make a difference on the ground. Therefore, protecting the rights of the more-than-human world—or "more-than-human" (MOTH) rights—requires paying close attention to the implementation of rulings as well as continued efforts to hold governments and private actors accountable to those rights.[4]

This report assesses the implementation and the level of government and corporate compliance with the Constitutional Court's orders in *Los Cedros*. To that end, the More Than Human Life (MOTH) Project at NYU School of Law investigated the implementation of the Constitutional Court's mandates. As part of the work of the Earth Rights Research and Action (TERRA) Program at NYU Law, the MOTH Project studies and promotes initiatives on the rights of nature around the world, including the effective implementation of judicial decisions like *Los Cedros*.[5]

This report is based on a combination of qualitative methods, including two field visits to the Los Cedros Forest (in October 2022 and May 2024), a systematic review of primary and secondary sources, as well as interviews with key actors in the enforcement of the ruling. Compliance scores have been assigned to evaluate the current level of implementation of each court order. Each score is accompanied by an analysis of the factors that make up each order's implementation status.

Through this report, the NYU MOTH Project seeks to provide an empirical and legal baseline for efforts to monitor the implementation of this landmark decision. In addition to documenting the status of the ruling and the situation on the ground, the report aims to bolster the protection of the forest, the rights of the humans and nonhumans that rely on it, and the international recognition of this decision as a key precedent in the legal advancement of nature's rights.

The report shows that the enforcement of the rights of nature and rulings like *Los Cedros* can be effective tools to protect endangered ecosystems whose survival and flourishing are essential to address the triple ecological crises of global warming, biodiversity loss, and pollution. Unlike many other forests and ecosystems that have succumbed to the pressure of mining and other extractive projects in different parts of the world, Los Cedros remains a source of water and life for humans and nonhumans, thanks to the protection provided by the Constitutional Court's orders. As explained below, NYU MOTH's study found that mining operations have indeed stopped in Los Cedros and no mining infrastructure remains in the area.

4 Rodríguez-Garavito, C. (2024) More-Than-Human Rights: Law, Science and Storytelling Beyond Anthropocentrism. In Rodríguez Garavito, C. (ed.) More Than Human Rights: An Ecology of Law, Thought and Narrative for Earthly Flourishing (New York: NYU Law).

5 See https://mothrights.org/.

However, the implementation of the Court's ruling is still incomplete and there remain important challenges for the long-term survival and protection of Los Cedros. This report identifies implementation gaps associated with the Ecuadorian government's actions and omissions, threats to the forest stemming from mining activities in surrounding areas, and insufficient support for the scientists and community members who have dedicated their work and life to the protection of the forest. The recent passing of the founder of the Los Cedros reserve, who led the movement to protect the forest for several decades and was a key actor in the lawsuit that led to the Constitutional Court's ruling, further intensifies the need to urgently address those challenges.[6]

The report thus concludes with recommendations for a range of relevant actors, from the Ecuadorian government, civil society, and scientific community to international agencies and organizations. If *Los Cedros* is to remain an icon of biodiversity protection and the rights of nature worldwide, they will all have to redouble their efforts to implement the ruling and protect the forest.

A. The Los Cedros Forest – a Unique and Vital Ecosystem

Nestled between the lush Chocó bioregion and the expanse of the Tropical Andes, there thrives an invaluable ecological treasure—the Los Cedros Forest. The old-growth forest of Los Cedros is home to over 200 species at high risk of extinction, including the spider monkey, the spectacled bear, and many other species that dwell nowhere else on Earth.[7] The forest also serves as a crucial hydrological source for numerous rivers and streams in the surrounding area. All local communities surrounding Los Cedros depend on sources of drinking water that either originate in the forest or flow through it.[8] The bioregion's uniqueness, biodiversity, and critical ecological role led to much of Ecuador's cloud forest being designated as protected in 1994.[9] In 2008, Ecuador became the first country in the world to enshrine constitutional protection for the rights of nature—or *Pachamama*, Mother Earth—adding another layer of defense to Los Cedros.

6 Interview with Jhesica Liseth Almeida Herrera (Municipal Attorney General, Municipality of Cotacachi); interview with Bitty Roy (Professor Emerita, University of Oregon).

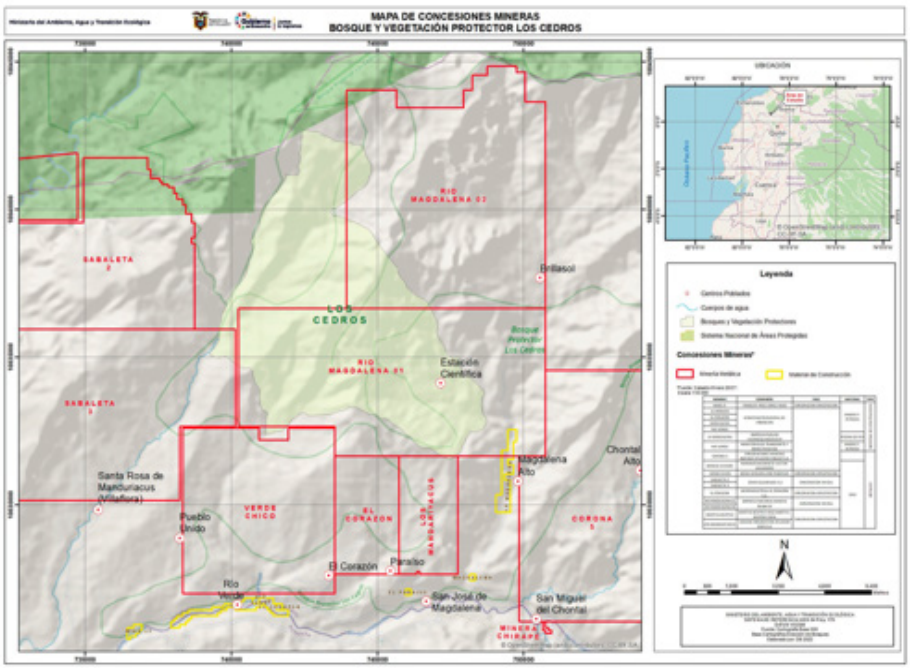
7 Roy, B. A., Zorrilla, M., Endara, L., Thomas, D. C., Vandegrift, R., Rubenstein, J. M., Policha, T., Ríos-Touma, B., & Read, M. (2018). New Mining Concessions Could Severely Decrease Biodiversity and Ecosystem Services in Ecuador. *Tropical Conservation Science*, *11*(1), 194008291878042-. Retrieved from https://doi.org/10.1177/1940082918780427.

8 Constitutional Court, Case No. 1149-19-JP/21 (Nov. 10, 2021) (*Hereinafter Los Cedros Ruling*), ¶¶ 182-235 (referencing Ministerial Agreement 57. (1995, January 26). Official Gazette, 620).

9 *Los Cedros Ruling*, ¶ 9 (citing Ecuadorian Institute of Forestry, Natural Areas and Wildlife (INEFAN). (1994). Ministerial Agreement No. 57).

However, in March 2017, Ecuador's Ministry of the Environment, Water and Ecological Transition (MAATE, for its name in Spanish) issued two concessions, Rio Magdalena 01 and Rio Magdalena 02, approving copper and gold mining in two-thirds of Los Cedros.[10] That same year, an environmental registration permit—a procedure permitted only for projects likely to result in little environmental impact—was issued for the initial exploration phase of mining by state-owned mining company ENAMI and Cornerstone. By December, MAATE had granted environmental permits for the project.[11]

Zone of influence of Los Cedros Protected Forest



Map. Metallic Mining and Aggregates Concessions within and in the Influence Zone of Los Cedros BVP. Prepared by: Forest Directorate, 2022. Retrieved from Management Plan (p. 52).

10 *Los Cedros Ruling*, ¶¶ 14-15 (citing Ministry of Mining. Resolution No. Resolution No. MMSZM-N-2017-0041-RM. (2017, March 03) and Ministry of Mining. Resolution No. MM-SZM-N-2017-0042 RM. (2017, March 03)).

11 *Los Cedros Ruling*, ¶¶ 16 (citing Ministry of Environment. Resolution No. 225741. (2019, Dec. 12)).

In November 2018, the Cotacachi Mayor's Office, on behalf of the Los Cedros Forest, filed a constitutional protective action at the municipal Cotacachi Cantón Court.[12] The action sought injunctive relief against ENAMI. Seeking to repeal both the resolution approving the project's environmental registration and the approval of ENAMI's environmental impact study and management plan, the petitioners argued that these approvals violated the constitutional rights of nature by permitting potentially destructive mining activity within Los Cedros. Additionally, the Cotacachi administration alleged that the defendants' procedures violated the constitutional rights to a healthy environment and to water as well as provisions ensuring environmental consultation—including special guarantees ensuring the consultation of Indigenous Peoples.[13]

The Cotacachi Court quickly denied the action in less than a month.[14] The Cotacachi Mayor's Office appealed to the Provincial Court of Imbabura, which struck down the lower court's decision and ruled in favor of the petitioners in June 2019.[15] The Provincial Court based its decision on the violation of citizens' right to environmental consultation but did not evaluate the rights of nature claim.[16] With the long-term protection of Los Cedros still uncertain after this decision, the mayor of Cotacachi filed another action, this time with the Constitutional Court of Ecuador. While the Constitutional Court denied this request, ENAMI filed its own action against the Provincial Court's decision, which the Constitutional Court did accept.[17] The Constitutional Court handed down its ruling in the *Los Cedros* case on November 10, 2021.[18]

B. The Landmark *Los Cedros* Decision

Ecuador's Constitutional Court found that mining activities would cause environmental degradation in clear violation of the right to a healthy environment, the right to water, and the rights of nature—specifically, the rights of the Los Cedros Forest and its species to exist and to regenerate via healthy life cycles.[19] The Court held that the violations of fundamental human

12 *Los Cedros Ruling*, ¶ 17; interview with Jhesica Herrera.

13 *Id.*

14 *Los Cedros Ruling*, ¶ 19.

15 *Los Cedros Ruling*, ¶ 20.

16 *Id.*

17 *Los Cedros Ruling*, ¶ 21.

18 *See generally, Los Cedros Ruling.*

19 *Los Cedros Ruling*, ¶¶ 337-340.

rights and constitutional rights of nature required an annulment of the mining permits.[20] It declared the environmental registration void and held that activities threatening the rights of nature—including mining and *all types* of extractive activities—were prohibited within the Los Cedros Protected Forest. Emphasizing the interconnectedness of all human rights with the rights of nature, the Court additionally found violations of the right to environmental consultation.[21]

The Court's decision relied on extensive scientific evidence that was submitted to it by experts from Ecuador and abroad. From a legal standpoint, it relied on the application of the precautionary principle, according to which public and private actors should manage risk in situations of uncertainty by abstaining from activities that may cause harm to nature. The Court highlighted Los Cedros' unique flora, fauna and funga, water cycles, and critical roles as a biodiversity corridor and source of water for thousands of nearby residents. On this basis, it rejected the defendants' argument that the "exploratory phase" of mining would result in only minor environmental impacts. The unique characteristics of the forest made Los Cedros more susceptible to environmental damage, meriting higher standards of protection and the application of the precautionary principle—which the Court emphasized required the State to apply timely and effective measures *before* extractive activities caused the extinction of species, destruction of ecosystems, or permanent alteration of natural cycles.[22]

20 *Los Cedros Ruling*, ¶ 347(e).

21 *Los Cedros Ruling*, ¶ 337.

22 *See generally, Los Cedros Ruling*, ¶¶ 112-164.

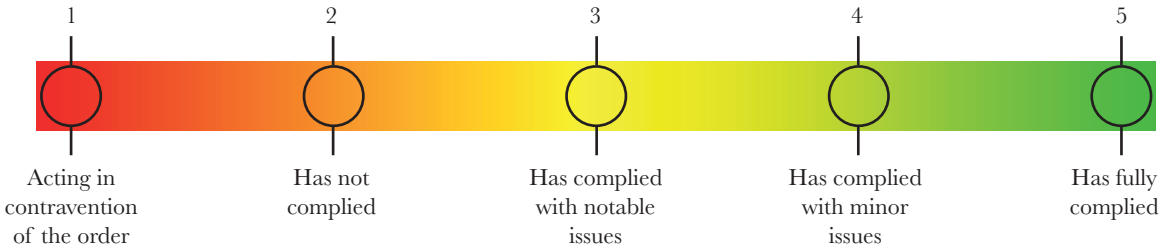
II. Assessing Compliance with the Constitutional Court's Orders

The Court's decision contained a broad range of orders providing reparation measures—remedies implemented to address harm, damage, or injustice—and guarantees of non-repetition—assurances put in place to prevent the recurrence of human rights violations in the future.[23] In this section, we analyze and determine the compliance status of each order as of June 2024.

This report first presents a score, according to the compliance scale below, that reflects the degree of the responsible actor's compliance with the respective order. The report then specifically analyzes past and present steps taken by actors to comply with the respective orders. The scores also account for other circumstances that may affect an actor's ability or disposition to comply with orders.

In the case of orders containing multiple directives, a different score and analysis is provided for each directive.

Compliance Scale



23 *Los Cedros Ruling*, ¶¶ 348-349.

The report focuses on orders that require the implementation of specific measures and guarantees of non-repetition from government entities and officials, mining companies, or the whole of society. It does not delve into court orders containing self-executing measures requiring no further action[24] or into orders to make the judgment publicly available, which the government has implemented.[25]

A. Compliance with Comprehensive Reparation Measures

Comprehensive Reparation Measure # 1

> *"Empresa Nacional Minera EP and allied or associated companies must refrain from carrying out any type of activity in the Los Cedros Protected Forest, must remove all infrastructure that has been built in connection with the Magdalena 01 and Magdalena 02 concessions, and remain within the forest, if any, and reforest the areas that have been affected by such infrastructure and the opening of trails. The costs involved in the reforestation shall be borne by the companies indicated in this decision."*[26]

Level of implementation for ENAMI and Cornerstone: 5

Analysis

Because the Río Magdalena concessions were in the exploration phase at the time of the *Los Cedros* ruling, Cornerstone and ENAMI—the two companies jointly conducting mining activities in Los Cedros at the time of the ruling—had carried out initial mining exploration work. This included the low-level cleaning of timber, opening of trails, and geological mapping, as well as the collection of water, soil, and rock samples. Little infrastructure had been put in place.[27]

24 *Los Cedros Ruling*, ¶ 341-343.

25 Judiciary Council. (2022, March 9). Compliance with Judgment No. 1149-19-JP/21 of November 10, 2021; Ministry of Environment, Water and Ecological Transition. (n.d.). Judgment No. 1149-19-JP/21.

26 *Los Cedros Ruling*, ¶ 348(b).

27 Interview with Luis Antonio Cueva Ordóñez (Former Ombudsman's Officer – Provincial Delegation of Imbabura); interview with José Cueva (Los Cedros' Scientific Station member); interview with William Sacher (Associate Professor, Andean University Simón Bolívar).

After the Constitutional Court's judgment affirming the annulment of MAATE's environmental registration and water permits for the Río Magdalena mining concessions,[28] ENAMI and Cornerstone fully ceased and abandoned exploration activities. NYU MOTH's on-site visits, reporting from Scientific Station members based on camera and private park rangers monitoring, and community member reports have not registered any activity by ENAMI or allied and associated companies in Los Cedros since the judgment.[29] In addition, the on-site visits conducted by the Ombudsman's Office in 2022 and 2023, as well as interviews conducted by the Ombudsman Office for reporting purposes, confirmed that ENAMI and Cornerstone were no longer physically present in Los Cedros.[30] The Ombudsman's Office also concluded that reforestation, mandated by the Constitutional Court's order, was not necessary. Though ENAMI and Cornerstone made trails and temporary camps, all impacted areas in the forest had the capacity and indeed began to recover through natural regeneration. The on-site visits by the Ombudsman's Office and the Scientific Station confirmed that, by 2023, the forest had largely regenerated.[31]

Comprehensive Reparation Measure # 2

> *"Within a period of no more than six months from the approval of this judgment, the Ministry of Environment, Water and Ecological Transition shall promote the construction of a participatory plan for the management and care of the Los Cedros Protected Forest in accordance with the provisions of the section on reparations in this judgment* **[part 1]**. *The Ombudsman's Office will accompany and monitor compliance with this provision* **[part 2]**. *Within 30 days of notification of this judgment, the Ministry of Environment, Water and Ecological Transition and the Ombudsman's Office shall report separately to this Court on the progress of the construction of the plan* **[part 3]**. *"*[32]

28 MAATE (Jan. 10, 2022). Technical Report on Compliance with Administrative Authorizations, Environmental Obligations and/or Environmental Regulations Applicable to the Río Magdalena Mining Project. Submission to the Constitutional Court. Memoranda No. MAAE-SCA-2022-0036-M.

29 Interview with Elisa Levy (Scientific expert). Site visit to Los Cedros (May 2024).

30 *See generally,* Ombudsman's Office. Provincial Delegation of Imbabura. (March, 2023). Follow-up on compliance with judgment No. 1149-19-JP/21 (discussing the January 2023 visit); Ombudsman's Office. (2022, February 22). On-Site Visit Report. Submission to the Constitutional Court (*Hereinafter Ombudsman's Office On-Site Visit Report (Feb. 2022));* Ombudsman's Office. (2023, October 26). On-Site Visit Report. Submission to the Constitutional Court (*Hereinafter Ombudsman's Office On-Site Visit Report (Oct. 2023)*).

31 Ombudsman's Office On-Site Visit Report (Oct. 2023).

32 *Los Cedros Ruling,* ¶ 348(e) (making reference to ¶¶ 344(e)-(f)).

[Part 1]

Part 1 of this order provides that the Management Plan must be implemented according to the reparation provisions issued pursuant to the decision of the Provincial Court of Justice of Imbabura, which the Constitutional Court ratified in its ruling. Compliance with each of the lower court's provisions are assessed in turn below.

[Part 1.a.]

> *"The management plan…must include at least: (i) indicators to measure the levels of effectiveness of the measures adopted for the protection of this forest, (ii) measures to prevent and sanction illegal mining within the Bosque Protector Los Cedros and other activities that may be harmful to the forest and the inhabitants of the surrounding communities, iii) reforestation of areas that have been affected by infrastructure, iv) promotion of scientific, environmental and forestry research, [v]) measures for the preservation of water, [vi]) promotion of economic activities for the surrounding communities that are in harmony with the rights of nature in accordance with the parameters of this judgment."*[33]

Level of implementation for MAATE: 4

Analysis

The Management Plan, published in November 2022, addresses the six items—described above—ordered by the Constitutional Court. The Plan is organized around four programs comprising nine strategies, namely the (1) Administration and Planning Program, (2) Natural Resources Management, (3) Training and Community Development Program, and (4) Investigation Program.[34] While all programs are complementary in fulfilling the six items listed in the reparations provision, some programs are more specifically tailored to comply with specific items. For example, programs related to zoning and land demarcation—part of the Administration and Planning Program[35]—and the training of park rangers—part of the

33 *Los Cedros Ruling*, ¶ 344(f).

34 Ministry of Environment, Water, and Ecological Transition. (2022). Update of the Participatory Management Plan for the Management and Care of the Los Cedros Forest and Protective Vegetation 2022-2026 (*Hereinafter Management Plan*) (pp. 94-104).

35 Management Plan (pp. 95-97).

Natural Resources Management Program[36]—are particularly geared towards item (ii) on the prevention and sanction of illegal mining in Los Cedros, while community capacity building on sustainable agriculture—part of the Training and Community Development Program[37]—would further item (vi) on the promotion of economic activities for the surrounding communities that are in harmony with the rights of nature and the judgment.[38] Further, item (i) of the Constitutional Court's order is satisfied by the fact that each program's strategy possesses an outcome indicator and implementation timeline.[39]

[Part 1.b.]

> *"This plan should include the residents of the surrounding communities, the authorities of the Provincial Government of Imbabura, the Cantonal Government of Cotacachi and the parish governments, scientific researchers and academics who have conducted studies in the Los Cedros Protected Forest."*[40]

Level of implementation for MAATE: 3

Analysis

Promotion of a Management Plan:

In June 2022, MAATE reported that, beginning in April 2022—one month before the six-month deadline ordered by the Constitutional Court—it began promoting a Management Plan for the Los Cedros Protected Forest.[41] The production of this Management Plan involved the review of a prior Management Plan developed by some stakeholders in Los

36 Management Plan (p. 99).

37 Management Plan (pp. 100-101).

38 Management Plan (pp. 94-104).

39 Management Plan (pp. 116-122).

40 *Los Cedros Ruling*, ¶ 344(e).

41 Ombudsman's Office. (December, 2022). Report on Compliance with the Participatory Plan for the Management and Care of the Los Cedros Protected Forest. Submission to the Constitutional Court (p. 5) (*Hereinafter Ombudsman's Office Compliance Report (Dec. 2022)).* Retrieved from http://esacc.corteconstitucional.gob.ec/storage/api/v1/10_DWL_FL/e2NhcnBldGE-6J2VzY3JpdG8nLCB1dWlkOic1OWZkOWJkMC0wNDNkLTRhMDYtOTE2Ni1lMzBlMDFmZmM1ZjEucGRmJ30=; Ministry of Environment, Water, and Ecological Transition. (August, 2022). First Draft of Update of the Participatory Management Plan for the Management and Care of the Los Cedros Forest and Protective Vegetation 2022-2026 (p. 11); Management Plan (p. 57).

Cedros protection which MAATE ultimately did not approve in 2015.[42] In the text of the Management Plan, drafted in August 2022, MAATE admitted that the granting of the mining concession to ENAMI, together with the failure to approve the 2015 Management Plan, "demonstrated a lack of responsibility on the part of the environmental authority in ensuring the biodiversity and water quality that are so vital for all the inhabitants of the area, generating great uncertainty and confusion among residents regarding the fate of Los Cedros Forest and its environmental services" and allowing ENAMI to "solidify its presence through agreements to provide money for the execution of community plans, which was poorly received by those who prioritize biodiversity conservation and the right to uncontaminated water."[43]

MAATE reported that it conducted interviews, focus groups, and workshops with stakeholders from ten communities that voluntarily expressed their willingness to be part of the management of the Los Cedros Forest.[44] These communities are Brillasol, Magdalena Alto, El Paraíso, El Corazón, Pueblo Unido, Villaflora (Santa Rosa de los Manduriacos), Río Verde, Cielo Verde, San José de Magdalena, and San Miguel de Chontal.[45] Additionally, MAATE noted that it conducted continuous work with a team of researchers and staff of the Los Cedros Scientific Station, the García Moreno Parish Decentralized Autonomous Government (GAD for its Spanish acronym), the Cotacachi GAD, the Imbabura GAD, the Ombudsman's Office, and leaders of grassroots organizations.[46] The first draft of the Management Plan was completed in August 2022, and was approved by all involved stakeholders and published by November 2022.[47]

MAATE partially adhered to the Constitutional Court's order, as it began the process of creating a Management Plan within six months of the ruling and involved the stakeholders identified by the Constitutional Court. In addition, the Ombudsman's Office concluded that this iteration of the creation of the Management Plan ultimately complied with the right to participation and represented an improvement from the 2015 Management Plan, as that plan only included the participation of three surrounding communities.[48]

42 Ministry of Environment, Water, and Ecological Transition. (August, 2022). First Draft of Update of the Participatory Management Plan for the Management and Care of the Los Cedros Forest and Protective Vegetation 2022-2026 (p. 10); Management Plan (p. 57).

43 Ministry of Environment, Water, and Ecological Transition. (August, 2022). First Draft of Update of the Participatory Management Plan for the Management and Care of the Los Cedros Forest and Protective Vegetation 2022-2026 (pp. 79-80); Management Plan (pp. 57-58).

44 Management Plan (pp. 17-20).

45 Management Plan (p. 12); Ombudsman's Office Compliance Report (Dec. 2022) (p. 5).

46 *Id.*

47 Ministry of Environment, Water, and Ecological Transition. (August, 2022). First Draft of Update of the Participatory Management Plan for the Management and Care of the Los Cedros Forest and Protective Vegetation 2022-2026; Ombudsman's Office Compliance Report (Dec. 2022) (p. 5).

48 Ombudsman's Office Compliance Report (Dec. 2022) (pp. 4, 12-13).

Despite this, various issues have been identified by stakeholders involved in the creation of the Plan. Some procedural issues relate to the equal participation of all stakeholders in the drafting process. Members of the Scientific Station, for example, explained that, despite MAATE relying on its information to compose the Management Plan, there was resistance towards the inclusion of explicit references to the Scientific Station and scientific information in the Plan.[49] The importance of this recognition was highlighted in the Ombudsman's Office first report on the Management Plan.[50] The same report highlighted MAATE's failure to involve the Ombudsman's Office in the drafting process and in subsequent steps to implement the Plan.[51]

Implementation of the Management Plan:

Relatedly, the primary challenge, and the most significant obstacle to the implementation of the Los Cedros ruling, is the failure to implement the Management Plan. Although implementation is a multi-stakeholder effort and the Constitutional Court did not assign MAATE direct responsibility for the effective implementation of the Plan, the text of the Plan identifies MAATE as a central actor in its implementation. For example, in the Plan's mapping of the fifty-four key actors for the management of the forest, MAATE is identified, along with the Scientific Station, as "the most motivated and committed to fulfilling the Management Plan."[52] In the Plan's vision statement and action items, moreover, MAATE's central role is reiterated.[53]

Despite the central role that MAATE has claimed on paper, staff members of the Scientific Station have said that, in practice, MAATE has been largely absent from implementation efforts.[54] Despite the Plan's publication in 2022, MAATE has not followed through on the implementation of any of the plan's action items by mid-2024. For example, the zoning project laid out in the Plan—which is meant to facilitate the protection of the forest and sustainable economic activity—has not yet proceeded to implementation.[55]

In addition, MAATE has fallen through on the operation of two bodies central to the implementation of the Management Plan—the Oversight Committee and the Co-administration Committee. The Oversight Committee—a temporary citizen oversight body that included the ten relevant communities and stakeholders—was formed to communicate with MAATE and monitor MAATE's compliance with the ruling.[56] This was proposed to

49 Interview with José Cueva (2024).

50 Ombudsman's Office Compliance Report (Dec. 2022) (pp. 12-13).

51 *Id.*

52 Management Plan (p. 57).

53 *See, e.g.*, Management Plan (pp. 57, 60, 68, 92).

54 Interview with Elisa Levy (2024).

55 Interview with José Cueva (2024).

56 Management Plan (p. 95).

remedy the "gap" left by MAATE in "executing co-management with the communities" and to "foster trust and maintain direct and transparent communication from MAATE […]," allowing stakeholders to ensure the implementation of the Court's ruling.[57] Upon the Oversight Committee's establishment, however, diverging community interests regarding mining rendered it unable to fulfil its monitoring and reporting functions.[58] Indeed, by the time its mandate ended, the Committee had not produced a report. Despite this, MAATE once again distanced itself from the on-the-ground reality, creating an enforceability gap.

Similarly, despite identifying its responsibilities in "leadership, regulation, control, coordination, and environmental management"[59] of the proposed Co-administration Committee—meant to administer the implementation of the Management Plan by collaborating with public and private entities to obtain and manage resources for the conservation of Los Cedros[60]—MAATE has remained inactive in the face of the breakdown of the Committee's formation process.

This lack of institutionalization has created a hurdle for the protection of Los Cedros, with resources needed to implement the Management Plan currently out of reach and space to overcome the complex sociopolitical conflicts preventing the effective protection of Los Cedros currently unavailable. Today, virtually all of the Management Plan's strategies remain mostly unimplemented.[61]

[Part 2]

Level of implementation for Ombudsman's Office: 5

Level of implementation for MAATE: 3

Analysis

The Ombudsman's Office was highly vigilant throughout the development of the Management Plan. Shortly after the *Los Cedros* ruling, in January 2022, it submitted a follow-up order to MAATE, with copies sent to the Constitutional Court and Cotacachi GAD, requesting

57 *Id.*

58 *See generally*, Multicompetente de la Corte Provincial de Imbabura. (2019). Proceso No. 10332-2018-00640, Retrieved from https://drive.google.com/file/d/11_OVu0uioqvSWc2rZaB3O4Z2jUrtlwts/view (showing that community members from the communities involved in the drafting of the Management Plan were employees of ENAMI and Cornerstone); interview with Patricia Aguilar (Community Member, Magdalena Alto); interview with Elizabeth De la Cruz (Community Member, Magdalena Alto); interview with Javier Sanchez (Community Member, Brillasol).

59 Management Plan (p. 128).

60 Management Plan (p. 69).

61 Management Plan (pp. 116-22).

information on and documentation of the steps MAATE had taken to comply with the ruling.[62] After MAATE failed to respond, in March 2022, the Ombudsman's Office submitted another follow-up order and notified MAATE's highest authority.[63] Four days later, MAATE reported that it had held meetings with certain stakeholders and created a schedule—from December 2021 through June 2022—to update the Management Plan.[64] Despite this reported schedule, however, it was not until April 2022 that MAATE began the formal promotion process,[65] with the Ombudsman's Office invited to its first meeting in May 2022.[66] This suggests that the Ombudsman's Office's persistent pressure to implement a participatory process to formulate a Management Plan may have spurred MAATE into action.

The Ombudsman's Office continued to monitor the process throughout the drafting of the plan, submitting information and documentation requests to MAATE, initiating actions to ensure oversight, and observing consultations through May 2022, as well as reviewing the Management Plan upon its publication.[67] Upon completion of the plan, the Ombudsman's Office produced a comprehensive report on the development process and substance of the plan.[68]

[Part 3]

Level of implementation for MAATE: 4

Level of implementation for Ombudsman's Office: 4

Analysis

MAATE and the Ombudsman's Office did report separately to the Constitutional Court on the progress of the plan but did so past the thirty-day deadline. MAATE's report was submitted in September 2022[69] and the Ombudsman's Office report in December 2022,[70] with the latter submitted after the publication of the Management Plan.

62 Ombudsman's Office Compliance Report (Dec. 2022) (p. 3).

63 *Id.*

64 *Id.*

65 Management Plan (p. 12); Ministry of Environment, Water, and Ecological Transition. (August, 2022). First Draft of Update of the Participatory Management Plan for the Management and Care of the Los Cedros Forest and Protective Vegetation 2022-2026 (p. 11).

66 Ombudsman's Office Compliance Report (Dec. 2022) (p. 3).

67 Ombudsman's Office Compliance Report (Dec. 2022) (p. 3-5, 12).

68 *See generally,* Ombudsman's Office Compliance Report (Dec. 2022).

69 Ministry of Environment, Water and Ecological Transition. (September, 2022). Compliance Report of Sentence 1149-19-IP/20 BVP Los Cedros Participatory Comprehensive Management Plan. Memorandum No. MAATE-SPN-2022-1131-M.

70 Ombudsman's Office Compliance Report (Dec. 2022).

MAATE's compliance with this order is scored as a 4 because, while MAATE failed to report to the Court on progress within 30 days of notification of the judgment, MAATE only began the development process for the Management Plan in April 2022. MAATE's report to the Court was, moreover, extensive. Because the report was submitted as MAATE was actively working on the Management Plan, the Constitutional Court had the opportunity to assess the quality of the process and issue any necessary remediation measures.

While the formal Ombudsman's Office's report was submitted after the Management Plan was completed, the Ombudsman's Office kept the Constitutional Court apprised of all its communications with MAATE, including its first communication, taking place two months after the issuance of the *Los Cedros* ruling. In addition, the Ombudsman's Office's delay in producing its final report may have been the result of MAATE's repeated failure to communicate with the Ombudsman's Office in a timely manner.[71]

Comprehensive Reparation Measure # 3

> *"The Ministry of Environment, Water and Ecological Transition, in its capacity as the lead agency in environmental matters and in coordination with other national and local authorities, must adopt all necessary measures for its preservation and respect for the rights of nature to which Los Cedros Protected Forest is entitled. To this end, experts from academic centers and scientific researchers will participate."*[72]

Level of implementation for MAATE: 2

Analysis

Beyond the creation of the Management Plan, MAATE has not adopted any other necessary measure to support the preservation of, and respect for, the rights of Los Cedros. MAATE's Subsecretary of Environmental Quality did not respond to requests for comment by NYU Law.

71 Ombudsman's Office Compliance Report (Dec. 2022) (pp. 3-5).

72 *Los Cedros Ruling*, ¶ 348(c).

Comprehensive Reparation Measure # 4

> *"The Ministry of Environment, Water and Ecological Transition, in coordination with the Ministry of [Energy and Mines] and the decentralized autonomous governments, within a period of 1 year from the approval of this judgment, shall adapt the infra-legal regulations corresponding to the issuance of environmental registrations and environmental licenses and the use of water for extractive activities in order to avoid violations to the rights of nature such as those in the present case. At the end of the term, it will send a compliance report to this Court. In the process of regulatory adequacy, mechanisms for effective coordination between these entities must be established."*[73]

Level of implementation for MAATE: 2

Analysis

MAATE has not publicly reported any significant steps taken to improve its environmental registration and license decision-making processes.[74] MAATE has not reported the adoption of infra-legal regulations, established coordination mechanisms with other national and sub-national government actors to prevent violations of the rights of nature, or submitted a compliance report to the Constitutional Court documenting any such actions. Indeed, in its May 2022 report on MAATE's training, titled *Constitutional rights applied to environmental regularization according to Ruling 1149-19-JP/21*, the Ombudsman's Office identified gaps—ranging from the need to strengthen knowledge on constitutional rights to the need for review of the processes for issuing of environmental permits—that may compromise MAATE's compliance with the rights of nature and other constitutional rights.[75] As stated above, MAATE's Subsecretary of Environmental Quality did not respond to requests for comment for this report.

73 *Los Cedros Ruling*, ¶ 348(c).

74 Interview with Alberto Acosta (Former Chairman of Ecuador's Constituent Assembly; Former Minister of Ecuador's Ministry of Energy and Mining); interview with Gustavo Redin (Attorney and President, Ecuadorian Coordinator of Organizations for the Defense of Nature and the Environment); interview with Viviana Morales; interview with Paul Gualotuña; interview with William Sacher; interview with Inty Arcos.

75 Ombudsman's Office. (May, 2022). Report on Face-to-Face and Virtual Training for Public Servants of the Ministry of Environment, Water, and Ecological Transition, in Charge of Issuing Environmental Permits. Submission to the Constitutional Court (p. 10).

Comprehensive Reparation Measure # 5

> *"Activities that violate the rights of nature must not be carried out within the Los Cedros Protected Forest, similar to those declared as violating rights in the present case."*[76]

Level of implementation for all relevant actors: 4

Analysis

This order is a blanket prohibition on activities within Los Cedros that violate the Protected Forest's rights and, as such, was not directed towards any specific actor. As a result, this score focuses on conditions in Los Cedros: whether there are or have been any harmful activities, and whether there are any plans underway to initiate harmful activities.

As noted, the Ombudsman's Office concluded from its site visits that there had been no mining-related activity in Los Cedros since the Court's judgment.[77] During site visits for this study, Scientific Station staff and community members also affirmed that no harmful activities are underway in Los Cedros. In addition, thus far, no mining company has taken overt steps to re-establish mining exploration in Los Cedros.

However, three small-scale agricultural ranches were found within the limits of Los Cedros. In addition, the score acknowledges the uncertain future state of protection of Los Cedros (see Challenges and Recommendations).

B. Compliance with Measures of Non-Repetition

Non-Repetition Measure # 1

> *"[The Ministry of Environment, Water and Ecological Transition must provide] Training to public servants of the Ministry of Environment, Water and Ecological Transition in charge of issuing*

76 *Los Cedros Ruling*, ¶ 348(a).

77 *See generally,* Ombudsman's Office On-Site Visit Report (Feb. 2022); Ombudsman's Office On-Site Visit Report (Mar. 2023); Ombudsman's Office On-Site Visit Report (Oct. 2023).

> *environmental permits including the environmental license and permit based on the parameters of this decision. This training will be carried out jointly with the Ombudsman's Office, within 90 days after the notification of this decision. The Ombudsman's Office will report to this Court on compliance with this measure."*[78]

Level of implementation for MAATE: 3

Level of implementation for Ombudsman's Office: 4

Analysis

MAATE complied with the order by conducting a one-day training, titled *Constitutional rights applied to environmental regularization according to Ruling 1149-19-JP/21*, in coordination with the Ombudsman's Office for officials responsible for issuing environmental permits. The training was mandatory, substantively comprehensive, and conducted twice—once in-person for MAATE employees and once virtually for employees of provincial offices.[79] Forty-nine MAATE officials received the in-person training, and over one-hundred officials participated in the virtual training.[80] The Ombudsman's Office reported to the Constitutional Court within a few days of the completion of the training,[81] while MAATE reported to the Constitutional Court in June 2022.[82]

However, though the order was primarily directed at MAATE, it was the Ombudsman's Office who, in March 2022 and again in April 2022, saw the need to ask MAATE to collaborate in the planning of the workshop.[83] In addition, the training took place in May 2022, five

78 *Los Cedros Ruling*, ¶ 349(b).

79 Ombudsman's Office. (May, 2022). Report on Face-to-Face and Virtual Training for Public Servants of the Ministry of Environment, Water, and Ecological Transition, in Charge of Issuing Environmental Permits. Submission to the Constitutional Court (pp. 4-5); interview with National Ombudsman's Office.

80 Ministry of Environment, Water, and Ecological Transition. (May 27, 2022). Attendance Registry. Submission to the Constitutional Court; Ombudsman's Office. (May, 2022). Report on Face-to-Face and Virtual Training for Public Servants of the Ministry of Environment, Water, and Ecological Transition, in Charge of Issuing Environmental Permits. Submission to the Constitutional Court (pp. 7-8).

81 *See generally*, Ombudsman's Office. (May, 2022). Report on Face-to-Face and Virtual Training for Public Servants of the Ministry of Environment, Water, and Ecological Transition, in Charge of Issuing Environmental Permits. Submission to the Constitutional Court.

82 *See generally*, Ministry of Environment, Water, and Ecological Transition. (June 6, 2022). Report on Face-to-Face and Virtual Training for Public Servants of the Ministry of Environment, Water, and Ecological Transition, in Charge of Issuing Environmental Permits. Submission to the Constitutional Court.

83 Ombudsman's Office. (May, 2022). Report on Face-to-Face and Virtual Training for Public Servants of the Ministry of Environment, Water, and Ecological Transition, in Charge of Issuing Environmental Permits. Submission to the Constitutional Court (p. 2); interview with National Ombudsman's Office.

months after, rather than within ninety days of, notification of the judgment.[84] Moreover, while this single training technically complied with the Court's order, this directive was intended to assure non-repetition, particularly that officials who issue environmental permits adhere to the guidelines provided by the *Los Cedros* ruling. During the training, however, the Ombudsman's Office concluded that several specific issues needed to be addressed to ensure that such decision-making complied effectively with the ruling.[85] Thus while the single training may have satisfied the technical requirement, it is not consistent with the intent of the Court's order.

Non-Repetition Measure # 2

> *"The Ombudsman's Office shall conduct at least one quarterly on-site visit [within the span of one] year in order to verify compliance with the restrictions on extractive activities within the Los Cedros Protected Forest. The first visit shall take place within 30 days of notification of this judgment. At the end of the year following the issuance of this judgment, a compliance report shall be sent to this Court. This entity, within the framework of its competencies, shall activate the necessary jurisdictional guarantees in cases in which the parameters developed in this judgment are not complied with."*[86]

Level of implementation for the Ombudsman's Office: 3

Analysis:

The Ombudsman's Office fulfilled the order's substantive objective—verifying compliance with the restrictions on extractive activities—but failed to do so in the manner specified by the Constitutional Court. Specifically, the Ombudsman's Office conducted three visits, rather than the minimum of four, and did so over nearly two years, rather than in the ordered one-

84 Ministry of Environment, Water, and Ecological Transition. (May 27, 2022). Administrative Memorandum No. MAATE-DATH-2022-1430-M. Compliance with the execution of training in accordance with the judgment issued by the Constitutional Court of Ecuador No. 114-19-JP/21.

85 Ombudsman's Office. (May, 2022). Report on Face-to-Face and Virtual Training for Public Servants of the Ministry of Environment, Water, and Ecological Transition, in Charge of Issuing Environmental Permits. Submission to the Constitutional Court (p. 9).

86 *Los Cedros Ruling*, ¶ 349(e).

year timeframe: in February 2022,[87] January 2023,[88] and September 2023.[89] During the first on-site visit, the Ombudsman's Office did not enter the Los Cedros Forest—it only visited the García Moreno parish. In addition, this visit took place more than thirty days after notification of the *Los Cedros* judgment.[90] The Ombudsman's Office did enter Los Cedros during the 2023 site visits, but surveyed only three of five areas where the mining companies had established a presence, due to the extreme climate and the difficulty of the landscape.[91] Finally, the Ombudsman's Office submitted a report for each site visit but did not submit a final compliance report. Ultimately, the Ombudsman's Office verified compliance with the restrictions on extractive activities through a combination of these site visits and interviews with members of the Los Cedros Scientific Station and surrounding communities.[92]

Non-Repetition Measure # 3

> *"All public administrative and judicial authorities that adopt decisions related to nature, healthy environment and water must guarantee the rights of nature and environmental principles, in the terms contemplated in the Ecuadorian Constitution, adopting the necessary measures for the preservation of fragile ecosystems in special areas, considering their concrete and specific individual characteristics."*[93]

Level of implementation for all public administrative and judicial authorities that adopt decisions related to nature: 2

Analysis

It is beyond the scope of this publication to review all relevant administrative and judicial

87 Ombudsman's Office On-Site Visit Report (Feb. 2022).

88 Ombudsman's Office. Provincial Delegation of Imbabura. (March, 2023). Follow-up on compliance with judgment No. 1149-19-JP/21 (discussing the January 2023 visit).

89 Ombudsman's Office On-Site Visit Report (Oct. 2023).

90 Interview with Luis Cueva Ordóñez; Ombudsman's Office On-Site Visit Report (Feb. 2022).

91 Interview with Luis Cueva Ordóñez; Ombudsman's Office. Provincial Delegation of Imbabura. (March, 2023). Follow-up on compliance with judgment No. 1149-19-JP/21 (discussing the January 2023 visit); Ombudsman's Office On-Site Visit Report (Oct. 2023).

92 *Id.*

93 *Los Cedros Ruling*, ¶ 349(c).

decision-making in Ecuador since the *Los Cedro*s ruling.[94] However, research conducted for this report suggests that, while Ecuadorian authorities have made progress in acknowledging the rights of nature as well as related constitutional human rights and principles, there remain significant gaps in effectively safeguarding such rights.

With regard to the administrative agency MAATE—the government institution primarily responsible for protection of Los Cedros, the rights of nature, and the environment more generally—the Constitutional Court concluded that, at the time of the ruling, MAATE had not adopted the necessary measures for the preservation of fragile ecosystems.[95] In failing to enact post-ruling regulations and policies to effectively safeguard delicate ecosystems, MAATE's decision-making procedures likely continue to rely on regulations predating the judgment, potentially rendering them unconstitutional according to the principles outlined in the case.[96]

The Ecuadorian judiciary has demonstrated a greater acceptance of the rights of nature. The period from 2019-2022 saw a surge in historic rights of nature decisions,[97] epitomized by the *Los Cedros* case. Due in part to the decline in rights of nature rulings since, the lack of further guidance from the Court has contributed to the uneven application of the *Los Cedros* precedent in lower-level cases.[98]

Additionally, the Ombudsman's Office has leveraged its authority to promote nature's rights within the government and in legal matters, often referring to the *Los Cedros* ruling to support its actions.[99]

94 Koehn, L. (2023, April 27). Judicial Backlash Against the Rights of Nature in Ecuador. VERFASSUNGSBLOG. Retrieved from https://verfassungsblog.de/judicial-backlash-against-the-rights-of-nature-in-ecuador/.

95 *Los Cedros Ruling*, ¶ 341.

96 Interview with Alberto Acosta; interview with William Sacher; interview with Inty Arcos; interview with Gustavo Redín; interview with Paul Gualotuña.

97 Tănăsescu, M., et al. (2024, February 7). Rights of Nature and Rivers in Ecuador's Constitutional Court. International Journal of Human Rights, 2(4). https://www.tandfonline.com/doi/full/10.1080/13642987.2024.2314536.

98 Koehn, L. (2023, April 27). Judicial Backlash Against the Rights of Nature in Ecuador. VERFASSUNGSBLOG. Retrieved from https://verfassungsblog.de/judicial-backlash-against-the-rights-of-nature-in-ecuador/; interview with Alberto Acosta; interview with Viviana Morales.

99 Proposal - Ombudsman Report on Actions and Omissions of All State Institutions Regarding the Protection and Promotion of Nature Rights. Retrieved from https://www.dpe.gob.ec/rc2020/7.Compromisos_anio_anterior/Derechos_naturaleza/Informe_acciones_omisiones.pdf.; interview with National Ombudsman's Office.

III. Conclusion: The Impact, Challenges, and Way Forward for the *Los Cedros* Case

The findings of this study demonstrate that, in addition to being a landmark contribution to international environmental law and jurisprudence, the Ecuadorian Constitutional Court's ruling in the *Los Cedros* case has made a crucial difference in practice. As the Municipal Attorney General of Cotacachi concluded, the ruling has preserved "the lungs of Cotacachi" and served as an inspiration for similar ongoing efforts to protect other ecosystems in one of the most biodiverse regions of the world.[100] As the evidence and evaluation offered in this report show, the ultimate outcome of interest is that Los Cedros is effectively free of mining operations and continues to serve as a biodiversity sanctuary and a source of clean water, air, and well-being for humans and nonhumans alike. As site visits and conversations with a wide range of stakeholders suggests, without the ruling, Los Cedros would in all likelihood have experienced the environmental deterioration and massive extinction of species of other forests turned into sites for mining in the region, in Ecuador, and around the world. Therefore, this study substantiates the potential of rulings and initiatives on the rights of nature—or "more-than-human rights"— as a tool to address ecological crises such as biodiversity loss, climate change, and pollution.

This does not mean, however, that the ruling has been fully implemented, nor does it mean that the fate of the forest and the case do not remain vulnerable. This report has shown that, due to insufficient actions on the part of the Ecuadorian government, the burden of the protection of Los Cedros has been placed on other state and private actors. For Los Cedros, this is so despite MAATE's identification of "very high" threats to the forest's biodiversity and

100 Interview with Jhesica Herrera.

aquatic ecosystems and the required "proactive control measures supported by competent authorities to reverse it."[101] More specifically, a disproportionate burden of the implementation of the ruling has fallen on the members of the Los Cedros Scientific Station as well as on members of the surrounding communities.[102]

The Scientific Station, which has monitored the entirety of Los Cedros since 1988, currently operates with significant resource and personnel constraints. With a team of twelve members and leveraging a camera trap program along with a satellite system, the Station has been solely responsible for monitoring wildlife activity and detecting intrusions by miners and hunters. The Station also provides comprehensive training for neighboring community members to act as forest rangers and guides, which has been essential for the protection of the forest. Despite these efforts, Station employees are the first ones to acknowledge that their capacity to adequately monitor and protect Los Cedros is grossly insufficient.[103]

Relatedly, the absence of institutionalization of the Co-administration Committee has hindered the execution of the Management Plan, impeding stakeholders from accessing vital resources to safeguard Los Cedros. As noted, this is partly due to disagreements among committee member candidates on the management of the forest as well as the desirability of mining in the broader region.[104]

Mining activity adjacent to Los Cedros also poses risks to the safety of the forest. Some scientific experts believe that there may exist "spillover effects" from mining concessions outside Los Cedros.[105] The infrastructure for mining activities around Los Cedros, moreover, may facilitate access to the forest, boosting illegal logging, hunting, or mining around and within the forest's borders. Illegal gold mining has boomed in particular in recent years, driven by Ecuador's investment policies that have drawn attention to its natural resource wealth and a lucrative but poorly regulated mining industry that is susceptible to exploitation by organized crime.[106] Growing organized crime in Ecuador therefore increases intrusion risks for Los Cedros. Relatedly, the recent loss of tourism, connected to the spike in violence in the country that prompted multiple declarations of states of emergency, has further affected the Scientific Station's financial capacity to protect Los Cedros.

101 Management Plan (p. 75).

102 Management Plan (p. 10).

103 Interview with José Cueva.

104 Interview with José Cueva; interview with Jenny Garcia Ruales (Research Fellow, Max Planck Institute); interview with Paul Gualotuña; interview with Inty Arcos.

105 Interview with Elisa Levy; interview with William Sacher; interview with Inty Arcos.

106 *See e.g,* Rainforest Action Group. (2024, January 17). Gang Activity in Ecuador Shows Mining Fraught with Issues. Rainforest Action Group. Retrieved from https://rainforestactiongroup.org/gang-activity-in-ecuador-shows-mining-fraught-with-issues/; Paz Cardona, A. J. (2021, August 18). An Ecuadoran Town that Survived Illegal Miners Now Faces a Licensed Operator. Mongabay. Retrieved from https://news.mongabay.com/2021/08/an-ecuadoran-town-that-survived-illegal-miners-now-faces-a-licensed-operator/.

Environmental and rights of nature experts have expressed concern that the legal and regulatory context governing rights of nature has recently deteriorated as the government pursues efforts to promote mining activities.[107] Recently, forty environmental organizations urged the resignation of MAATE's leader, citing her alleged incapacity to address environmental concerns and her prioritization of private economic projects conflicting with the rights of nature and local communities.[108]

In order to address these challenges and consolidate the historic precedent of the *Los Cedros* ruling, urgent actions and continued involvement are needed on the part of a range of domestic and international actors. The Ecuadorian State bears paramount responsibility to make up for lost time and facilitate the inclusive establishment of the Co-administration Committee, ensuring procedural integrity in compliance with both constitutional imperatives and the guidelines set forth in the decision. Further, in accordance with the ruling, the State must commit to providing ongoing support to the Committee in overseeing the governance of Los Cedros. This is so particularly amid the present land tenure uncertainty stemming from the passing of the historic protector and sole landholder in Los Cedros, Mr. Josef De Coux. In this transitional juncture, the State is urged to support the Scientific Station, laying the groundwork for a legal framework—be it through the concession of possession or a loan agreement (*comodato*) from the State to the Scientific Station—that harmonizes with and facilitates the implementation of the *Los Cedros* decision.

Similarly, the continued engagement of domestic and international civil society and scientific and intergovernmental organizations will be crucial in shaping the ultimate fate of the case. The Los Cedros litigation involved biologists, environmental collectives, artists, celebrities, and online supporters who provided evidence to the Court, crafted campaigns in support of the lawsuit, disseminated the ruling, and turned Los Cedros into an icon of biodiversity protection. In order to avoid the fate of other cases that fizzled out over time, they and all others who have been inspired by it should keep their eyes on the implementation of the ruling.

107 Mining Watch Canada. (2024, March 1). President of Ecuador in Toronto to Attract Mining Investment Amid Human Rights Concerns. Mining Watch Canada. Retrieved from https://www.miningwatch.ca/news/2024/3/1/president-ecuador-toronto-attract-mining-investment-amid-human-rights-concerns; interview with Alberto Acosta.

108 El Universo. (2024, May 12). Environmental Organizations Demand the Resignation of Minister of the Environment, Sade Fritschi. El Universo. Retrieved from https://www.eluniverso.com/noticias/politica/organizaciones-ambientalistas-exigen-la-renuncia-de-ministra-de-ambiente-sade-fritschi-nota/.