

Global environmental governance, human rights and socio-state capabilities in Latin America

Gobernanza ambiental global, derechos humanos y capacidades socioestatales en América Latina

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Abstract: This article is a comparative study of the socio-state capabilities developed in the processes of institutionalising protected natural areas (PNAs) in Latin America within the framework of their interdependence with global governance processes and with reference to the role of human rights. From an approach that combines the analysis of multilevel collective action with process monitoring, this work traces national and multilateral institutional trajectories; analyses the main dynamics in the delimitation of protected natural areas in the countries in the region with critical biodiversity; and explores the possibilities for new agreements on the global agenda.

Key words: Latin America, environment, human rights, socio-state capabilities, global environmental governance, climate change, protected natural areas (PNA)

Resumen: Este artículo es un estudio comparativo de las capacidades socioestatales que han sido desarrolladas en los procesos de institucionalización de áreas naturales protegidas (ANP) en América Latina, en el marco de su interdependencia con los procesos de gobernanza global y respecto al papel que los derechos humanos han representado para tal fin. Desde un enfoque que combina el análisis de la acción colectiva multinivel con un seguimiento de procesos, este trabajo traza trayectorias institucionales nacionales y multilaterales; analiza las principales dinámicas que se producen para la delimitación de la protección de áreas naturales en los países con mayor biodiversidad de la región, y explora posibilidades con vistas a los nuevos acuerdos en la agenda global.

Key words: América Latina, medio ambiente, derechos humanos, capacidades socioestatales, gobernanza ambiental global, cambio climático, áreas naturales protegidas (ANP)

The intergovernmental High Ambition Coalition (HAC) for Nature and People,¹ launched in January 2021, promotes an international agreement to protect 30% of the planet's land and 30% of its marine areas. Supported by scientific evidence on climate change, all official reports insist that implementing effective systems to protect biodiversity and strategic ecosystems benefits the entire planet and guarantees a sustainable future for the global economy (IPCC, 2021). The consequences of ecosystem depredation clearly affect the global economy and the projections made by those who place their trust in solutions based on technological advances that demand enormous amounts of raw materials for their construction.

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However, socio-environmental conflicts have been increasing dramatically throughout the world in these same territories. In Africa, for example, human rights organisations have launched a broad campaign to denounce the damage that these delimitations – considered the "colonial conservationism" of global governance – have done to the rights

of local communities, as well as the risk to the levels of conservation (*Survival*, n.d.).² In Latin America, by contrast, a variety of protection measures based on areas are being implemented. On many occasions, these have been achieved by social initiatives demanding human rights and the rights of peoples, alongside the protection of ecological and cultural biodiversity in the territories. In this regard, global governance directly affects three key axes of action and intervention, through cooperative or conflictive structures: a) pressure from economic interests to appropriate mining and energy assets that generates extractive dynamics; b) promotion, dissemination and support for human rights as standard normative parameters; c) promotion of environmental governance that encourages a range of protection processes and regulation schemes for strategic ecosystems for the planet.

1. Co-chaired by Costa Rica, France and the UK, the HAC (High Ambition Coalition for Nature and People) launched on January 11, 2021, at the One Planet Summit in Paris. See: <https://www.hacfornatureandpeople.org/home-esp>.

2. See: https://www.survival.es/indigenas/bakas_messokdja

This article takes a comparative approach to study the socio-state capabilities that have developed in the processes of institutionalising protected natural areas (PNAs) in Latin America within the framework of their interdependence with global governance processes and addressing the role human rights have played to that end. In these institutionalisation processes three groups of fundamental actors may be distinguished: first, the ethnic communities, especially indigenous people defending their ancestral territories; second, collectives of various types that include ethnic communities, but also peasant communities, social organisations, social science researchers, human rights activists, feminist groups, ecofeminists, environmentalists and other local environmental groups, articulated and mobilised by socio-environmental conflicts that call for the preservation of common goods or specific protection areas; and third, members of the academy, mainly from the fields of ecology and biology, who have used their scientific-technical knowledge to lead the delimitation and institutionalisation of the PNAs. These three groups, which interact constantly and in sometimes contradictory ways, have created frameworks of action and meaning that allow them to organise collective actions within each country, as well as to interact specifically with the various global governance networks, influencing and at other times contradicting their principles and ways of acting.

It is argued in this article that the specific weight of collective action in the different countries, as well as the corresponding state response, have defined socio-state capabilities profiles that set institutionalisation paths in the protection of areas, allowing us to understand their intimate relationship with the sociopolitical backgrounds of each country. Knowledge of this type of process, with its key actors, forms of collective-institutional action, prevailing intergovernmental coordination/cooperation mechanisms and institutional capacity in national territories, contributes to the implementation of protection measures based on areas, the establishment of measures, and the identification of potential and unavoidable contextual obstacles. By making a regional comparison of the development and sequences for the five countries with the most biodiversity in Latin America – Brazil, Colombia, Mexico, Peru and Ecuador – three types of differentiated trajectories have been established in the decisive mobilisation-institutionalisation-implementation processes for safeguarding biodiversity and strategic ecosystems: a) *the trajectory of contestation* by ethnic communities and their claims regarding the rights of peoples, lands and territories, Brazil being the typical case; b) *the trajectory of socio-legal mobilisation* by broad social and ethnic groups and organised citizens in defence of common goods, who cite human rights when appealing for the protection of ecosystems, Colombia being the typical case; and c) *the trajectory of institutionalisation*, linked to the more specialised scientific-technical work of conservation and management based on state coordination, with Mexico the typical case.

First, this article presents a synthesis of the theoretical approach and the primary analytical categories of the study. Second, it analyses the development period in Latin America until the end of the 1980s. Third, it explains the dynamics of institutionalisation, expansion and forms of influence in global governance arenas from the 1990s. Fourth, an analytical synthesis is presented that compares relevant trajectories, actors and features in the forms of implementing the different measures and processes. Finally, the conclusions return to the main findings.

Interdependencies: perspectives and theoretical approaches.

Forms of protection based on strategic areas and ecosystems are central to the articulation of new social and institutional languages – cultural forms of valuing nature – that were traditionally defended by ethnic communities. However, these dynamic processes involving the significance, valorisation and appropriation of nature are at the centre of both socio-environmental conflicts throughout the Latin American region and the goals set at global level as collective commitments to recovering and safeguarding the balance of the planet's ecosystem (Alimonda et al., 2017; Acosta and Martínez, 2011; Leff, 2009; Martínez-Alier, 2004; Hincapié, 2018). Analysing the interdependence of collective actions during conflicts, where various actors and perspectives converge with the processes of institutionalising forms of protection based on areas, allows the generation of socio-state (Hincapié, 2017a) capabilities (Sen, 2009; Nussbaum, 2006) to be observed that may be used to transform conflicts into processes of social and institutional change.

By socio-state capabilities we mean the set of institutional innovations – formal or informal – resulting from collective actions that have managed to link state organisations and agents, transforming institutional inertia that provides effective opportunities for the search for functionalities previously defined as the objective of collective action (Hincapié, 2017: 76). Actions aiming to build *socio-state capabilities* are, thus, not established outside the state order as resistance but instead seek to link state agents in order to obtain more collective resources, giving roots to the new practices and minimising the capacity of autonomous groups to impose their interests arbitrarily. Understanding these processes is essential to support new strategies for transforming socio-environmental conflicts and creating conditions that guarantee the preservation and recovery of strategic ecosystems in the context of climate change.

Taking a relational-processual perspective to understand and explain the social and institutional change, this study has integrated methods from the analysis of collective action (Tarrow, 2009; Tilly and Wood, 2010) and institutional change; specifically, process tracing and the comparative sequential method, which allows patterns of events to be identified at a regional scale and historical trajectories to be traced (Ostrom; 1990; 2005; Fioretos et al., 2016; Mahoney and Thelen, 2015). The transversality and intersectionality of the gender approach have made it possible to identify changes in leadership positions and organisational forms, intercultural relations and context-sensitive differentiations as factors that explain collective actions (Crenshaw, 1989 and 1991; Grewal and Kaplan, 1994; Moghadam, 2009; Fraser, 2008). For their part, human rights, defined as a set of ideas, institutions and collective actions, fulfil a function of multidimensional articulation to the extent that they establish analytical parameters where planes (discursive, institutional and collective action), levels (local, state and global) and actors (institutional, private, collective and individual) (Hincapié, 2020a: 186-187) meet.

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Developmentalism, native communities and conservationism

The growing international conservation movement greatly influenced the initial push for area-based protection policies, especially in Europe and the United States. This scientific-technical perspective combined very well with the preponderant developmentalist vision in the 1970s period of import substitution that in Peru, Brazil and Ecuador boosted the colonisation of the Amazon via various agrarian reform laws that were based on an assimilationist vision of indigenous communities – a characteristic feature of the dynamics of “internal colonialism” in all countries (Stavenhagen, 1965).

Peru is the epitome of the classic conservationist vision, the influence of transnational actors such as the International Union for Conservation of Nature (IUCN) and the World Wide Fund for Nature (WWF), and the creation of PNAs

as “pristine areas” that should remain isolated from human contact (Solano, 2005; Shepard et al., 2010; Varese, 1996). This was especially notable in the establishment of Manú National Park and the Cocha Cashu Biological Station, under the leadership of John Terborgh (1999) for over 20 years, who considered the original ethnic communities’ presence in the territory undesirable. Despite this, it is worth highlighting the pioneering effort and initiative of influential Peruvian ecologists and environmentalists at universities in the centre of the country with an interest in biological conservation who, during the military governments (1968–1980), laid the foundations of the first system of “conservation units” with 15 PNAs, covering nearly five million hectares (Dourojeanni, 2018). Along with the delimitation of natural areas, the military governments carried out significant infrastructure works, such as hydroelectric plants and roads penetrating the jungle, which led the initial indigenous community organisations to demand recognition for their ancestral territories and to question their invisibility and the denial of their lands, traditions, ethnic and cultural heritage by state bodies (Bonfil et al., 1982; Brassel, 2008; Lara et al., 2002).

The intensity of collective action throughout the Latin American region during this first cycle of mobilisation from 1970 to 1990 is reflected in the founding of organisations that have, over 40 years on, become legitimate spokespersons for the communities’ demands both nationally and internationally. Some of the most important are: in Colombia, the Regional Indigenous Council of Cauca (CRIC) created in 1971, the National Indigenous Organization of Colombia (ONIC) created in 1982, and the Indigenous Organization of Antioquia (OIA), in 1985; in Ecuador, the Confederation of Indigenous Nationalities of the Ecuadorian Amazon (CONFENIAE), set up in 1980, and the Confederation of Indigenous Nationalities of Ecuador (CONAIE), created in 1986; in Peru, the Indigenous Association of the Peruvian Jungle (AIDSESEP), set up in 1979; and, in Brazil, the Coordination of Indigenous Organizations of the Brazilian Amazon (COIAB), which emerged in 1989. Many of these national coordinators were, in turn, founders of the Coordinator of Indigenous Organizations of the Amazon Basin (COICA) in 1984.

Missionary and research communities, anthropologists and sociologists supported the formation of the first indigenous organisations committed to denouncing the imposition of “developmentalist” projects that dispossessed ancestral territories (Posey, 1995). In Brazil, complaints about land invasion and the demand for demarcations were constant during the military dictatorship (1964–1985). Before the indigenous community organisations were constituted, the civil organisations that historically supported these demands were the Consejo Indígena Misionero (CIMI), which was created in 1972, and the Comisión Pastoral de la Tierra (CPT), which for the first time condemned the abuses and human rights violations perpetrated against the Yanomami community and in the invasion of the Amazon

and its environmental consequences. All of the above led to the first petition against the Brazilian government made to the Inter-American Commission on Human Rights (IACHR), which gave way to one of the first declarations on lands, territories, cultural identity and indigenous communities in 1985 (IACHR, 1985; CNBB, 1980; Casaldáliga, 1971). Meanwhile, the International Labor Organization (ILO) formed a Working Group in Geneva (Switzerland) headed by the Mexican sociologist and anthropologist Rodolfo Stavenhagen (2010 and 2013) to design Convention 169, which the ILO adopted in 1989. ILO Convention 169 was a reference point for the collective actions of indigenous communities and organisations and to this day represents the most important international instrument for demanding the rights of indigenous and tribal peoples, as well as for protecting and claiming their lands and territories (Hincapié, 2017b). In Colombia, the National Institute of Renewable Natural Resources and the Environment (INDERENA) was in charge of the initial delimitation of the vast majority of PNAs thanks to the efforts of environmentalists educated at the National University of Colombia, who promoted the country's first conservation policies in the 1970s (Guhl and Leiva, 2015). However, more importantly, the informal colonisation of Amazonian regions arose as a consequence of the internal armed conflict and the forced displacement of peasants from the centre of the country in processes characterised as “armed colonisation” (Gilhodes, 1984). The specificities of the Colombian dynamic resulting from the prolonged internal armed conflict clearly distinguish its trajectory from the prevailing pan-Amazonian dynamics in Brazil, Peru and Ecuador, having much larger indigenous populations in percentage terms who inhabit the jungles and forests without internal armed conflict, although they are not exempt from violence of various kinds.

In Mexico, the collective action of peasant and indigenous communities, environmentalists and ecologists had unique characteristics that set it apart from the processes in South American countries. To a large extent, what explains Mexico's different trajectory is the legality of communal land ownership, which indigenous people and peasants managed to secure as “*dotación de ejidos*” (provision of communal lands), within the framework of the agrarian reform process that grew out of the Mexican Revolution and especially under the Cárdenas government between 1934 and 1940 (Falcón, 1978). With land tenure in the hands of *ejidatarios*, the development models promoted from the 1950s favoured the concession of forests to private or parastatal companies, while maintaining

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communal ownership. During the 1970s and 1980s, the collective action of *ejido* communities promoted policies that facilitated the autonomous use of natural resources, resulting in the 1986 Forestry Law, which prohibited forest concessions and created a right of consultation for *ejido* communities over any development project on their lands and territories. Subsequently, some communities began to develop capacities to use their forest resources sustainably, with technical support and organisational capacity (Bray and Merino, 2004; Merino 2018; Bray, 2020).

This redistributive historical trajectory in land tenure was consistent with the pioneering efforts and vision of researchers, ecologists and biologists in which the ideas of ecodevelopment had deeper roots, such as creation of UNESCO's "Mexican modality" of biosphere reserves proposed by the experts Gonzalo Halffter and Arturo Gómez Pompa. Among the notable characteristics of Mexico and Latin America's first biosphere reserves – Mapimí and La Michila in the state of Durango – were their aims of including local communities and institutions in conservation work, as well as promoting research processes that took into account local socio-economic realities and responded to strategies and management agreed locally and with the highest state authorities (Halffter, 1984 and 2002). Both the National Council on Science and Technology (CONACYT) and national and regional universities played a fundamental role in supporting the creation of the first biosphere reserves – setting up laboratories and research centres in the local areas, among them the National Polytechnic Institute, the Institute of Ecology (INECOL), the National Autonomous University of Mexico (UNAM) and the University of Guadalajara (Halffter, 2011). Later, these promoters of PNAs – university researchers, environmentalists and conservationists – also set up non-governmental organisations to channel resources for the management and development of projects. This is how Pronatura, Biocenosis, Amigos de Sian Ka'an, Espacios Naturales y Desarrollo Sustentable, A.C. and ENDESU emerged, among others.

Institutionalisation, environmental governance and peoples' rights

The 1990s saw the rise of the institutionalisation of the demands championed during the previous two decades, framed within democratisation and state reform processes throughout the Latin American region. The Earth Summit held in Rio de Janeiro in 1992 became the turning point for collective action at the international and multilateral levels, promoting reforms at state level and

a new global environmental governance framework, with the Rio Declaration on the Environment and Development, the approval of Agenda 21, the United Nations Framework Convention on Climate Change (UNFCCC), the Convention on Biological Diversity (CBD), and the Statement of Principles for a Global Consensus on Management, Conservation and Sustainable Development of All Types of Forests (Forest Principles). The advocacy capacity of environmental and ecologist organisations was developed alongside indigenous peoples, who made an initial impression as guardians of nature, created their own mobilisation networks and managed to position their demands against “exclusive conservationism”. In this sense, the CBD that emerged from the summit explicitly recognised the fundamental role of ethnic communities in conservation, as well as the close relationship between cultural and biological diversity, outlining the claims of what would henceforth be known as “double conservationism” (Brysk, 1994 and 2000; Guha and Martínez-Alier, 1997; Keck, 1998).

This scenario of transnational mobilisation contributed both to the unprecedented expansion of the design of environmental policies and to the legal recognition of the rights of indigenous peoples in their lands and territories. All the countries studied – Brazil, Colombia, Mexico, Peru, and Ecuador – ratified ILO Convention 169, contributed to the strengthening of the Inter-American System for the Protection of Human Rights (IACHR), ratified the CBD, and also committed to complying with the Aichi Targets specified in the 2011–2020 Strategic Plan. The leading transnational conservation organisations also recognised – at least formally – the rights of peoples and the importance of considering them an integral part of conservation processes at the 1994 World Parks Congress of the International Union for Conservation (IUCN), and in the Seville Strategy for UNESCO Biosphere Reserves of 1995 and the WWF’s “Declaration of Principles” from 1996.

Within these same global environmental governance networks, in the 1990s the Global Environment Facility (GEF) promoted the creation of national funds to administer international and multilateral cooperation resources for conservation: Peru’s National Trust Fund for Natural Protected Areas by the State (FONANPE) in 1992; the Mexican Fund for the Conservation of Nature (FMCN) in 1994; and the Brazilian Fund for Biodiversity (FUNBIO) in 1996. These funds have made it possible to manage significant multilateral cooperation resources to conserve natural areas in a way that coordinates each country’s key conservation actors, such as civil society representatives, governments and companies (Dourojeanni and Quiroga, 2006).

In Brazil, the collective action of the various indigenous communities was the driver behind area-based protection systems. The 1988 Constitution

recognised the rights of indigenous peoples to their lands and territories, as well as protection and respect for their traditional forms of organisation, languages and ancestral customs, beginning the process of institutional transformation (Machado, 1991). Likewise, the right to an “ecologically balanced environment” and the duty of governments to preserve it and “define ... territorial spaces and their components that are to be specially protected” was established. In 1989, on his successful first tour of Europe, the Chief of the Kayapo people, Raoni Metuktire, mounted a major international campaign to conserve the forests of the Amazon and its communities, meeting leaders like Jacques Chirac and other high-level politicians. Thus, the legendary chief managed to open the door to the delimitation of the Xingu National Park, one of the largest national parks in the Amazon, and promoted the creation of civil fundraising associations that took shape during the government of Fernando Henrique Cardoso (1995–2003).

International funds contributed to the successful implementation of the demarcation policy, the execution of the Integrated Project for the Protection of Indigenous Peoples and Land in the Amazon (PPTAL), part of the Pilot Program for the Protection of Tropical Forests in Brazil (PPG7) – financed by the G-7, the German government and the World Bank. This mega-project during the Cardoso government was based on the active participation of ethnic communities in the delimitation of the territories to be titled, and, alongside other community processes, a larger number of lands were recognised and a process of legal capacity building in dialogue with state institutions was begun (Kasburg and Gramkow, 1999). In 1994 the National Programme on Biological Diversity (PRONABIO) was created, followed in 2000 by the National System of Conservation Units (SNUC). This institutional architecture was used to design the Amazon Protected Areas Program (ARPA), one of the most extensive tropical forest conservation programmes in the world, coordinated by the Ministry of the Environment, financially administered by FUNBIO and financed by the FMAM, the German government, WWF Brazil and the Amazon Fund. The development of ARPA between 2002–2007 allowed significant expansion of the creation of national protected areas (Dourojeanni and Quiroga, 2006).

In Peru in 1992 the Special General Directorate for NPAs was created at the National Institute of Natural Resources (INRENA) and the first law was promulgated in 1997. In practice, the management of much of the system of natural areas continued to be the responsibility of the NGOs Pronaturaleza and Apeco, which brought together the leaders of the country’s conservation efforts and completed a fundamental task of protection and transparency in their management (Dourojeanni, 2018). Although Peru’s Constitution of 1993 for the first time recognised a multiethnic and multicultural

nation, the provisions on lands and territories worsened, as the right to land recognition granted in the 1979 Constitution was suppressed, while the 1975 Law on Indigenous Communities and Agrarian Development of the Forest and Forest Border Regions of 1978 remained. Land titling in Amazonian territory for extractive mega-projects and concessions to private capital of various types increased substantially, as did violations of the rights of indigenous peoples (Stavenhagen, 2007: 14; 2010). The claims of non-compliance with ILO Convention 169 made by indigenous organisations like AIDÉSEP and the violent responses of the national government, especially under the government of Alan García, led to clashes as unfortunate as those in Bagua in June 2009, which left 34 dead, 158 wounded and dozens in prison (Anaya, 2009).

In Colombia, the 1991 Constitution also established the nation as multiethnic and multicultural. In a similar vein, broad recognition was given to the rights of indigenous communities to their autonomy and forms of political and social organisation on their lands and territories. The wide range of citizen rights, the recognition of the constitutional bloc and the expansion of mechanisms for accessing justice, together with the ratification of international conventions on human and environmental rights, legitimised the demands made by various social sectors, opening up institutional channels for their demands. However, in legal terms this institutional reality contrasted with the escalation and degradation dynamics of the internal armed conflict that characterised 1990–2002. The creation of the Ministry of the Environment in 1993, the institutional bases of the National Environmental System (SINA), and the approval of the National Biodiversity Plan in 1997 faced implementation obstacles due to the rural and urban territorial reality, which was the scene of war and open confrontation with various fronts and battles (Guhl and Leiva, 2015; CNMH, 2014).

In Ecuador, the Ministry of the Environment was established in 1996, and the constitutional reform of 1998 brought in the National System of Protected Natural Areas. The same reform recognised the collective rights of indigenous peoples, lands were titled to indigenous communities in Amazonian territory and the Development Project for Indigenous and Afro-Ecuadorian Peoples (PRODEPINE) was set up. More than 80% of the indigenous territories delimited in the Amazon region are overlapping NPAs, which implies double conservation measures. However, political instability was the distinguishing feature of Ecuador's convulsive political life, at the heart of which were the indigenous organisations and their demands for recognition of lands, territories and cultures. These demands were partially recognised under Rafael Correa's government, and the promulgation of the 2008 Constitution recognised Rights

of Nature for the first time in global constitutionalism (Elbers, 2011; Gudynas, 2014).³

At the beginning of the 1990s in Mexico the Zapatista movement in the Lacandon Jungle (Chiapas State) – undoubtedly the movement to gain most significant international visibility – demanded, among other things, recognition for the autonomy and the rights of indigenous peoples. The same jungle contains the Montes Azules Biosphere Reserve, which was officially constituted in 1978. Since its creation, state conservation policies in the area have led to unresolved conflicts between various indigenous communities over land ownership and titling (Stavenhagen, 2003; 2013; Tauli-Corpus, 2017; Camacho-Bernal and Trench, 2019; Trench, 2017). Despite the recognition of land tenure and its communal forms, all reports on poverty and discrimination in the southern regions of Mexico, which house high percentages of indigenous peoples and forested areas, name them as the poorest and most excluded from the rest of the country's economic dynamics (Cortés, 2018). In contrast, the institutional dynamics on the eve of the 1992 Earth Summit permitted the creation of the National Commission for the Knowledge and Use of Biodiversity (CONABIO). Meanwhile, stimulated by the Free Trade Agreement (FTA) with the United States and Canada, the national government was sympathetic to the environmental agenda and created the Secretariat of Environment, Natural Resources, and Fisheries (SEMARNAP). Between 1994 and 2000, under the name of SEMARNAT and the leadership of Julia Carabias, all the institutional bases for conservation, natural resource management, standards, regulations and management structures were developed, leading to the creation of the National Commission of Natural Protected Areas (CONANP) and the National Forestry Commission (CONAFOR). This led to an unprecedented strengthening of delimited natural areas with equipment, technical advice, annual operating plans and financing for conservation projects (CONABIO, 2008 and 2009).

Coordinated by the vast network of institutional intermediation, the *ejidatarios* managed to conserve nearly 70% of the country's forest lands. During the 1990s, the better-organised forestry-focussed indigenous and peasant communities of *ejidos* began international certification processes for their

3. Global constitutionalism refers to the set of ideas shaping visions of the supranational legal architecture, whose fundamental bases are in the Charter of the United Nations and the Universal Declaration of Human Rights of 1948, which seek to create conditions of peace and guarantee fundamental rights for all human beings without distinction (Ferrajoli, 2007).

community forestry companies. These initiatives, which developed thanks to communal forest ownership, have been internationally recognised as successful examples of sustainable community forest management that aid conservation by demarcating reserve areas within their forests that are even more extensive than the state PNAs (Bray and Merino, 2004; Merino, 2018; Bray, 2020).

Synthesising trajectories and socio-state capabilities

So far, we have analysed the regional processes of structuring environmental governance for the protection of natural areas, as well as their processes of institutionalisation and collective action, which must be considered in any design for the implementation of measures, plans and programmes for protecting strategic ecosystems. We can distinguish the consolidation of collective actions and the *generation of socio-state capabilities* in three main trajectories, established as analytical typologies:

- a) *Trajectory of intense protest in the form of the collective mobilization and action* of ethnic organisations. Brazil is the typical case, where the capacity of indigenous communities to position their demands, exercise their rights as peoples, and achieve forms of implementation for dual conservation has been overwhelming. With global articulation, local organisational capabilities have made indigenous peoples' "own voice" and state responsibility heard. The challenges lie in the national government's desire and ability to dismantle built processes. Similarly, ethnic communities, still recognising their ancestral lands, face scenarios of multiple legal and illegal violence by armed actors, landowners and extractive companies.
- b) *Trajectory of sociolegal environmental mobilisation*, with Colombia the typical case, where human rights have given way to legal forms of protection of common goods and rights of nature, participation and environmental democracy in contexts of complex implementation, with low state capacity for influence in the territory, due to internal armed conflict.
- c) *Trajectory of institutionalization*, with Mexico the typical case. Scientific-technical capacities in territories that promote double conservation and where the challenges of the trajectory relate to corporate and patronage modalities within the rigid vertical structures characteristic of socio-state organisation.

A transversal characteristic of all these processes has been women becoming visible leaders, gaining space and recognition throughout the three cycles of the mobilisation in each of the different trajectories. Berta Cáceres in Honduras, Máxima Acuña in Peru, Sonia Guajajara in Brazil, Francia Marques in Colombia and Esperanza Martínez in Ecuador are potent symbols of the environmental struggles of our times. Not only in the forms of local collective action but also the construction of national and international institutions, such as the cases of the Julia Carabias's leadership of SEMARNAT in Mexico or Christiana Figueres and Patricia Espinosa as Executive Secretaries of the United Nations Framework Convention on Climate Change. All have managed to become reference points for global climate action, breaking glass ceilings and inspiring new forms of organisation and collective action. Beyond the specific cases and their symbolic significance, it is

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essential to highlight the exponential growth of women's organisations that, from ecofeminist perspectives, claim the defence of their territories and territorialities as forms of politicisation of socio-environmental conflicts, appropriation of the ideas of human rights, the configuration of new forms of understanding of the body itself as "sovereign territory". An example of this was the first march of indigenous women in Brasilia

organised by the APIB⁴ in August 2019, which gathered more than 100,000 women who sang "*Territorio: nosso corpo, nosso espírito*".

The participation of women in environmentalism, in defending human rights and in local activism, both of ethnic peoples and citizens motivated to preserve common goods, has given way to the creation of exponentially growing networks in Latin America. Women's visibility and leadership and the growth of ecofeminist organisations defending the territory are increasingly influencing the design and implementation of policies and programmes for the protection of natural areas and the communities that inhabit them, contributing to the transformation of old patterns of exclusion and promotion of gender equity, with intersectionality as the fundamental tool for ensuring respect for diversity in terms of human rights.

4. Articulação dos Povos Indígenas do Brasil (APIB).

The contestation and the collective capacity of ethnic organizations have enabled their organisations to become consolidated and coordinated over recent decades, managing local capacities at a global level. Organised communities have gained experience and knowledge about institutional dynamics, finding their voice to present their proposals and demands to wider national and foreign audiences. In recent years, the extensive mobilisations of ethnic peoples in Brazil to protest against Jair Bolsonaro's government's destruction of the Amazon by promoting the extractive frontier has been the most consolidated resistance and action strategy and the one that has achieved most widespread international resonance. These complaints have reached the International Criminal Court (ICC), where President Bolsonaro has been denounced for "anti-indigenous policy", "genocide" and "ecocide". In a global first for the defence of human rights, a complaint was filed by lawyers who are members of the group of claimants themselves (APIB, 2021; Gautheron, 2021).

Multilateral global environmental governance bodies have encouraged the formation of many intermediate organisations and the establishment of funds to attract resources. Unlike the previous strategy, the collective action and advocacy of multilateral human rights organisations have promoted the strengthening of local organisations. As with many regional processes around the world, organisations defending peoples' rights have criticised global environmental governance and its imposition of projects and agendas, like those connected with carbon markets (Durand et al., 2019). Another of the most widespread areas of dispute is the density of intermediary organisations at both national and international levels that compete with local grassroots and community organisations in three fundamental areas: fundraising, the effectiveness of interventions, and the continuity of processes.

Moving from nominal and symbolic recognition to concrete measures in which local communities are direct executors of conservation policies means transforming the vision of humanitarian aid in favour of strengthening the capacities of local communities, avoiding exoticism and essentialist visions and respecting different worldviews. In Ecuador and Peru, the main conflicts result from the lack of land titles for indigenous communities as the original inhabitants of the territories, guardians of their conservation and carers of the forests. Co-management strategies with models of more significant community

Moving from nominal and symbolic recognition to concrete measures in which local communities are direct executors of conservation policies means transforming the vision of humanitarian aid in favour of strengthening the capacities of local communities, avoiding exoticism and essentialist visions and respecting different worldviews.

intervention, such as the Sacred Headwaters of the Amazon project, which seeks to directly and permanently protect 30 million hectares of forests, uniting with biological corridors and PNAs in Peru and Ecuador.⁵

The public hearings of the Inter-American Commission on Human Rights (IACHR) over the last 20 years provide evidence of the expansion of collective action and the creation of regional networks, ethnic organisations, diverse citizen groups and national NGOs in coordination with local organisations, who present their cases directly in all scenarios, demanding state responsibility for the protection of their rights (Hincapié, 2018). Unfortunately, in spite of the intense and increasing transnational mobilisation denouncing the systematic violence against environmental defenders at the Inter-American Commission on Human Rights (IACHR) and the injunctions issued in individual cases by the Commission and the Inter-American Court (CIDH 2019), dispossession and the destruction of ecosystems continues to increase in the face of timid and contradictory state responses.

At the state level, in a typical case of socio-state capabilities *with a trajectory of socio-legal environmental mobilisation*, Colombia stands out for the strategic use of pro-human rights socio-legal activism to activate institutional participation/response mechanisms in order to press for protective legislation for strategic ecosystems and the defence of specific common goods, like the PNAs. Large-scale socio-environmental mobilisation has been shaping relevant case law that is advancing on claiming rights of nature. Moreover, thanks to the mechanisms for claiming and enforcing rights, especially guardianship, processes have been promoted that grant legal personality to several strategic ecosystems, such as moors, forests, rivers and swamps (Hincapié, 2020b). Through participation and local environmental democracy, it has been possible to establish the links between the fundamental rights of human beings and ecosystems that guarantee the protection of the goods and services nature provides, and to permit present and future generations to exercise basic and fundamental rights.

Nevertheless, the implementation of rulings, policies and agreements tend to end up as unfinished or unstable processes that are difficult to sustain over time due to the armed conflicts in peripheral territories that include strategic forested territories and biodiversity “hotspots”. Historical land ownership conflicts also exist, deepened by the forced internal displacement of millions of people in the last four decades and the pressure of international economic interests linked to extractive agro-industrial, mining, energy and forestry processes.

5. For more information, see: <https://cuencasagradas.org/>

Of the countries studied, Mexico comes closest to a *trajectory of institutional stability* in its forms of environmental policy organisation based on areas and the forms of cooperation/negotiation with peasant communities as central actors in the interventions in forest areas. In the Mexican institutional trajectory what stands out is: the leadership and support in conservation processes given to scientific-technical research centres led by CONACYT, as well as regional universities; a greater openness to integration that boosts systems of productivity; and the interdependences between institutions for conservation and the environment. The institutional architecture for the conservation of nature and the protection of natural resources has managed to remain in place, formally, despite undergoing significant budget cuts in recent six-year terms. In this area, the current federal government of Andrés Manuel López Obrador (2018–2024) has concentrated its resources on its flagship social programme, “Sembrando Vida”. This conditional transfer programme seeks to meet environmental and social objectives to combat poverty in rural areas and mainly targets the country’s southern states – home to high levels of historically marginalised indigenous people and most of the country’s cloud forests. “Sembrando Vida” also intends to become an international cooperation strategy alongside the Central American countries that make up the Mesoamerican Biological Corridor and an alternative to the traditional punitive schemes to combat illegal migration. It remains early to evaluate the environmental results of this programme. Some criticisms of its implementation have underlined the legitimising nature of large infrastructure projects in the region (Sandoval, 2020). However, it is worth comparing the trajectories of state intervention with the pan-Amazonian region in the current global COVID-19 context in order to establish the importance of this type of programme, not only in environmental terms but also in terms of the social and well-being aspects of the lives of traditionally excluded populations.

Via various different rooting processes, the *socio-state capabilities* resulting from collective action have promoted institutional transformation throughout the region. These trajectories are fundamental as they allow us to understand the foundations that produce the sociopolitical opportunities that enable the measures implemented to take root and to be consolidated and strengthened in pursuit of global agreements. However, the particular strengths of each trajectory face the same global context of high pressure for natural goods and services produced by the extractive dynamics necessary to sustain the intense technological transformation, energy transition and social metabolism, especially in the Global North. What is more, the economic crisis produced by COVID-19 and the international economic implications of the war in Ukraine are increasing the pressure for mining and energy resources, encouraging ever higher numbers of (legal and illegal) actors in protected forest and jungle ecosystems. The

immediate consequence of all of the above has been an exponential rise in deforestation and illegal mining which, added to the actions of large mining, oil and agro-industrial companies, have caused severe violations of human and environmental rights. The full-scale dismantling strategy implemented by Jair Bolsonaro's Brazilian government, which has granted concessions to mega-mining and agro-industrial projects in the best-preserved regions of the Amazon on the border with Venezuela and Colombia is another case.

Hence, the global governance framework is contradictory and requires significant cooperative agreements. For example, the European Green Deal is committed to supply chain controls. However, the EU-Mercosur treaty creates strong incentives for the agro-industrial sector, which is so implicated in deforestation and serious human rights violations, as French President Emmanuel Macron has noted (Gouvernement de la France, 2020; Sanahuja, 2021; Perez, 2020). The same is true of the commitments made at COP26 in Glasgow (November 2021) and in the Convention on Biological Diversity (CBD), which measure national goals, but do not record the activity of extractive state companies like those of China in Latin America, which externalise environmental damage and their human rights impact.

Conclusion

Since colonial times, Latin America has been a major supplier of raw materials at international level. Its mining and energy wealth and incredible biodiversity are becoming more relevant every day amid today's geopolitical disputes. The attempts to guarantee sustainable living conditions while meeting the demands for the goods and services necessary for the daily functioning of the world's population are placing strategic ecosystems and the people living in them under enormous pressure.

This article traces the trajectories of protected natural areas (PNA) in the region, which have been marked by contradictory processes in which the collective actions of various actors converge. Over the last 50 years, these processes have delimited the internal borders of the jungle and forested territories in Latin America, which are rich in natural resources of all kinds. In all cases, despite the extraordinarily diverse forms of institutionalisation in the forms of protection of natural areas, local, ethnic and peasant communities are the ones protecting the strategic ecosystems from the various forms of depredation, both legal (transnational mining, energy and logging companies) and illegal (settlers, illegal mining, armed rent-seeking organisations). They find themselves exposed

to severe risks, as well as the consequences of environmental damage to the health of their ecosystems. The extractive dynamics in the PNAs are associated with global supply chains and transnational companies, which make the operation of effective *mechanisms on the extraterritorial responsibility of states and companies imperative in global environmental governance* to guarantee the implementation of ecosystem safeguard measures and respect for human rights.

Environmental guidelines via non-binding multilateral agreements, like top-down delimitations of territories for conservation in line with global environmental governance decisions, have been superimposed on various territories that were built from the bottom up over time, generating a range of types of conflicts over the appropriation, disposal and distribution of nature's goods and services. Despite this, socio-state capabilities have been constructed that operate in all directions by promoting the institutional architecture that protects ecosystems, the legislation and case law that declares the right to a healthy environment, and the recognition of the rights of peoples and biocultural heritage. Throughout the region, human rights has been the basis of the mobilisation strategy that has made it possible to connect the demands of the people and citizens for a sustainable environment with state and supranational institutions, weaving networks of collective action at all levels, from local to transnational.

In Brazil, Peru and Ecuador, the main actors have been the ethnic communities engaged in contestation and mobilisation to defend their territories, generally at some distance from urban centres. In Colombia, as well as indigenous communities, ecosystem protection dynamics over recent decades have been led by environmental movements and various forms of local activism for urban, rural and semi-rural natural areas, with an active socio-legal mobilisation that led to cutting-edge legislation in the protection of the rights of nature, albeit hampered by the challenges of implementation in armed conflict settings. In Mexico, institutionalisation processes have created more stable ties and a more deeply rooted state presence in the territory. However, they face challenges associated with political dynamics and their traditional forms of operation, which are going through essential transformations under the current government, and whose impacts have yet to be assessed.

Guaranteeing the energy transition, which requires high levels of raw materials, requires a robust, coherent and unified institutional architecture with cross-cutting

Guaranteeing the energy transition, which requires high levels of raw materials, requires a robust, coherent and unified institutional architecture with cross-cutting regulation that responds to human rights parameters and environmental control measures and ceases to be a merely cosmetic compliance addition inserted at certain points of the agreements.

regulation that responds to human rights parameters and environmental control measures and ceases to be a merely cosmetic compliance addition inserted at certain points of the agreements. It is necessary to study the urban transition and the protection of areas within it, the regulatory framework and its implementation, supply chains, extraction areas, actors, measures and overlapping global governance processes. Strong public–private partnerships can contribute to energy transition processes, ensuring that strategic ecosystems are protected and their processes are governed by human rights standards and promote gender equality for women while transforming old structures of exclusion.

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