

Ecuadorian Public Policy towards the Good Living

An interpretive policy analysis from the large-scale mining conflict



"Mining for the good living".
Government banner.

Rights of Nature
Ecuador without mining



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Introduction

This study aims to analyze the conflict between the Ecuadorian government and social movements regarding the launch of large-scale mining in the country, which ultimately is about the notion of “development”, and the challenges for building public policy coherent with the principle of good living as an alternative. The insight we expect to contribute with in this research is to reveal the meanings and normative values involved in the policy discourse of mining policies in the current Ecuadorian policymaking process in order to broaden the elements for discussing the implications of this principle in the public policy of the country. For doing so, we will delve into the conflict aroused by the approval of the mining law in 2009, which allows large-scale mining activities for the first time in the country.

First of all it is necessary to briefly characterize the Ecuadorian social movements, for we will refer to them through all the research as central actors in the Constitutional recognition and the defense of the concretion of the good living in public policy. Berdegúe and Shcetman (2006) put that nowadays Latin America social movements are pivotal interlocutors in the sculpting of public policy and represent a decisive element of the democratization of its societies. They list 5 contributions of the social movement in America Latina, where Ecuador is among the cases studied: a) Social movements contribute to broadening the social life public sphere b) They introduce new topics that before were not part of the social life of the regions in which they operate c) They are a decisive element for the democratization of to decision-making process by creating new social participation structures in public management, specially in social policies d) Are capable of transforming the axis of social relationships when transforming their localized claims into rights e) They are essential for their hitherto marginalized populations become protagonist of social life. Nevertheless, they contrast this positive institutional influence of social movements with the scarce transformation of the real conditions and opportunities of rural inhabitants and impoverished areas.

The Ecuadorian social movements are mainly conformed by popular sectors, indigenous and peasants. Laborers, women, students, peasants, indigenous

environmentalist, and human rights organizations historically have had a core influence in the sociopolitical transformations of the country, each of them within different scenarios and stages in the country political life. From all of them stands out the protagonism reached by the indigenous movement, being nowadays the most important Ecuadorian social organization around which other social organizations are articulated. In 1986, CONAIE was formed with the goal of representing all the indigenous communities and nationalities in the country, with two main objectives: struggle for the land and the recognition of plurinationality. The organization has been the protagonist of several uprisings since 1990 that had put pressure over the governments to start the dialogue and consideration of their claims. Its participation has been core in the national riots that ended with the overthrow of two governments (years 1997 and 2000). Several non-indigenous sectors of the society such as ecologists, labor groups, political parties share alliances with the organization, which also counts with a political branch in the political party Pachacutik.

Unfortunately, very often the social mobilization has been the only mean by which these sectors have been able to interpellate power and posit their demands to public authorities. However, their participation takes place not just through public manifestations, but also with the elaboration of alternative projects of laws and policies, and participation in national political and public institutions. The social movement legitimation comes from the articulation of rural impoverished bases to channelize and place their claims into the national debate. Their struggle against the neoliberalism and their participation on the overthrow of two governments legitimized their organization, especially with rural, urban and progressive sectors, at the time that showed to the Ecuadorian society the scope of maneuver with the government.

Perhaps one of their biggest triumphs is the recognition of their inputs in the Ecuadorian Constitution of 2008. Although most of the social movements have demonstrated their disagreement with mining projects, in this research we will refer specifically to the indigenous, peasants, environmental and human right organizations for these have been the more active in condemning the mining law, glean grassroots all over the country (understood as mainly local rural networks), and have been pinpointed by the leftist government as its main opposition.

The paradigm of good living (sumak kawsay in Kichwa and suma qamaña in Aymara) issued in the Ecuadorian and Bolivian constitution, recovers the indigenous worldviews that don't conceive development grounded in economic growth, and is intended to be a new axis of public coexistence grounded on the inclusion of the plurality of worldviews, economic dynamics that are not market centered, and a harmonic relationship with nature. Therefore, it implies changes in the economic matrix by overcoming the extractive economy, which is the large-scale extraction of natural resources for export. The continuation of this kind of economy by the called progressive governments in Latino America, has been called "neo-extractivism" because although in this way the country continues submissively tied to the global market, this time the dependence to raw material exportation takes place with better regulation from the State to multinationals, better royalties distribution, more social investment with the revenues (Acosta, Bravo and Shiva, 2012: 12) and a great mediation of the state in behalf of the multinationals to promote the extractive projects.

This has triggered a political and scholarly discussion inside and beyond the region because of the structural proposals traced as the path for national policies in response to the multiple crises worldwide (economical, political, environmental, energy). In the words of Wallerstein (2010), Latino America is transiting for deep policy challenges since the last decade. In the regional geopolitics, "it has become a relatively autonomous geopolitical force on the world scene", while the indigenous movements all over the continent "have been creating an inter-American network of their local organizational structures." Nevertheless, due to the fact that theories are just emerging there is the need of producing theoretical and practical inputs to understand and support this process.

The Ecuadorian Constitution enacted in 2008 and approved by the majority of the population, is the result of a long historical process that gleans the discussion and demands of wide sectors of the society, especially stressing the desire for a new way of State administration far from neoliberalism. Several academics (Acosta, 2009, 2010; Tortosa, 2009; Escobar, 2009, 2012; De Sousa, 2010; Gudynas, 2011, 2012) point that the guarantees and principles gleaned on the Constitution underpinning patterns for a new relationship between state, peoples and nature, depict a break with the

supremacy of western modernity: the recognition of rights of nature, water as a human right, the aim of a plurinational state, and the paradigm of good living as an alternative to development. All of this implies a challenge of constructing a different political project and hence the concretion of it in responsive public policies. This goal is so complex that it is not exempt of contradictions and tensions, such as the ones between the immediate search for income and a long-term sustainable planning, with its implications on the exertion of power from the State to those who are opposed to the former.

Although this paradigm explicitly entails the end of the subordination of peoples and nature to capital, conflicts have aroused in both in Ecuador and Bolivia due to the expansion of large-scale raw material extraction and infrastructure for energy and commodities trading, within cultural and ecological sensitive territories. Specifically in the Ecuadorian case, the bet of the current government to finance public spending based on expansion of oil fields and large-scale mining, generated important divisions inside the government and between this and broad sectors of society (including communities, peoples and nationalities, which the concept of civil society standardizes)

Too many variables and factors are implicit in a break with the conventional notion of development. In public policy these imply considering the scope of maneuver, the speed, depth and legitimacy of policies, and the controversies among the actors involved. All of this led us to wonder, *which are the implications of the 2008 Ecuadorian Constitution's endorsement of the "good living" paradigm for the environmental policymaking?* This is presented as our main research question, and though an exhaustive analysis of it exceeds the extension of the current research, we aim to explore which are the core aspects that policy makers should consider in this dispute. By pinpointing the issues of conflict and consensus around this paradigm we hope to give an insight of the challenges of pursuing a policymaking process coherent with the Constitutional guarantees and social movement demands.

The Constitution drafted is not the end of the process but rather the beginning of the challenge of building institutions and policies under the perspective of the good living and of ensuring real participation and democracy. This is precisely what social movements say to be fighting for when denouncing that the high social and environmental cost left by decades of oil extraction in Ecuador evidences that no development comes from the large-scale extraction

of raw materials for exportation. In the light of the approval of the mining law in 2009, which inaugurates the large-scale mining in Ecuador, the social movements warned for the impact of mining projects, arguing that there won't be benefits for the country. They allege the resources leak, irreversible pollution, land and water grabbing, and breaching peasants and indigenous right to their territory.

Accordingly, the Confederation of Ecuadorian Indigenous Nationalities (CONAIE is its acronym in Spanish) together with the communitarian systems of water of Azuay (CSWA), raised a lawsuit against the unconstitutionality of the mining law. In the argumentation process of this litigation participated authorities of the government, indigenous organizations, ecologist, and scholars. In addition, it stands out that among the judges of the Constitutional Court responsible for giving the final judgment, the single position in favor of the demand came from the only indigenous judge within the team. We will analyze this demand against the mining law as our main document in order to delve into *how are the elements of good living paradigm translated into key policy documents by government and social movements.*

Social movements are seen as groups that through collective action struggle for social change by interpleading a mode of generalized social domination, and as an historical category are related to a specific type of society. The globalization of problems, for instance economical crisis or climate change makes its struggles not limited to contesting the state power but move also into transnational spaces (Touraine, 2004). Although we focus on the Ecuadorian social movements, their claim for good living has a critique to global problems and is inspiring social movements outside the national borders.

While the government and policymakers manifest that large-scale mining is on the road towards the "good living" because it makes possible to continue with redistributive measures, the social movements argue that both projects are incompatible. If the good living aims to equilibrium among people, communities and nature; recognizing the rights of nature, in a plurinational State where indigenous nationalities positions are respected, they wonder how is it that large-scale mining is argued to be the path for achieving the good

living? Clearly “there is a dispute a on the ways to understand development and search for alternatives” (Acosta and Gudynas, 2012). If both claim to defend the good living through two totally different argumentation and practices, then *how can the large scale mining policies been understood for and against the “good living” at the same time?*

The approach to this issue will be through an deliberative governance approach, which attempts to process the wide array of values, beliefs, knowledge and interests that different stakeholders claim to be reflected in policies, by an understanding of policy as collective reason rather than power and within a society centered rather than a State centered model. This goes pretty much in the lines of the proposal of good living, which is including different values, knowledge and worldviews in the public management, while the State is not anymore the center and single entity of social life regulation but on interplay of the array of experiences and views (Escobar, 2012: 2; De Sousa, 2010).

The current scenario of the government is the interplay between making the deep changes the society reclaimed, and the state commitment with the different stakeholders at local, national, regional and international level. Moreover, this move to a new policy paradigm, namely a displacement of the set of ideas, policy goals, instruments and problem definition that determines the policies (Hall, 1993), entails not few controversies because of the structural changes it demands at local, national and global level. Power is in the interplay at all levels, starting from the common sense and cultural changes (development is not the right way, or Nature is a subject of rights,) to macro relationships from State e and even supranational structures, all the most nowadays when the global economical crisis pressures over Latin America resources. By recognizing and delving on the elements of consensus and conflict between the government and social movement, regarding constitutional and mining policy issues, we finally will try to outline *what the implications of our findings for future developments in the implementation of the good living concept in public policy are.*

[The context of the mining conflict](#)

Although it may not be covered in this research, it is important to stand out that

deepen of extractive projects and social conflict is a phenomenon widespread in the Latin-American continent. There is not a country with large-scale mining projects (also called mega mining or open sky mining) that is not facing conflicts (Mexico, Guatemala, El Salvador, Honduras, Costa Rica, Panamá, Ecuador, Peru, Colombia, Brazil, Argentina, Chile y, Uruguay) According with the Observatory of Mining Conflicts in Latin America (OCMAL), currently the region faces 120 active conflicts involving more that 150 communities along the region (Svampa, 2012:473). Their main concerns of mining has to do with the huge amounts of water, energy and pollution of water and generation of waste¹ In the following lines we present a skim of the Ecuadorian conflict scenario, but before it is important to characterize the large scale mining activities in the context of the global capitalism.

The world crisis has elicited changes in the accumulation pattern and a new energetic pattern, and the extractive economy takes prevalence. Due to the loss of profitability of leader economies since 1994 and deepened in 2004, the pension funds and securities have found shelter in raw material markets (Ugarteche, 2012). As a response to the economical crisis and uncertainties, metals as gold, silver, platinum, and cooper in a less extent, represent a refuge for investments due the relative stability of these metals seen as “shelter values”. Hence, the prices of raw material and metals have increased dramatically, triggering the competence of transnationals for exploitation contracts.

If in the 90’s Latin America lived the first stage of neoliberalism centered on privatizations of public services and legal framework reforms for commodification of nature, nowadays we are living the second stage which is the consolidation of that model (Svampa, 2012). In this decade the World Bank (WB) had a clue role on supporting reforms on the region’s legal framework (privatizations) and founding extractive projects, as a mean for fighting against poverty. Between 1993 and 2001 the WB financed 27 mining projects in Latin America (Infante, 2011). From 2000 and 2008 the regional extraction growth a 36%, and the value of mining exports for countries like Colombia, Ecuador and Chile, increased around 4 to 5 times, and even increased more than ten times for Brazil, Peru and Bolivia (Egov, 2013). Yet the offer of employment is the main slogan for persuading local communities

of the benefits of mining, the ciphers show the scarce job generations comparing with agriculture. For instance, in Peru mining generates less than 2% of national employment while agriculture generates 33% and services 26; Moreover, this employment is highly-qualified and thus geared to urban or foreign professionals.

However, what counts for the Latin- American governments that decided to grant large- scale mining concessions is the high price of the commodities triggered specially by the Chinese demand on metals, though Canadian multinational have also a strong presence in the region. However commodities prices are always held to international market fluctuations. David Harvey (2008) argues that the new trend of the capitalist accumulation in the last 30 years comes more from dispossession than from the real production expansion, in the strives for natural resources, energy, land, etc.

Mining implies several hidden costs that are not calculated into the price of the commodities and are usually assumed by the society and the states where the minerals were extracted. These cost have to do, among others, with the great amount of energy and water required for mining operations and the toxicity of the materials used that are unavoidable released to the environment.

For instance, in the open sky mining project Mirador located in the Ecuadorian south Amazon, where the excavation will be 1km of diameter and 800 m of depth, the enterprise would need around 12 million of fresh water per day, for which the company don't pay, but is supplied by the state. Furthermore, experts warn that water contamination is unavoidable in open sky mining, all the most in ecosystems like the Amazon with high rainfall and underground water systems trigger the acid mine drainage phenomenon, which is the spreading of toxic substances on the rocks through the ecosystem irreversible. The most famous example of this is the Spanish mine Río Tinto in Spain, which is still contaminated two thousand years afterwards. In spite of the high technology of mining enterprises, the great amounts of cyanide used cannot be recovered completely, while 1 gram of this chemic can kill up to 30 people. In addition, the reparation costs of mining wastes and perforations are around 5 to 67 dollars for each ton of mining waste material, which represent more

expenses that the revenues the state would receive for the mining extraction ² (Zorilla, Sache and Acosta, 2011).

Rafael Correa's government (2007-) entered into dispute with the social movement that initially supported his government because the latter alleges that its public policy is not complying with the Constitutional guarantees and aim. Since the approval of the mining law, social mobilization and unsteadiness has been increasing; and the state repression to the opposition as well. Whereas social movement accuses the government of a complete turn of its original agenda, the government accuses the indigenous groups and social movement of hampering the process of change by blocking the development projects, and even of being agents serving foreign interests to make the government topple.

These accusations go especially to indigenous, ecologists and human rights organizations that question the extractive projects and the prosecution to local leaders that oppose to them. Although the scope of maneuver of social movement has been determined for the capacity of calling to mobilization, the legal assessment and international protection instruments, particularly for indigenous nationalities, play an important role. For instance, in 2012 the Inter-American Court of Human Rights ordered the Ecuadorian state to indemnify the Sarayaku Kichwa community for having overlooked the proper procedure when intervening indigenous territories, in response to the complaint the community put and the resistance that ended up with the exit of the enterprise. On the other side, the current government maneuver for dealing with social movement is to use the public support of its management, based on the increment of social investment, to delegitimize against the public opinion the claims of social movement that oppose to the extractive projects.

The social organizations set a legal demand for unconstitutionality against the mining law, which was rejected. Comparing with the previous mining laws and regulations, the current law establishes better controls. The law done in 2000, in the frame of the neoliberalism reforms for attracting private investment opened the possibility for mining concession in protected areas, agriculture lands and

² According to the enterprise data, in the project Fruta del Norte in the Ecuadorian south Amazon, from the 90 thousand tons of cyanide to be used it will be recovered the 98,2%, which means that 180 tons will be still on the environment. In the project el Mirador, the reparation costs of 180 millions of tons of waste material would be around 900 million and 12.000 million dollars, while the revenues to the State through all the project would be around 700 million dollars.

indigenous territories without environmental or social control, and widely surrendering the territory. For instance, the only cause for suspending the contract was the non-payment for the concession, instead of the accomplishment with social or environmental regulation, and the state would receive just 1USD for concession hectare in exploration and 16USD for hectare in exploitation (Acosta, 2010). Before such a law, the mining law of 2009 establishes better controls, although each guarantee is accompanied by an exemption to the rule. For instance, the Constitutional prohibition of privatization of the called strategic sectors, such as energy, resources and communication, is allowed in the law under the figure of an exceptionality defined by the law, which the law does not defines. Besides, according to the Constitution the state revenues should not be inferior than those received by the enterprise exploiting the resources. This figure is tweaked in the law by diminishing mining employers profit sharing and including the calculation of taxes.

On 2010, big mobilizations took place in the country claiming the unconstitutionality of the law of water because implicitly allows privatization and supplying of this resource to the large-scale mining enterprises. In 2011 the water systems of the communities Tarqui and Victoria del Portete settled in the moor of Quismacocha (three lakes in Kichwa language), organized a popular consult inquiring whether they agree with mining operations in their territories. Ninety four percent (94%) of the inhabitants voted against it. In 2012 the first large scale project in the history of the country was signed, and some other are in the way. Ecological and cultural areas in the Amazon jungle and Andean moors (Cordillera del Condor and Quimsacocha) will be given in concession to Chinese and Canadian corporations. In response, the government faced a massive march of social movement, called “ March for the water, life and dignity of peoples” where especially indigenous organizations and rural populations potentially affected by these projects, expressed their discomfort and condemn the lack of a proper consult to those whose territories will be seized.

The report of Amnesty International 2012 depicts the degree of tension between social movement and the regime when accusing the fact that 24 peasants and indigenous leaders are facing legal process of sabotage and terrorism for defending their territories. The NGO states this prosecution is unfounded and is being used for this government as a mechanism for dissuading people to express their opposition to the government policies and laws. National

organizations also call the attention that the opposition to large-scale mining aroused the criminalization of the social protest in Ecuador. The investigation of Acción Ecológica and the Center of Human Rights of 2010 deplore that in this year, 111 people were involved in some kind of legal investigation related with mining opposition.

The former contrasts with the particular political moment of Latino America, were from the crisis of the neoliberal project and the modernity project springs a trend to overcome imperialism, capitalism and development. The Ecuadorian and Bolivian Constitution are one of these symptoms (Escobar, 2010; Zibechi, 2010 in Lander, 2011).

Order of the Research

The study will be divided in 4 chapters. The first one opens with the theoretical discussion about the good living paradigm as well as the south epistemology theory in order to understand the national and regional framework within which this paradigm is being discussed, but also the theoretical contribution beyond the region that this paradigm depicts as a critique to development. Afterwards, we will present the epistemological shifts that represent also a post positivist approach on policymaking and the interpretive policy analysis as an empirical method for exploring the complexity of meanings and normative elements that mediate in the social phenomena. Chapter two expose the methodological design of the research, the documents and sources to be analyzed as well as the operationalization of the variables found on them. Later, the third section will analyze the data analysis through the theory proposed in order to delve on the expressive elements involved in the argumentation of the unconstitutionality-mining lawsuit set by Ecuadorian social movement. For closing, the conclusions developed in the last chapter will resume the main findings and posit some insights delivered by the research and suggestions.

CHAPTER 1

The Good Living Paradigm

“The interpretation of our reality through patterns not our own, serves only to make us ever more unknown, ever less free, ever more solitary.”

(Gabriel García Márquez, Nobel speech 1982)

As starting point, hereby the reader is introduced to the theoretical discussion about the good living as the paradigm is meant to lead the Ecuadorian public policy, and to the policy theories we suggest for analyzing controversies flourished regarding this paradigm. First, we will delve into the good living core concepts in order to outline what has been discussed and enacted so far, the key conceptions and perspectives, and how it has been applied in public policy. Following, it is going to be exposed the theory of a Southern epistemology, deliberative governance and interpretive policy analysis as the framework through which we will intend to read the conflict.

In the exploration of how to achieve responsive policies with the good living, we start addressing the whole paradigm from the theory of a south epistemology, which puts the validity of the new categories flourishing from the south for a new relationship differently of the historically supremacy of the western thought. In this point our proposal is to tackle the conflict around the good living regarding the mining conflict through the also epistemological shift on policy theories: deliberation and interpretive policy analysis as a mean for recognizing the meanings, values, beliefs of plural actors in the decision-making and execution of policies, instead of a rational positivist approach. We will discuss the advantages and limitations of this approach in the methodological chapter

Being our central element the good living paradigm, our approach to deliberative analysis by no means intend to suggest a merely increment of communities participation in the resource management within a post neoliberal model (the model of leftwards governments in Latin-American in the last decade, where the State recovered a role on the economy and national

planning), while keeping the continuation of natural resources extraction for supplying the global market. This continues the subordinated, even if it is participative, interplay of local communities and south countries to the use of nature for a consumption model grounded on the traditional notion of development with all the inequalities it implies. Conversely, through deliberation we seek the inclusion of the voices that show the deep root of conflict of power in the appropriation of nature and territories, and what imply for them the shift to a good living political project.

The Good Living as a Policy Paradigm

In this section it is going to be elaborated what does a policy paradigm mean and how it emerges, since the good living is usually referred as such. Hall (1993) note that a policy paradigm framework responds to the body of knowledge implicit in what policymakers communicate about the goals of a policy, the instruments to be used, and the definition of the nature of problems to be addressed, which is influential because it is generally taken for granted and beyond question. Then, a paradigm shift emerges when the ideas, goals, instruments and the nature of problems change and hence, also the policy discourse.

When a paradigms starts to crumble it responds more to sociological than to scientific causes. While the policy paradigm is stable, the set of ideas that the policymakers communicate through the policies are almost taken for granted, whereas, conditions such as the accumulation of anomalies, policy experimentation and policy failures undermines to authority of the current paradigms and bring significant shifts in the locus of authority over the policies. However, whether a paradigm is replaced depends on the arguments of both contending sectors, the actors' position in the institutional framework, the resources they count with and the capacity to power (Hall, 1993).

Usually a policy paradigm changes are quite complex and affects several policy arenas and sectors of civil society, such as law, media, culture, etc., including electoral competition. This spills of the debate all over the policy arenas is where Hall places the process of social learning, as it arises societal pressure of groups not only aiming to establish their own ideas, but motivated by the

search for solutions to collective problems in uncertain scenarios. Hence, the state learning process is not state centered but into a relationship of powering and puzzling with societal demands.

Translated this into our case of the policy paradigm occurred in 2007, it clearly was led by the accumulation of anomalies of the economical-political system to solve the impoverishment of an important part of the population through the dependence of the primary economy sector, and of a political class linked with foreign economic power groups. Important experimentations and policy failures occurred when the neoliberal wave led to the entrenchment of the state, increment of oil extraction for acquiring credits from WB IMF for development programs, and replacement of social investment with palliative social policies. The governability crisis lived during those decades was load of claims against national resources leakage in benefit of national elites and international groups, discrimination, nature depletion and lack of representation of the population in the political class.

Those policy failures were condensed in electoral competition. The government elected on 2007 presented different goals, instruments and setting, a different discourse, planned a different institutionality for overcoming the former policy failures. The authority locus, at least temporarily shifted to social movements and popular sectors. The center of the public management was not supposed to be the market, but people and nature. For this new institutionality started to be built led by the principle of good living. However, this authority locus shift was displaced to a new class of public management that displaced social movements and popular sectors, the new government had now a power position by representing the new institutionality and all the resources it implies.

It represented a process of social learning where the societal pressure determined a shift in a policy paradigm. Nevertheless, it can be discussed now if the government is closing the puzzling dynamic, of looking solutions with those sectors that put him to power, or is closing the state policymaking as autonomous and powering against them. In this study we will analyze up to what extent it is possible to affirm that the policy paradigms is being applying and which are these characteristics of social learning.

Yet, this policy paradigm implies a critique to the model of development based

in an endless economical growth and the ideals of modernity and progress as the worldwide desirable path. That is why we posit that the good living comprises a new epistemology, because besides the set of new ideas defining public policy there is recovering and reconstruction of knowledge and reality as the ground of those ideas. In the coming sections we will elaborate this into the Southern epistemology proposed by De Sousa Santos. The Western modernity set as a monocultural definition of what is developed or underdeveloped supposed policies to deny and replace the traditional, rural, natural, and poor in material goods, for the modern, urban, industrialized and wealthy in material goods. It is widely known that this has brought several anomalies such as environmental and energy crisis for the pressure on natural resources to economical growth, while being incapable of solving social inequality, for instance starvation, and keeping non-asymmetric power relationships between north and south countries.

For contextualizing the good living paradigm we will confront it with the paradigm of development that it proposes to overcome, so that we can contrast the different set of ideas that defines the goals, instruments to attain them and the nature of problems to be addressed (Hall, 1993)

To start, the notion of development is rooted in the idea of progress, which is one of the maxims of modernity. Progress is a lineal and one-way path where developed countries are in the top and underdeveloped behind but in the pursuing of the same “desirable” society model. What is not following this model is considered primitive, savage, and pre-modern (De Sousa, 2006 in SENPLADES)

The goal of development is living endlessly better through economical growth and consumption capacity, and is also seen as the clue for overcoming crisis, impoverishment and injustice. In contrast, the good living aims to get everyone living good and not endlessly better, and sees the development goal as the cause of crisis, impoverishment and injustice.

The instruments of development for attaining those goals are based on boosting production, trade and consumption. The environmental effects are tackled with sustainable development principles of better technology for mitigation of impacts, while the social effects are tackled through financial support for reinforcing democracy, international aid, and entrepreneurship promotion because any individual could achieve development if is enough creative and

hardworking. Whereas, the good living instruments are strengthening endogenous economy, rather than prioritize position in global market, avoid nature depletion, recognize and enhance participation of actors with different worldviews and whose logics don't cross through market.

The social learning process of the development paradigm is going on not only in the national but also in the transnational spheres, where states or supranational structures are feeling societal pressure. It is uncertain whether the world system is about to change of development paradigm; however, the uncertainty, complexity and global policy failures spill over also national policy scenarios, urging for the emergence of policy paradigms such as the good living.

An alternative to development

No indigenous language has equivalency with the idea of "development" in the conventional notion of economical growth and possession of material goods, conversely there is a common notion of an ideal life where human and nature as a sacred being are inseparable, and where material, social and spiritual life are interconnected (Prada, 2010). It is centered in a holistic understanding of life, which is about not living endlessly better at expenses of others (Albó, 2009) but living good in harmony and mutual respect with mother nature (Pachamama in Kichwa) where everything is life and nothing is separated one from another (Choquehuanca, 2010).

For many, the above might sound merely declarative and poetic enunciations. However, this has been the guiding principle of indigenous communitarian life for centuries. Trying not to fall into apologies, the recognition of the good living in the Constitutional level aims to improve democracy by including principles and proposals of indigenous worldview and the broad participation of society sectors, at the time that gives structural inputs to the crisis worldwide and the debates that are being held (Acosta and Martínez, 2009).

The good living paradigm comprises a new comprehension of development, nature, and state, which set the start for the design of new economical, political and cultural paths. In the coming paragraphs we will expose what this new comprehension is about.

To overcome development

First of all, it is called a new paradigm because it questions all the pillars of the modern civilization entailed in the development concept: a *humanism* where man is the basis of nature, while anything external to him is an object to be subordinated to his reality; the *instrumental reason* to which the human is reduced and the humanism expressed; the *progress* as a way of historicity predominated by the innovation as a pure positive value establishing the dyads of the urban over rural, traditional over modern, and natural over transformed; the *urbanism* as the exclusive enclosure of the human; *individualism* as an identity based on private ownership; *the economicism* as the subordination of political decisions to those regarding economy (Echeverría, 1995).

The array of green features and adjectives to “development” (development in human scale, strong sustainable development, for instance) continue grounded in these pillars, whereas the good living is a proposal of ideas, speeches and practices outside the modernity (Gudynas, 2011) and therefore constitutes not another alternative development but an alternative to development. It represents a proposal to give urgent answers to the problems that conventional development can't deal with (Acosta and Gudynas, 2012), to give solutions to the crisis of the monocultural western modernity (Lander, 2011), to overcome the supremacy of western values to include the validity of multiple worldviews.

Collecting reactions also from North scholars, the Spanish sociologist José María Tortosa (2009) considers that the good living is a proposal to find exits to the current civilization “bad development” inherent to the functioning of the global subsystems based on maximization of profits. The basic human needs of wellbeing, freedom, identity, and security are unsatisfied at local, national level as well as in a world and ecosystem level. He points that these levels are one inside the other totally interrelated, *as matryoshkas*, and all are effect and affected by the conventional notion of development.

Table1.- "Bad development" as insatisfaction of basic human needs			
	State/local level	Ecosystem	World system
Wellbeing	Poverty Inequality Stagnation	Global warming Depletion Pollution	Polarization peripheralization explotation
Freedom	Lack of democracy Repression Marginalization	Dependence on Nature withough partnership decissions	Dependence Repression Marginalization
Identity	Internal colonization Nationalism Fundamentalisms	Allienation to Nature, loss of roots	Coloniality Homogenization "Identity"reactions(ra cism?)
Security	Violence Civil war Terrorism	Human orginated catastrophes	War among states transnational terrorism nuclearization

Source: Tortosa(2009) El futuro del Mal desarrollo

These four unsatisfied basic needs within the three levels, are for Tortosa the diagnosis of the "bad development", and posits that the good living paradigm set as political project in the Andean countries could be the therapy. Especially, he points, in the current context of multiple crises that accumulate and feed each other: economical, financial, food, energetic, environmental, and I would say also political, because of the loss of legitimacy institutions and thus crisis of governability.

Uma Kothari (2005:428) analyzes the power involved in the notion of "development", which has built the "developing" countries as objects of intervention through technocratic "development schemes (which) reflect a form of cultural imperialism founded on ideas about the "experts", which is not neutral but are configured through "neoliberal development imaginaries"

In Ecuador, the neoliberal policies resulted in the delegitimization of the political class, whose compliance to the neoliberal recipes of the Washington Consensus led to the country to accept foreign political interference through harsh economical reforms, leakages of economical and natural resources and the deterioration of life quality of the population. In sake of the modernization of the state, in the early 80`s Ecuador, alongside with other Latin-American countries, started a structural adjustment with privatization programs,

liberalization of economy, shortages on public spend, elimination of subsidies, increment of taxation, and deepening the extractive economy.

Suddenly, since the Ecuadorian oil boom (1971-1980), the country became worthy of credits from the multilateral organisms, protagonists of the neoliberalism implementation worldwide, to invest in projects and reforms to promote development. Beneath this argument it laid the need of the international banking to invest in somewhere the excess on financial liquidity. The neoliberal creed was to restrict the participation of State in national economy because its inefficiency obstacles economical growth. Unconstitutional juridical reforms and national laws subordinated to those of the World Bank allowed credit terms that left the country highly indebted (up to 118% of GNP in 1999) although between 1989 and 2006 only a 14% of the credits received were geared to social projects³ (CAIC, 2008).

The outcomes of these policies finished with social inconformity and lack of institutionalization. The poverty, indigence, inequity, unemployment and pressure for natural resources increased after two decades of neoliberalism. Excluding the economical growth of the Ecuadorian oil boom period (1971-1980), the structural adjustment starting period in 1981-1990 presented and economical growth of just 1.8%, while in the decade of 1951-60 this cipher was 4,7% and between 1961-1970 it reached 8.9% (UNDP, 2004). Furthermore, in this period the social conflicts increased more than 300% (CORDES, 1999 in Burbano de Lara, 2006:306). The Ecuadorians had, in a lapse of 9 years (1996-2005) 6 presidents; three presidents in a row were toppled by the civil society that denounced the economical and political steer of the nation in benefit of national elites often linked to foreign power groups.

The environment affection was also a consequence of neoliberal measures. Latin-American countries reprimarized their economies by increasing 3 times the exportations volume since 1980. In the Ecuadorian case, the oil reserves were the warranty of payment for creditors. Above 150% of the net incomes of the oil extraction were for paying the external debt, while oil transnationals

³ In 2008, the government launched a Public Credit Audit Commission, where parts of the foreign debt were evidenced to be illegal and illegitimate. For further details consult Comisión para la Auditoría integral del Crédito Público (CAIC).
<http://www.auditoriadeuda.org.ec/>

arrived under lax regulations that allowed social and environmental negligent procedures and an unequal share of the incomes (CAIC, 2008).

In this regard, the Ecuadorian Constitution aimed to end the long process of political and economical crisis by setting the country priorities in people and nature rather than market. The new Constitution understands the “development regime” in function of the good living. This paradigm appears in two sections and through 99 articles where it is addressed explicitly. First, within the “Rights of Good Life” there is a set of rights such as food, healthy environment, water, communication, education, etc. appearing at the same hierarchy with other rights recognized in the Constitution (referring to individuals and groups of priority attention, communities, peoples and nationalities, participations, freedom, nature, and protection) (Acosta, 2010; Gudynas, 2012). This rupture of hierarchies among rights and rather the affirmation of its mutual interdependence breaks the classical conception of rights (Acosta, 2010). Secondly, the regime of good living, with its two components: 1) inclusion and equity, and 2) conservation of biodiversity and natural resources management, appears at the same hierarchy of the regime of development. Both regimens are articulated in such a way that development is established to serve the good life, and the accomplishment of rights as a condition for achieving it.

The “development regime” is the group of organized, sustainable and dynamic economic, political, socio-cultural and environmental systems which guarantee the realization of the good life, of sumak kawsay”(...) the “good life requires that people, communities, towns and nationalities effectively enjoy their rights and exercise responsibilities within a framework of interculturalism, respect for diversity, and harmonious coexistence with nature” (art. 275)

Accordingly, the good living as a paradigm policy proposes to build legitimate and valid spaces for those regions and groups historically built as objects of intervention for development, to raising the plurality of worldviews, and terms with nature.

[Nature as a subject of rights](#)

Second, the conception of nature is also inherently different from a good living perspective. Unlike the modernity postulates where the first thinkers pointed

that science and technology are meant to “constrain and even torture nature as passive object of dominion”⁴, here the proposal is to recover the nature as a subject interwoven in a whole relationship with humans. A turn from an anthropocentric conception of the world to a bio-centric vision, where nature has a value itself independently from the use human being can give to it. It is no longer seen as a commodity, depicted in the conventional terms of natural capital or even natural resources, but rather as natural common goods.

The Ecuadorian Constitution of 2008 is the first worldwide to recognize the rights of nature or Pachamama, introducing the plurality of worldviews.

The Nature or Pachamama, where life is reproduced and realized, has the right of being respected fully in her existence, the continuity y regeneration of her vital cycles, structure, functions and evolutionary processes. (art.71) and to restoration (art.72) People, communities and nationality are able to get the benefits of environment and natural wealth that lead them to the Good Living.(Art.74)

After analyzing the way in which that environment and is perceived in the international legal instruments, Murcia (2012) notes that they contain a radical anthropic view regarding environment and development, where nature is an instrumental element valued as long as it doesn't interfere with economical growth. She places that the international right of environment and development is characterized for the laxity with human activities that could affect serious and accumulative to nature, in sake of protecting development, the principle of costs internalization, and the sovereignty of states over natural resources. The table 2 below presents the author's compilation of the statements found in the environmental international right instruments regarding the protection of development over nature.

⁴ Bacon's thought is often pointed as the most representative example of modern approach to nature as the passive object to dominate even violently, and the implicit way on which it is also applicable to female gender. For broader information, see Merchant (2006) *The Scientific Revolution and the Death of Nature*.

Table 2.

Protections to Development in the main Legal International Instruments of Environment and Development				
Stockholm Declaration 1972	Resolution 3281. Charter of Economic Rights and Duties of States	Declaration on the right to development 1986	Rio Declaration on Environment and development 1992	United nations framework convention on climate change 1992
States and international organizations with a view to reaching agreement on meeting the possible national and international economic consequences resulting from the application of environmental measures.	Every state has the primary responsibility of promoting the social, economical and cultural development of the population. Every state has the right and responsibility to chose its goals and means of development, mobilize and use its resources, and carrying out progressive economical reforms and assuring the full participation of its people in the whole process and in the benefits of development. All states have the individual and collective responsibility of cooperating in order to eliminate the obstacles that hamper that mobilization and utilization.	States have the duty to cooperate with each other in ensuring development and eliminating obstacles to development. (Article 3)	National authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment	The answers to climate change should be a coordinated in an integrated way with the social and economical development for the purpose of avoiding edverse effects over the latter, taking into account the priority and legitimate needs of the developing countries for achieving a sustained economical growth and poverty eradication

Source: Diana Murcia. La Naturaleza con Derechos 2012

In words of Alberto Acosta, ex Secretary of Energy and Mines and ex President of the Constituent Assembly, where the Constitution was redacted, this is a matter of ecological justice for the maintenance of the systems of life and evolutionary process, and hence not centered in the individuals but in the ecosystems and collectivities. These rights defend the existence of life itself, and thus don't demote human being. The proposal is an economy subordinated to the natural laws and yet assuring dignity and life quality, which is core to recognize in opposition to the capital that trends to auto destroy its material conditions of reproduction, which is nature (Acosta, Bravo and Shiva, 2012). This embodies one of the main contradictions of capital, the opposite rhythms and cycles of nature, which takes centuries for giving life, and the dynamic of capital accumulation, that demands permanently and fast fluxing even beyond ecological, time, space and I would argue also political limits.

The research addresses somehow the way that ecological limitations represent constrains to democracy, governability and legitimacy in states dependent of raw material and with important indigenous population. Ecological limitations of capital reproduction have consequences such as displacement, impoverishment, lack of water supply, urban migration, etc. that certainly will question the social order.

[A plurinational and intercultural state](#)

Third, the plurinationality is also an intrinsic element of the good living

paradigm. It is explicit in the Constitution in the proclamation of the Ecuadorian plurinational and intercultural state (Art.1) and in the recognition of the rights of communities, peoples and nationalities (Art.56, 57), indigenous justice, autonomic and decentralized governments (Art.257), among other articles.

The objective is broadening democracy to include the multiple worldviews of peoples and indigenous nationalities within the country, that share a common identity, culture and history, in order to overcome colonialist and racist structures of the modern nation state. Hence, from now on we will refer to the Ecuadorian state as a plurinational state.

Historically, the state has ruled with a monocultural view of peoples and a systematic ignoring or monetary definition made from power about the indigenous livelihoods attached to a territory. For overcoming it, the plurinational state entails the incorporation of new perspectives of diversity and democracy related with territory, society and nature, the recognition and appraisal of the cultural diversities, the construction of a dialogue among sciences, technologies, and traditional practices, knowledge and beliefs. The effectively execution of the plurinationality doesn't deny the state nation, but does implies a new institutionalist alternative to the modern state known so far⁵. It comprises a different system of decision-making, representation, participation and co-decision where territoriality and nature are understood as part of the peoples and nationalities life reproduction; a diverse, inclusive and deliberative governance (De Sousa Santos, 2010) In the proposal of De Sousa Santos, it implies the transformation from the homogenizing category of civil society to communities, peoples, nations, nationalities; and from the one of territory to geopolitical, geo-cultural, ancestral territories, so that it is applicable a co decision in natural resources management respecting rights of nature.

Voices supporting the figure of a plurinational and intercultural state warn about the problematic of including this legal plurality into a monocultural legal system that standardizes into the right of state the existent diversity of perceptions about right and justice. The national state system needs to control and codify, and therefore will irremediably subordinate the different views (Walsh, 2012). She notes that Ecuador is the only country worldwide that has recognized the category of "peoples", which enables to these groups the exertion of collective

⁵ For broader analysis about plurinationality, consult the work of Boaventura de Sousa Santos (2007) or Catherine Walsh (2008,2009,2010)

rights, collective knowledge, collective property and ancestral territorial organization. In her view to apply a legal pluralism is to accept conflict and mismatches with the national state legal system; “it implies to welcome the ethnic particularity.” In this coincides, De Sousa when suggesting that it is necessary to move to a different paradigm of law for addressing the new political demands, even if this gives space to risks and insecurities is also and opportunity space for “innovation, creativity and social choice” (De Sousa, 2002: 108)

However, the new Constitutional framework, that recognize plurinationality, contrasts with the unprecedented mega mining in the country that affects indigenous territories, putting new elements for analysis to the responsibility and challenge of the state of combining plurinationality and nature with citizen participation and natural resources exploitation. It seems that the state nation do find threats in the participation of indigenous nationalities in decision-making when it comes to natural resources. These new guarantees have forced the state to resort to discourses for amending the scope of these rights. We will explore on which are the core factors that make the national state to perceive threat.

[Public Policy for the Good Living](#)

As we saw in the section above, the new regime of development, the rights of nature, and the plurinational state as the inclusion in policymaking to the indigenous nationalities within the nation state, are the three essential features for the building a the Ecuadorian political project. The new political project entails a new reorganization in several dimensions: social, cultural, economical, environmental, epistemological and political; all of them interwoven and interdependent (Simbaña, 2011). The good living “objectives are broad, such as improving the quality of life, building a fair, democratic and solidary economic system, encouraging participation and social control, recovering and conserving nature, and promoting balanced land use.” (Gudynas, 2011:4).

Accordingly, two additional essential points of this project are: a social and solidary economy, and more complete forms of participation for democratizing democracy [sic].

About the first point, the good living as a normative paradigm of the socio-economical order entails that it will not longer be led on capitalist, extractive, dependent and agro-exporter economy but in a social, solidary and sovereign economical model (León, 2009; Acosta, 2009, in De Sousa Santos, 2010). The proposal is to emphasize a solidary economy where different ways of economic organizations, individual and collective, are connected and count with dignifying conditions and real options to be included in market (Wray, 2009:61).

In the words of Raul Prada (2011), it is about to subordinate the economy to political and social criteria to fulfill needs and guarantee the conditions of life of people and nature. Good living doesn't deny capitalism but avoids that global capitalist relationships determine the logic, direction and rhythm of national development (Gudynas, 2009 in De Sousa, 2010). A post developmental model implies surpassing the conventional notion of nature as a condition for economical growth and developmental policies (Acosta, Shiva and Bravo, 2012).

This project differentiates from the orthodox socialism of the XX century mainly because the centrality is not in the state nor in the economy, but rather in nature and collectivity. Some policymakers talk about the "socialism of the good living" putting forth that this project is post-socialist in so far stresses not just "the work over the capital, but the life over the work", aiming to build a bio-centric and non-anthropogenic society. It is recognized that the economy is not a closed cycle but implies a consumption of finite materials and waste generation, and thus caring the relationships between nature and society including the next generations. Furthermore, the property is not limited to public and private types but looks for the diversification of property modes such as communitarian, cooperative, among others. It overcomes the economicist and productivist perspective focused on production of material goods and pursues the generation of relational goods, it is that the same process implies building ties and interaction in collectives (goods that are consumed and coproduced at the same time. The decision are taken for collective and participative deliberation; And cares not just about the money and production but the time and life (Ramírez, 2010)

This comprises changes in the economic matrix by overcoming the extractive economy (large-scale raw material extraction for export) because among the inherent pathological characteristics of this kind of economy are: concentration of wealth in few hands, leads to economical dependence of the state, breaching the right of communities to their ancestral territories, jeopardize the sustainability of the country by deploying nature, allows authoritarianism and clientelism and generates impoverishment (Acosta, 2009:19-25). In this sense, the report of Oxfam called “ Extractive sectors and poverty”, also points that those countries dependent on mineral extraction are prone to have higher rates of poverty, environmental catastrophes, worst social indicators, economic vulnerability and weak democracies.

The switch to a social and solidary economy points to make visible the diverse economies that exist and have been excluded because are not grounded on accumulation or capital reproduction, where the central value is not competence and the incentive to endlessly consumption. A social and solidary economy “allows seeing the ways of production and work organized under logics of subsistence and reproduction. The reproductive dimensions of economy are inseparable of the productive ones. The care economy, based on affects, reciprocity and subsistence, is mostly done by women in the domestic sphere like an invisible and an unpaid work pivotal for markets and accumulation (León, 2009:66).

The externalities of the products are always hidden and not reflected in prices of commodities. The abstraction of the economy from the life has also turn invisible the cycles of nature, which are the material base for the economy. Is not new that the current industrialization and consumption rates arrived to the ecological limits. Therefore, an economical model in tune with the good living requires that the production, services, reproduction and exchange guarantee the life to continue. For all this to happen the economy will apply the principles of national, food, energy and financial sovereignties (León, 2009:74)

Regarding participation, the good living requires an active involvement of society as the core mechanism of its planning and application. According to De Sousa, there shouldn't be clashes between the principles of plurinationality and citizen participation. Rather they reinforce each other for the plurinationality implies more advanced and complex ways of participation that complement the latter. He says that the articulation and possible tension

between both affects the organization and functionality of the State at different levels (De Sousa, 2010:144).

In the Ecuadorian Constitution the citizen participation is the axis for a participative planning. De Sousa (2010:147) posits that there is a constant tension between the concept of plurinationality and citizen participation because although the national planning guide is called “ National Plan for the Good Living 2009-2013: Building a plurinational and Intercultural State ”, the idea of good living does not appear in participative practices that matches with those of the indigenous. Mentions, for instance, the divergence between the title of the national planning guide and the practice of the government of exerting laws that affect indigenous nationalities without the proper consultation.

According to the National Secretary of Planning (Senplades) this national plan followed consult methodologies based on: knowledge dialogue, value of the experience, diversity as wealth, deliberation above the consensus, from the fragmented to the complex thinking, transversal axis and flexibility. Although it was elaborated with diversified citizen participation and vanguard methodological principles of citizen consultation, the social unsteadiness reclaims a different reality on the practice. It is also worthy to remark that the Constitution explicitly guarantees the right to resistance to individuals and collectives, when actions u omission of public power or other non-state entity, affect or attempt to infringe their Constitutional rights (Art.98).

Whereas the polemic mining policies that social movement denounce were not designed in a participative way, the government denies it and emphasized the benefits. For instance, the National Plan of Mining 2011-2015 offers to elicit conditions for sustainable development, pointing that “the equal distribution of its benefits will generate new development areas, contributing to the good living model” (Acosta, 2012a).

Although the good living is a plural concept; hence it is not possible to elaborate a single definition out of it because the dimension of the practice an experience is conditioned to local and particular contexts, it is possible regarding the ethic and political dimension of this paradigm, to establishing

minimum agreements, concerning achievements, expectations for collective wellbeing, in a pluralistic debate rather than an ethnocentric or homogenizing proposal (Prada, 2010). In fact, this concept also includes the critics to development coming from the western societies, such as feminism, deep ecology, decolonization of knowledge, etc. (Gudynas, 2011). Here the challenge is to arrive to a real knowledge dialogue between knowledge and alternatives.

Once reviewed the main paradigmatic constitutional enactments <implied in the good living, it is clear that the plurinational state is meant to have an active role in the country life, unlike the neoliberal epoch of a minimum state. It also stands that its role is not intended to be central, but to have a shared participation with social actors through empowerment of people in all the stages of policy making. Therefore, the perspective of the good living as a political project is placed in a policy approach of collective reasoning; where state is not central and policy is seen as reason rather than power.

In the following lines it will be reviewed the implications of the policy analysis approach hereby I propose for tackling the conflict around the good living paradigm: An epistemology of the South, that posits the validity of non-Western categories and the dialogue among knowledge, and a post empiricist-deliberative democracy perspective, in which citizens have a say in the policymaking process, and their opinions are weighted, pondered, considered and reflected, not just as any talk, but to avoid coercive power in the process of coming to decisions (Mansbridge in Steiner, 2012:4). Later on, still within this approach, it is exposed the theory of interpretive analysis as a method for delving into the meanings of the policies and opinions of the stakeholders involved in deliberation.

Epistemological shifts in policy approaches

A Southern epistemology

An important theoretical frame that leads this research is that of a Southern epistemology proposed by De Sousa Santos. Addressing the good living within this epistemology places the social and political process and proposals

it comprises into the context of a body of knowledge specific for countries with a colonialism history⁶.

Epistemology is defined as the theory of knowledge, especially with regard to its methods, validity and scope; investigate what distinguishes justified belief from opinion (Oxford American dictionary). Hereby we elaborate what is there into a Southern epistemology by analyzing this body of knowledge in sociological terms, it is as part of a socially constructed human reality.

Knowledge emerges from the experience, it begins in a pre theoretical level where morals, values, beliefs, myths are the valid truths are organized as a body of knowledge about reality and play the role of social control. Through historicity this knowledge becomes objective, which is external and untraceable to its origins appearing beyond humans although it was a human creation. In the process of socialization it is learned as an objective truth and internalized as a subjective reality, where lays the power or shaping individuals. However, with historicity and objectivation it becomes necessary mechanism of legitimation to explain and justify those practices in cognitive and normative terms. A good socialization process is essential to assure the continuation of the social world built. Even if failures are detected in it, the individuals will explain those failures with the knowledge available inside the social world itself. Likewise, if individuals have problems internalizing these meanings and rules is not seen as a problem of the system but a problem of the individual to assimilate them (Berger and Luckmann, 1966:206).

The aforementioned explains why in the modern capitalist social order it is almost unquestionable that scientific rationality reveals the truth, that human being is the only and most important subject in the world, that nature is nothing else than an instrument at service of human needs, and that increment of production and consumption is always desired. In this extent, the socialization process produces modern subject whose role itself is determined by the participation in the social order. Then, when the nature exploitation in sake of economical growth result in anomalies such as environmental, energy crisis or people displacement, the solutions to this problems are found in the same body of knowledge of the modern capitalist social order. For instance the

⁶ De Sousa Santos (2010) specifies that the global south is not a geographical concept but gleans the groups worldwide, although most of them are in the south hemisphere, that suffer the disequilibrium and inequalities of capitalism and colonialism.

concept of sustainable development doesn't put forth to stop growing but rather to continue fostering it while procuring less impacts, especially through technology.

The historicity of modern capitalist social order is very abstract, and as Berger and Luckmann put, "the more abstract the legitimations are likely to change with pragmatic exigencies (...) Institutions may persist even if outside observers think it is not functional anymore. Things continue not because they work but because it is "right" according to the experts." It could be said that the attempts of legitimizing the capitalist social order is precisely in the recognition of the plurality of institutional processes but through assimilation of the demands into the same maxims.

Nevertheless, the same authors set that in large societies with social distribution of knowledge and specialization of knowledge there is always space for fragmentation of the institutionality when groups don't share the same meanings and legitimation efforts are not enough for unifying the different institutional meanings in one. Here is where a Southern epistemology flourishes into the political theoretical scenario of the modern capitalism by positing the validity of the knowledge of southern nations, "that suffer the disequilibrium and inequalities of capitalism and colonialism"(De Sousa Santos, 2010).

Knowledge is socially constructed and the reality comes from the historicity of that knowledge that becomes external and objective to humans. Accordingly, a Southern epistemology responds to a body of knowledge gestated through centuries in the societies whose social world was suppressed by colonization and capitalism supremacy. This can be read especially as a recognition of worldwide indigenous and rural populations whose institutions and social world has been reproduce in the marginality, but also as a recognition of the reality constructed in South countries in the sway between modernity and ancient traditions.

The North can be defined then as a category of the sociopolitical order that gleans those countries that not only detent international power but that spread, since the colonization, the civilization patterns of capitalist modernity as totalizing. Those countries that have the power of produce reality. Whereas,

ideas such as the good living paradigm are emerging, which evidences a social organization bringing about a dispute of meanings and definitions with the official tradition of development. Just like Berger and Luckmann (1966) posits that there could be conflict when the “practitioners resent the experts to know more about them”, the Southern epistemology raises that the strategies for improving the southern countries should flourish from the same southern societies through institutions that embodies their history. However, it doesn't look a confrontation or denial of it, but a dialogue through cultures and knowledge.

De Sousa Santos develops a Southern epistemology setting the frame for thinking new concepts and categories, or recuperating old ones towards the concretion of a new political project. As he puts it, this epistemology is “the claim for new process of production and acknowledgement of valid knowledge, both scientific and non-scientific, and of new relationships between different kinds of knowledge (De Sousa Santos, 2010:57).

The two premises of this epistemology are: 1) the comprehension of the world is much wider than the Western comprehension of the world, and thus transformation can happen through paths not foreseen by the western thought; 2) the world diversity is endless and includes different ways of being, thinking, feeling, time conception, and so forth, that are wasted because the global north academy does not identify this alternatives or don't take them into account as valid contributions. For doing so the starting point is recognizing that every knowledge is incomplete in someway and therefore there is the possibility of dialogue among them into interdependence between scientific and non-scientific knowledge (he calls it *ecology of knowledge*), and the need of creating mutual intelligibility among the world experiences (knowledge and practices), both the available and the possible ones (called *intercultural translation*).

The intercultural translation makes the *ecology of knowledge* possible. This implies a translation of knowledge and practices. First, a translation of knowledge takes place within what De Sousa calls a diatopical hermeneutic, which is the effort of interpretation among cultures with the goal of identifying common concerns, although in non shared grounds, and the alternatives they

posit. It starts from the principle that all cultures are incomplete and can be enriched with dialogue and confrontation with others by finding convergent motivations. The author puts forth as a hermeneutical exercise the notion of western capitalist development grounded in market logics, with the Andean concept of good living grounded in sustainability and reciprocity⁷.

A common concern in western and no-western cultures can be the ecological limits of the economical growth, and the way of democratizing the democracy. This due to the widespread calls for action to fight climate change that is now present in political and policymaking scenarios worldwide, and also because the voices rising for a democracy not limited to electoral election but a participative one that stresses social justice over markets. For instance the mobilization of “15-M” arising in Spain in 2011, and that inspired other movements like the “Occupy Wall Street” in New York gleans the concerns about economical growth and democracy. These claims in southern countries are crossed by struggles for land and territory.

Second, the translation of social practices aims to yield mutual intelligibility among organization models, goals and actions, revealing what there is in common or diverse and therefore determining possible articulations. Here stands out the importance of translation among non-hegemonic practices, understood as pacific attempts to explore alternatives to the status quo in order to enhance justice and democracy, because their intelligibility makes possible to concrete these practices (De Sousa, 2010:59-61).

The good living is read into ecology of knowledge as an ancient indigenous principle that seeks for concretion in the real practice of western or westernized societies dominated by scientific knowledge and market logics. The aims to concrete this paradigm in the Ecuadorian policy, and even to be a valid model for other societies, can be done as long as it reaches intelligibility in other knowledge, cultures and practices.

However, we will first look up in this research whether this *ecology of knowledge and intercultural translation* is being possible, or the features it

⁷ The worldview of the indigenous societies from los Andes is based on the elements of relationality, complementarity, reciprocity and solidarity.

presents inside the Andean society and state where it comes from. Of course the Ecuadorian state is structured according to the Western principles of a democratic state. Here comes the intercultural translation when the interest of this indigenous paradigm pretends to coexist and even improve democracy but with new inputs tweaked to the country cultural background, broadening effective participation of citizens, especially peoples and nationalities. Nowadays in both western and no-western cultures there is concern about the ecological limits of the economical growth and the way of democratizing the democracy. In this sense the deliberative governance and interpretive policy approach shares aim of improving the policymaking process by taking into account the normative elements of people.

Democracies of Problems and Problems of Democracy

Also the western policy theories are facing new epistemological turns. There is a trend alternative to the “epistemological limitations of “neopositivist” or empiricist policy analysis and technocratic decision-making practices” due to (...) its difficulties in supplying “usable knowledge” have to do with “a rigorous quantitative analysis, objective separation of facts and values, and the search for generalizable findings whose validity would be independent of the particular social context from which they were drawn” (Fischer, 2007: 223). The complexity of the society, and public and scientific dilemmas on the XXI century are far higher than those from the XVIII, consequently is not suitable anymore to cope with them through a “reflective reason: slow, serial, controlled, rule-governed” (Hoppe, 2012).

Given these limitations of the instrumental reason, the contemporary policy analysis shifts from “speaking truth to power” to “making sense together”, (Hoppe, 2011) stressing the importance of understanding the subjective meaning both society and policymakers assign to social events. Although rationality and power is always present in policy, there are different strategies to exercise them combined with procedural and communicative rationality. According to Hoppe (2011), daily dealing with problems is a feature of plural democracies, which has given rise to the so-called “democracies of problems”, and “governance of problems” to the policy model that addresses them.

It is common nowadays to hear the term “governance” to depict the shift from a central state to a decentralized model where several actors participate in the

decision-making; though, the state doesn't stop to continue being a powerful actor. Here we adhere to the argument of Ostrom (1990 in Schejtman and Berdagué, 2006), where governance although is not enclosed in the hierarchical Hobbesian model nor it is in a "Lockean solution" of privatization for assuring efficiency or governability, but in the idea that participation of society is capable of setting clear rules coming from their own social interaction and controlling its effective application. The preservation of natural resources is guaranteed by common ownership, by the set of community explicit and implicit rules coming from the need of protecting the livelihood attached to those resources, meanwhile their commodification and privatization undermines the sustainable use and equal access.

In this study the view of deliberative governance is in support of participation and deliberation as a mean for democratization by enhancing political inclusion, inquiring power social structures and people core involvement in decision-making about the use of their territories and resources. It is important to stand out our aim to defend a deliberative democracy were deliberation is not merely a tool for technocratic decision-making, but a means with a "larger critical potential". Hence, deliberation should not be confined to a mini publics practice but set on in societies at large, to understand the larger goal of deliberation in the interaction of individual institutions in a system as a whole (Parkinson, 2010 in Steiner, 2012:35). However, in this systemic approach the elements of deliberation would have a different consideration. A protest, for instance, might not be considered deliberative at the micro level but it would be so at a systemic level (Mansbridge et al, Steiner, 2012:36) Therefore, our way to address deliberation in contribution to the good living Ecuadorian project, is not limited to the local scale but a systemic level. Although we analyze the specific case of mining activities, the debate around it transcends to a macro level debate around the development model.

From a problem structuring approach, coping with problems is a "process of social knowledge construction about the identities of target populations in context of power and institutional relationships" (Hoppe, 2010: 64-66). These problems can be classified into structure or unstructured according to the degree of agreement on norms, values at stake and the certainty on the required and available knowledge for dealing with it. Unstructured problems need more participation like referendums, mobilization, deliberation (2011:

170) The key is that all the inputs of participation, and the dilemmas in framing conflicts should be puzzled into actionable problems. Dunn (2008) posits that a non-structured problem has several stakeholders' involved, unlimited alternatives, conflict about values, unknown outcomes and incalculable probabilities."

The conflict around the concept of god living can be classified as an unstructured problem. The Ecuadorian policymakers are facing a clear discomfort with the status quo, while there are several voices involved and arguing with facts and values. Moreover, there is high uncertainty about the collateral effects of mining operations, and while the factors that for one group are considered as benefits, for other groups represent a negative impact on their life conditions.

The definition of this kind of problems could be classified differently depending of the view of the policy actors. As policy problems are "by definition socio-political constructs and presuppose political (inter) subjectivity" politicians and policymakers cannot define problems objectively (Hoppe, 2011:75). Generally the government trend to define these problematic situations as structured in order to dismiss uncertainty and controversy, to constrain alternatives and avoid complications. It can also happen that the commitment of policy makers with the official discourse and rules, implicitly decide about the relevant knowledge and values regarding the problem. Treating as structured an unstructured problem involves the risk of misleading the endeavors and solve the "wrong problem" while creating a gap around policy makers and stakeholders that might ignite conflict (2011:76).

The interpretation of policy messages and the encounters with policy instruments wielded by policy implementers, are "routinely informed by their own cultures or ways of life, with their typical day-by-day problem-solving practices. Depending on how policy designs impact on their cultures, citizens will construct their own favorable or not- so favorable interpretation of the meaning of the policy for them" (...), which might also impact on how political authorities and policy makers compete in the play of power around policy problems"(Hoppe, 2011:52-53). This is what Hoppe refers to translation

dynamics, to depict how policy designs and problem definition impact on wider social contexts.

The former is clear when considering that most of the Latin American unrest with extractive economies comes from peasants and indigenous nationalities. The fostering of nature exploitation is read through the fact that their livelihood, culture and identity are inherently intertwined to their territories and environment. However, the political authorities tackle these interpretations mainly with economical arguments. In the Ecuadorian case, not even the offer of the government to pay the mining royalties in advance to the communities convinces them. Federico Guzman president of one of the communities to be intervened by mining activities says “ *We can not jeopardize our life sources that can sustain us in the long-term in exchange of a few economical benefits in the short-term, which in the end will cost us much more in terms of economical and environmental liabilities*”⁸ About the oil extraction planned in Achuar territory, German Freire, president of this nationality says:” “*We belief that everything underground our territory is the blood of our space, and that blood is not meant for being extracted. If we extract the blood to a living being, this can not exist, can not live*”⁹ In contrast, the Ecuadorian president makes clear his lecture of the exploitation of minerals: “*We wont retrocede in the mining law because the development of responsible mining is fundamental for the progress of our country. We can not be like beggars sitting on a bag of gold*”

For indigenous peoples underground resources is the blood that keeps nature and human being alive, while for government nature is the blood of progress for fighting against poverty. Poverty is lack of gold, money, or economical growth. That doesn't mean that indigenous nationalities don't claim for the satisfaction of basic needs, but for them poverty is not measured in economical but territorial way.

[An Interpretive and argumentative turn in policy analysis](#)

⁸ Minera Im Gold venderá proyecto Quimsacocha a INV Metals. Retrieved from ecuadorinmediato.com, 28-06/2012

⁹ <http://marchaporlavidanet/2012/12/10/video-no-a-la-extraccion-petrolera-en-territorio-achuar-en-todo-suroriente/>

The above-explained theoretical perspectives represent a political epistemological approach alternative to the supremacy of scientific knowledge and to a positivist policy design. This is suitable with the good living as a paradigmatic political project as its accomplishment implies the acknowledgement and inclusion of the plurality of worldviews and knowledge in a participatory policy-making process capable of gleaning them. Once set the epistemological and theoretical bases of good living as a paradigm and the shifts in policy making, we turn into the methodological and empirical approach that will enable to “read” the conflict towards good living, from an epistemological dimension that understands social phenomena mediated by the meanings, belief and values at interplay.

The empirical stage of this research aims to delve in their argumentation pro and against large-scale mining activities, comprising different understandings of good living. It is now that we turn on to expose why we chose the interpretive policy analysis as the empirical approach consistent with the political epistemological dimension hereby proposed, that considers a dynamic subjectivity in how policies are perceived, affecting its legitimacy, implementation and outcomes.

Regarding the new epistemological orientation in policy theory, some theorists allege an interpretive (Yanow, 1993) and argumentative turn (Fischer, 2003) in policies. These turns aim to grasp better the nature of problems and enhancing policy analysis taking into account framings. The importance of it is to avoid mismatches between a definition of the problem from policy-making agents and how people experience and define it in their daily life. The interpretation of problems is mediated within specific framings, it means the particular perspective through which people or groups approach to the reality and make sense out of it. According to Rein and Schon (1993:146) in framing dynamics interact “three levels related to each other: personal life, scientific or scholarly inquiry, and policy-making.”

The interpretive turn is conformed by a family of approaches that coincide on the importance of grasping the relevant meanings involved in policy dynamics, in order to understand them properly (Wagenaar, 2007: 429). One of the most known interpretive policy analysis is Yanow’s hermeneutical approach which

recognizes that the elements of debate are not just rational but also expressive and citizens are not passive but active audiences building meanings and interpretations of the language of laws, acts, objects involved in the policy making process (Yanow, 2000). Its emphasis is on what, how and to whom a policy means, and how do various interpretations of meaning affect policy implementation (Yanow, 1993: 41).

Unlike other interpretive approaches such as frame and deliberative policy analysis, the hermeneutical approach doesn't address specifically elements of conflict and power. Waneggar (2007: 435) explains that this is due to its disregarding of the political setting, which is the intended use of policy analysis in order to being useful in practical political settings. This "setting is characterized by interaction, power play, structural inequality, deep complexity, indeterminacy, disperse decision-making, lack of trust among actors, value pluralism, and a fundamental orientation to practice". However, the interpretive policy analysis do address elements of conflict and power, but as one of the diversity of dimensions and just once the interpretation makes clear that power elements are present from the perception of those involved in the policy debate.

For exploring whether there are power and conflict elements in the argumentation of mining and good living, as well as discovering the dimensions involved in the policy disagreement, we chose to develop an argumentative approach. Within the interpretive policy approaches, the argumentative approach is aware that problems are represented in a myriad of discourses and framings, recognizes the importance of the language of the arguments and of the political setting, as well as the power shifts. It also aims to enhance democratic deliberation in policy analysis by including participation and a better communication of arguments. As Fischer (2003) puts, in the so-called argumentative turn, policy is seen as an argument and the endeavors are focused on the process of the argument rather than the technical processing of problems, for discovering their nature and new ways of policy analysis and advice giving.

This approach "understands knowledge to be product of interaction – even conflict – among competing interpretations of a policy problem", (it) brings empirical and normative inquiry together in a deliberative framework" (Fischer,

2003: 224). Put differently, groups have their own perception of problems, emphasizing different elements of it and with different values, and endeavor for making their perception to shape public opinion through justification and persuasion. It means that the valid knowledge is product of framing competing depending on context and power issues, and therefore is transitory. That is why the analyst seeks to reveal what is beneath those arguments taking into account not only empirical technical data or experts opinions, but also the public understanding, ethical, expressive and ideological issues.

It seeks to include in the policy analysis the social meanings shared beliefs comprising the social reality, and to make sense out of them for legitimizing policies. It implies a position against the exclusive validity of the expert knowledge by recognizing a “subject element in all knowledge” (Innes in Fischer, 2003:226), and contrasting it with local knowledge.

The risk of falling into policy controversies is always latent, and also the risk of getting stuck in endless argumentations in the deliberative process, because they can fall into epistemological relativism (Rein and Schön, 1993:148), but this no way means that the issue should be addressed from positivist evidence based approach. Fischer sets that the best is to integrate empirical and normative arguments so that facts, values together guide the analyst to grasp the variety of perspectives involved in the interpretation and understanding of social and political reality, and the competing definitions of policy problems which they give rise (Fischer 2007: 224).

Aware that the verification of a program can not be reduced to technical procedures but has to take into account the different values, beliefs and the power setting involved, the author proposes a model of critical policy evaluation, in the frame of policy analysis as a discursive practice. The verification, to confirm the accuracy or correctness of the program, implies also a validation; it is the normative interpretations of those affected by a policy program, than influences in the final program implementation and outcomes. The model emphasizes that the process between the data and the program conclusions has to be mediated within an interpretive framework in order to elicit the four interrelated discourses implied. The technical verification of a program should comprise an evaluation of the situation and the social context as a whole, moving from situational validation, to a system vindication and ideological choice (image 1). This implies an analysis of empirical and normative elements moving from a first order level of technical and contextual

discourse, to a second order level, which places the analysis in “the larger social system”(table 2).

Image 1.

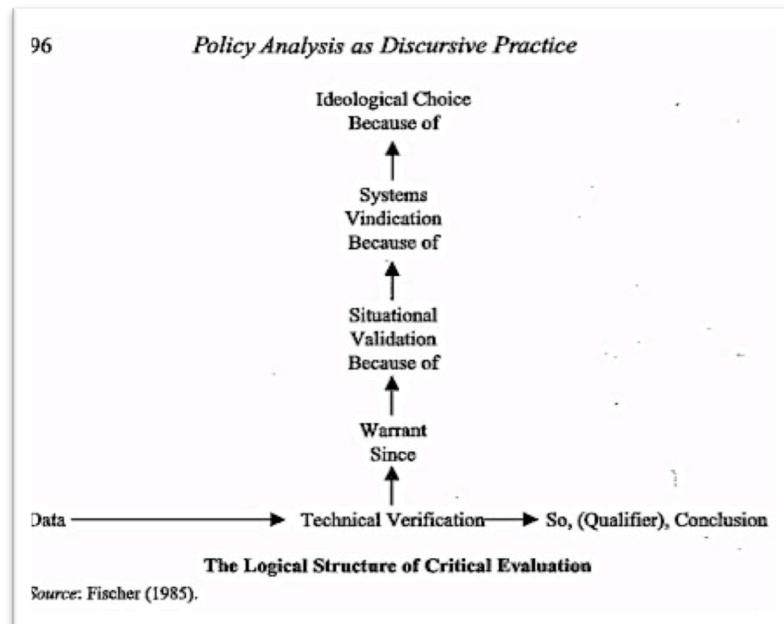


Table 2.

First order level (Empirical) (Concrete situational context)	Second order level (Normative) (Societal context as a whole)
Technical Analytical Discourse: Program verification	Systems Discourse: Societal vindication
Contextual Discourse: Situational validation	Ideological Discourse: Social choice

Source: Own elaboration, taken from Fischer (2007)

This comprehensive critical evaluation of policies contributes to delve the potential or ongoing points of conflict and consensus underlying, from which the policy analyst can give an alternative insights, and addressing controversies, grounded on how well the policies at stake “stands up with the

criticisms and objections of the audiences, how many points of view it synthesize, and so on” (Fisher, 2003:198). As the author suggests, the main discourse within which a policy is focused depends on each policy and the debate flourished around it. However, while it is common to start from one of the discourses and progressively expanding to the others, in policy grips all the levels could be at stake simultaneously (Fischer, 2007:234).

A framings analysis is helpful for addressing policy disagreements or controversies. The first case takes place “within a common frame and can be settled in principle by appealing to established rules”, while the latter “derive from conflicting frames, the same body of evidence can be used to support quite different policy“ (Rein and Schön, 1993: 149) For the application of this analysis, it is necessary to move from a conventional policy analysis (just concerned with the choice) to a frame-critical policy analysis, which “ seeks to enhance frame-reflective policy discourse by identifying the taken-for-granted assumptions that underlie people’s apparently natural understanding and actions, in a problematic policy situation.” Here the stakeholders would “reflect on the frame conflicts implicit in their controversies and explore the potentials for their resolution” (1993: 150) Inherent to this exercise is the account of the nested context within the framing of a policy issue takes place because the “perceived shift of context may set the climate within which adversarial networks try to reframe a policy issue by renaming the policy terrain” (1993:154). There are 4 nested contexts: 1) Internal context 2) proximate context 3) macro context 4) global shifts of context (1993:155).

An interpretive analysis through framing and deliberation among the empirical and normative arguments of stakeholders around a problem, are new approaches for addressing policies responsive with the kind of societies and dilemmas in the XXI century. This deliberative approach responds to the consideration that subjects are reasonable, capable of collective reflection, the unit of analysis is the group: people in relation, change is value-led and outline of new shared policy belief system, civiness means addressing the general interest, and the State role is to create new institutional spaces to support citizen-led investigation to be responsive to citizens (Hoppe, 2012). Deliberation as a cultural practice is nested into context and time. Therefore, it can not have a single definition and a unique recipe about: the accurate degree of citizen’s involvement, which arguments are valid and who decides it;

the boundaries between public interest of self interest; if it should always end with a consensus; and whether it is mandatory the truthfulness in deliberation (Steiner, 2012:8-11).

Nevertheless, the emphasis in this study is on the process of the interpretation and argumentation around a problem as an essential part of a deliberative democracy. Deliberation is not the only piece for assuring a real democracy, but has an important role in contributing both in the input and output of policies, it is in the process of building them and in their effectiveness; more participation, debate and inclusion of point of view assures better outcomes and, above all, gives legitimacy to the decisions taken. In this sense, our view is that the meanings of actors' positions in the policy controversy around mining and good living are clue to evaluate if it is worthy to continue with such a policy or explore alternatives that guarantee input democracy.

The above corresponds with what those who have been involved in the good living enactment posit. Raul Prada, vice secretary of strategic planning of the Bolivian State, posits that the former ways of planning have to be substituted by more dynamic, flexible and open instruments (Prada in De Sousa, 2010:145). De Sousa talks about an intercultural democracy, including various ways of democratic deliberation, from the individual vote to consensus, different criteria of democratic representation (qualitative and quantitative), effective recognition of collective rights (...), recognition of the new basic rights, like water as a human right, for instance (De Sousa, 2010:149).

Conclusion:

In this chapter we delivered a theoretical insight based on theories that represent epistemological shifts for addressing the complexity of the changes in contemporary societies. First, we propose a political epistemological approach by arguing that the good living paradigm should be understood within a south epistemology and a post empiricist policymaking approach, as both theories questions the supremacy of scientific knowledge over the rest of knowledge and views that conform reality and note the importance of including them in policymaking. Second we carryout an analysis of the policymaking regarding the Ecuadorian good living political project from and interpretive policy analysis methodology, which constitutes an empirical approach to a epistemological understand of social phenomena mediated by meanings and

expressive elements. Through this analysis we aim to delve into the meanings and normative values involved in the policy discourse of mining policies in the current Ecuadorian policymaking process.

We reviewed that the good living is a paradigm that recovers the worldview and practices of Andean indigenous nationalities, and was lifted to public policy level in the Ecuadorian and Bolivian Constitutions, as a concrete aim of building an alternative to the conventional notion of development. This paradigm conceives good life not in function of material goods but on harmonic relationships with people and nature. In the political project towards the good living the state is not anymore the center and single entity of social life regulation, but nor is the market. The state is in the interplay with an array of experiences and worldviews of subjects, nationalities, communities and collectivities that should be included in the decision-making process.

We propose that this paradigm has to be read from a south epistemology as it places the categories and knowledge from the non-western world in the scenario of western scientific and capitalist cognitive supremacy. For avoiding continue wasting the several experiences, knowledge and practices, it should be recognized the *ecology of knowledge* existent through an *intercultural translation* so that each culture and knowledge can complement each other. This translation can happen into dialogue and confrontation among them in order to identify similarities and differences.

Once the good living has been lifted to a national policy project, it has the challenge to create new understandings and shared values and even new institutionality, taking the democratic model as a path. The aim of the good living project is to build a real democracy through challenging the power structures justified in the discourses of development. This can launch a dialogue where the good living aims to keep the best of the democratic model meanwhile, the western societies could learn from concrete measures for a structural critic to the notion of development.

We propose to take from the western policy analysis theories an approach that also embodies an epistemological shift to the traditional positivist and empiricist ways of conducting policy: the interpretive policy analysis comprises different approaches that recognize the expressive importance of policies.

Moreover, this approach understands policy as collective reasoning rather than power, and strives for a decentralized power, where citizens and their values and perceptions are core in policymaking.

The conflict we will analyze around the good living and large-scale mining is far from being solved by a positivist policy analysis, in disregard of values and social meanings while standardizing measures independently from social contexts. We posit that the complexity of addressing worldviews, several stakeholder voices and values, and high disagreement and uncertainty, makes of this an unstructured problem, which needs more participation and deliberation of people. However, the definition of the problems depends on the framing, which is the glass through which the interpretation of policies and their impacts is realized by each group and is mediated by their culture and ways of life.

For carrying out such analysis, we adhere to the argumentative policy analysis empirical theory, within the interpretive policy approach, which raises that it is precise to combine both, the empiric and normative elements of the stakeholders involved in a policy debate, and that these arguments should be read in the local but also in the larger social context. For doing so, we take Fischer proposal of delving into the discourses implied on a first order level related to the situational context, and in a second order level regarding the societal order. In this sense, our line for addressing the conflict regarding the good living paradigm and mining activities is not constrained to the local context of a particular local policy, but placed in the large social context of the development model.

All in all, interpretive policy approach is inclusive and flexible enough for reading the perceptions and worldviews about principles that so far have been understood in a conventional monocultural conception by no-indigenous societies: good living, mother nature, plurinationality, instead of development, natural resources, and state. We also saw that the category of citizens hereby is replaced by a broader inclusion of peoples, communities and nationalities.

Accordingly, here we start a dialogue of views about western and not western conceptions of development, but also an interaction among epistemological proposals: The good living as a paradigm coming from south indigenous societies, which is in the frame of a south epistemology, and the post empiricist approach as a theory still struggling for broader recognition. All of

them have common concerns and alternatives about the inquiring the supremacy of scientific knowledge, the importance of local knowledge, meanings, and worldviews, for improving democracy, by recognizing wider social contexts.

CHAPTER 2

METHODOLOGY

The next pages contain the methodology planned for carrying out the research. With the lawsuit of unconstitutionality against the mining law as the main document to be analyzed, our proposal is to delve into the meaning of the arguments of each stakeholder through and interpretive policy analysis. Although this won't be a legal interpretation, a lawsuit document was chosen for it embodies itself a disagreement on the mining policy, and also because the argumentation pro and against it displays the main reasoning and perspectives of how it "ought to be" according to every actor.

An interpretive policy analysis on the disagreements regarding the mining Ecuadorian policy, will give us insights of the framings of the contending positions of each actor, as well as the expressive and rational elements, features and dimensions present on the debate to concrete good living paradigm. All this will contribute to collect evidences and answers to the research questions raised on the study:

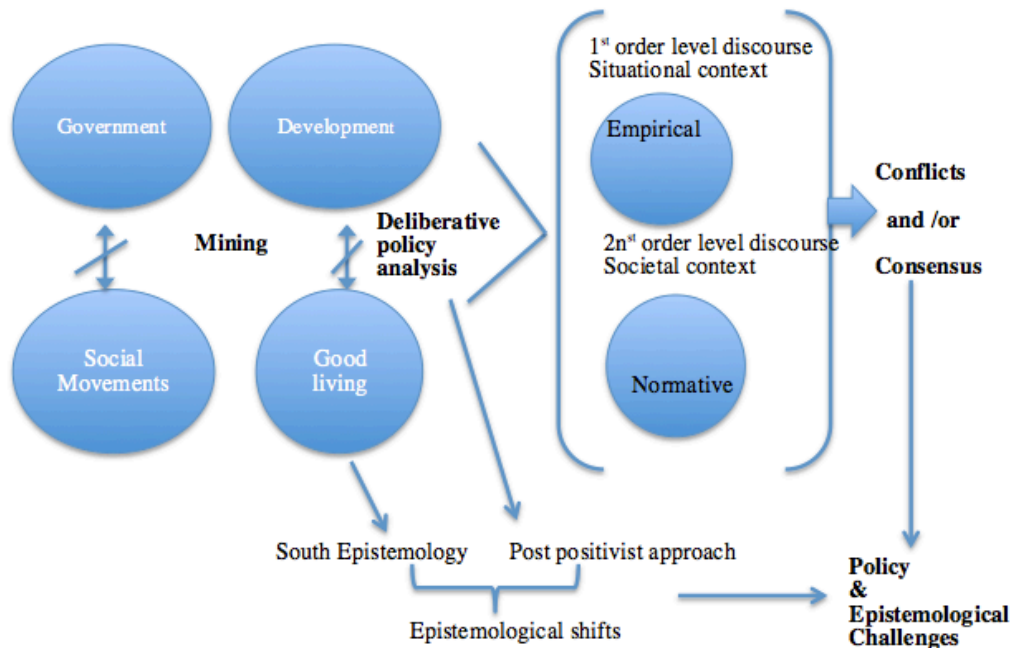
First, regarding how are elements of good living translated into key policy documents by government and social movement, we have that the lawsuit structure and its context both already convey the elements that social and government emphasize when refereeing to good living, which is also intended to be complemented by the analysis of the argumentation. Second, the framing, normative and empirical analysis will clarify how is it possible that the mining policy is seen for and against the good living at the same time, by revealing the underlying assumption of each actor. Finally, the third sub question raised on this analysis wondering which are the implications of our findings for future implementation of the good living will be addressed once the former steps had delivered the conflict and consensus elements. By illuminating all these components involved on this controversy will be possible to display the political implications of the good living as a project to be constructed from the state and society.

At following, it will be explained the steps for developing the interpretive policy analysis. After detailing the characteristics of the data to be used, it is going to be exposed the methodology through which we will cope with the data. The clue is to structure a research procedure that avoids the analyst to take for-

granted assumptions so that it is possible to yield a map of the problem, and display the elements that frame the debate that are evidenced on the expressions of the actors.

1. - The model of the research

Image 2.



The image depicts the whole reasoning of the research. The controversies between government and social movement regarding the good living political project, as a paradigm that inquires the conventional notion of development, will be explored through the conflict around the launch of large-scale mining activities in the country. Both actors allege to defend the concretion of the good living; the government does it by fostering an extractive economy, while social movement struggling against it.

The controversy suggests that some meanings and lectures of the mining policy enacted are being overlooked. Therefore, we propose to carry out an interpretive deliberative policy analysis to explore the contentious dimensions beyond the tangible manifestations. Besides a frame analysis, we attempt to recognize the discourses appealed from both actors, in an empirical situational level and in normative societal one; the points of conflict and/or consensus

revealed will allow us to see the implications and challenges for continuing enforcing the good living society.

This political project is also meant to be adopted and adapted by other south and north societies; at the extent it constitutes a critic to the development model. Therefore, the challenges that hereby we will try to outline go beyond a punctual political struggle, but spread to the challenges that the state and civil society will have to face if the goal is to change the meanings and practices of what is understood as a good life. In this sense, it is opportune to find convergences and, why not, interactions, between the post empiricist approach that represents the deliberative democracy, and the south epistemology depicted in the project of good living; both as epistemological shifts that inquiry the almighty position of science and claim for the inclusion of other knowledge and expressive elements, which could result into new codes of public life.

2. Data source:

2.1 Sentence on the lawsuit of unconstitutionality to the Mining Law

As our research proposal sets on the conflicts around large-scale mining in Ecuador, we chose the two main clashing positions of this conflict represented by the government in one hand, and by the social movement, on the other. These positions are clearly depicted on sentence to the lawsuit for the unconstitutionality of the mining law that was judged on March 2010, as it triggered the participation of broad sectors of society and contains the arguments of the main stakeholders involved in the issue. The sentence includes the position of the plaintiffs and the defendants as well as the last verdict done by the Constitutional Court, which is the maximum organ called to interpret the Constitution. This last part won't be tackled as central for our study as our goal is to delve in the two actors' opposed views. However, it is noted that the declaration of constitutionality made by the court was also controversial, as it closed the case as *res iudicata*, impeding the same or other actors to set again unconstitutional complaints against the law¹⁰

¹⁰ Through the study of the norms alleged as unconstitutional, the court decides whether to tweak their content to constitutional principles, with the aim to avoid more pernicious effects that

The lawsuit started on April 2009, two months after the assembly approved the law, by CONAIE and the communitarian water systems of two parishes in the province of Azuay, where mining projects are planned to start (Tarqui and Victoria del Portete), against the Ecuadorian president, Rafael Correa; the president of the legislative power, namely the parliament, Fernando Cordero; and the state general attorney. Two months after, Nina Pacari, judge of the Constitutional court, required to Universities, camera of mining and oil engineers, ecologist and human rights organization, and to the ex president of the National Assembly and ex minister of energy and mining, to give their criteria about environmental, cultural and/or social impacts that the articles of the mining law could imply; nevertheless, the verdict doesn't analyze or discuss their opinions.

In addition to the argumentation of the plaintiffs and defendants, we will analyze the legal argumentation of a minority vote, done by Nina Pacari, the only judge of the Constitutional Court that voted for the unconstitutionality of the law. Stands out that she is the only indigenous judge of the Constitutional Court, and her document is the only one that discusses the interventions done by the actors from which the court itself required their opinion.

The present study stresses not the verdict of the court, but the argumentation and expressive manifestations of each position in relation to this dispute, that continues beyond the Constitutional Court decision of rejecting this case on 2010. While the court did a legal interpretation of plaintiffs and defendants, hereby we propose a policy interpretation of social movement and government points of view. Setting a policy analysis in the frame of a legal document has the advantage that the format of communication compels the stakeholders to

could result from abolishing a norm or law. The court is supposed to declare the unconstitutionality or non-unconstitutionality of the norms analyzed, rather than its constitutionality, in order to leave a flexible frame so that the same or other actors can plead against the norm again by pointing different arguments. However, the court judged the mining law as constitutional, which limits the norm to a single valid interpretation hampering its examination and denouncing when the norm brings about unconstitutional effects. This action in such a transcendental law for the country results in the partisanship of the topic (Zambrano, 2010). Transl.by Carolina Valladares.

present their core motivations in a comprised and direct argumentation line, and uncovers the resources each actor counts with (knowledge, power, information, alliances, etc.)

It is possible to access to the document with the final verdict of the Constitutional Court to the unconstitutionality lawsuit to the mining law through the website of the Court itself, under the name SENTENCIA N.º 001-10-SIN-CC with date March, 18th/2010. This document, as well as the minority vote of Nina Pacari, and the legal plaint can be downloaded also from the website of the NGO Acción Ecológica. For broader details of the links refer to “mining law” in the bibliography at the end of this document.

2.2- Data Collection

The data object to analysis in the current research consists in two main documents, both published by the Ecuadorian Constitutional Court, which character of an official legal verdict: The final verdict of the court SENTENCIA N.º 001-10-SIN-CC, and the dissenting vote of the judge Nina Pacari.

The first document contain not just the Court analysis that justifies the verdict but also a synthesis of the plaint and the complete response of the defendants. The whole document comprises of 60 pages. In addition, the dissenting vote of the Judge Nina Pacari is an independent document that was presented together with the final decision of the tribunal. This document counts with 57 pages. In addition, we considered counting with the 20 page-document of the plaint of CONAIE and the 8 pages-document of the plaint of CWSA, as auxiliary texts in case it is necessary to clarify some part of the synthesis done by the Court of the plaint. All the documents have a legal and official status as were qualified as valid for starting the lawsuit examination, and are published in representation of their respective organizations. In total are 2 main documents of 117 pages, and 2 auxiliaries that add 28 pages.

The period the data is of one year, the lawsuit was set on March 2009, approved for starting the official procedure on April 2009, and got its final verdict on March 2010. The data embodies the conflict started the first 2009 when the mining law was approved, allowing large-scale mining activities in the country. Although the decision was almost 3 years ago, the conflict is still going

on all over when in 2012 was signed the first mining contract, igniting social mobilization denouncing the same unconstitutionality issues set on the legal complaint of 2009.

Once detailed the character of the key data for the research, now we turn to specify the methodology for running the interpretation of this documents.

3. – Steps for Interpretive policy analysis

From an interpretive deliberative policy analysis approach, our goal is to read on the arguments of the lawsuit against the mining law the facts and values, empirical and normative elements involved in the tensions around the concept of good living. This will give account also of the level of debate and deliberation that has being held so far and its particular features.

For doing so, the interpretive policy analysis must start from a detection of the explicit issues at stake in the statements, and the structure and form of the document itself: who claims what, to whom those claims are directed, how those claims are addressed and in which context. This first step is core for grounding the data analysis on an empiric selection of the features of the argumentation and not on an arbitrary classification. Such activity sheds light on how are the elements of good living translated into key policy documents by the government and social movement, which happens to be our first research question. However, it is expected that the accomplishment of the whole interpretation will give information for answering fully this question.

In the second step the interpretive work starts, and is accurate for explaining our second research question about the factors that make the mining law be perceived pro or against the good living according to the actor. In this realm, the detection carried out in the former point will lead as to establish some categories and groups of statements to draw a map of the problematic situation and afterwards analyze it from its frames, empirical and normative elements. It is important to make clear that the first and second steps are separated for methodological purposes, but in the practice the detection already implies a part of interpretation when reconstructing the meanings of the statements from the words and context of utterance.

Hereby we will use the model proposed by Fisher, to run a deliberative policy analysis in order to recognize and interconnect the normal and empirical elements of a policy deliberation in a micro (situational) and macro (societal) levels. Normative and empirical assumptions revealed through this logic of policy argumentation are a useful background to count with, in case of disputes around a policy. As Fischer (2003:195) puts, this kind of policy analysis evaluation allows revealing the “meanings and implications for the pursuit of a particular conception of the ideal society”, which in our case of study is that led by the principle of good living. It is clear that the empirical issues on the first order level are those arguments about the mining project itself, while the normative elements in the second order level are related with the ideal social order of the good living.

The quoted author presents a set of questions, for each one of the possible discourses in situational and societal levels: technical, contextual, societal and ideological, although makes clear that it is not about “plugging in” the answers but performance a flexible examination of the concerns raised”, where the questions just help to orientate the argumentation and deliberative inquiry (2007:232) Precisely, we take this prototype presented by Fischer to explore the existent discourses around the mining law controversy. By revealing the nature of the discourses held contributes to make political actors aware distorted policy discourses that characterize inequitable political arrangements (2003:202)

In addition and simultaneously to the seek of normative and empirical elements in the lawsuit statements, we will look for manifestations about the paradigm of good living, in its three main axes, already explained in chapter one: good living as an alternative to the conventional notion of development, nature as subject instead of an object, and a plurinational state replacing either a neoliberal or highly centralized state. It is, we will examine whether and how the authors refer to the paradigmatic elements of the good living as a political project, or continue using the conventional notions. Afterwards, we will look if issues of power are present from the perception of the actors involved. If this is case, the establishing a power setting will contribute to see if the policies are being applied as power or as collective reasoning, and the constrains of the wielding of power over some actor or issue.

At this point, it is important to remark that through the interpretation, we will avoid the use of theoretical concepts before it is recognized in the statements that the actors mean it unwittingly or not. The interpretation of the statements will try to find out the kind of problem, the language, the discourses to grasp the concerns of the actors, the issues they emphasize and overlook, their motives, intentions, purposes; in short, all that the data hides beneath its expressive features. All this will reveal the factors of conflict and/or consensus on this controversy. Consequently, we will count with enough hints for essaying an answer to our third and last sub question about the implications of all our findings for the future implementation of policies towards the good living?

4. - Conclusion

This chapter has delivered the theories and methods for addressing the current research. They depict, in short, the methodological purpose of this study is to use theories that represent epistemological shifts as an accurate way to read and understand the principle of good living, which represents also a paradigmatic path for building public policy.

The good living is understood within a south epistemology, where it is recognized as valid the knowledge that has historically been dismissed for not being scientific. Now that this principle has been lifted to a Constitutional level, it is part of the policy analysis necessary in Ecuador and therefore requires also resorting to theories that break with power rationality and supremacy of scientific knowledge. In this sense the post empiricist approach we chose for policy analysis contributes to analyze the importance of non-rational perceptions of policies and the importance of non-expert knowledge in the policymaking. South epistemology and non-empiricist approach are political epistemological purposes for new policy action grounded in a collective reasoning way. Accordingly, the interpretative policy analysis is the empirical methodology chosen for addressing the data of this research is grounded also on an epistemological understanding of social phenomena, where meanings matter and build interactions.

CHAPTER 3

The meanings beneath the mining policy discourse.

“At sake of development, it is not possible to breach our rights and rights of nature. That cannot be negotiated. We don’t think that Ecuador can develop as country if for accomplishing some rights it is needed to breach some others. We can not negotiate our principle of plurinationality, which is not a conflict between indigenous peoples and government, but is a conflict as society.”

Humberto Cholango. President of CONAIE¹¹

“It is enough of childish ideas of saying no to oil nor mining extraction (...) The challenge is to live good without losing the identity, but keeping the identity is not to continue with the misery. (...) We can not be like beggars sitting on a bag of gold (...) the worst racism is to pretend misery to be part of the culture”

Rafael Correa. Ecuadorian President¹²

The aim of this chapter is to analyze the myriad of elements and the intensity of the confrontation around extractive economy and good living. Three years after the rejection of the plaintiff argumentation of government and social movements in the lawsuit of unconstitutionality of the mining law, in order to delve in the implicit meanings regarding the good living as an axis of Ecuadorian public policy. This will allow us to outline a map of the conflictive situation of the policymaking process towards the concretion of this policy paradigm. Through examining into the arguments of plaintiffs and defendants, we will try to detect the main features of this policy controversy as far as visible in this document: the competing frames of the actors involved, normative and empirical assumptions, the intensity of the debate or any other element that shows up during the analysis. This will contribute to untangle the knots beneath the arguments, which is the first step for discovering the correct policy problem

¹¹This is the answer of Humberto Cholango, when in an interview on March 2012 was inquired about what points would be willing to negotiate with the government regarding to extractivism policies. Retrieved on January 29th from

<http://prensa.politicaspUBLICAS.net/index.php/alatina/?p=11307&more=1&c=1&tb=1&pb=1>

¹² Rafael Correa in a public speech on December 2012. Retrieved on January 29th from <http://www.correodelorinoco.gob.ve/multipolaridad/rafael-correa-apuesta-por-extraccion-recursos-naturales-no-renovables/>

toward building policies closer to social shared meanings. Although there are several other documents or sources that give account of this controversy, we think that the argumentation of the lawsuit to this law gleans the main arguments of both positions, where the legal framework establishes a institutional language, but unavoidable has expressive elements to be traced.

Three years after the Constitutional Court rejected the plaint, the confrontation not only continues but has increased with social mobilization, threats of the local communities to resist the seizing of territories, and even the call of the Ecuadorian president to the Peruvian and Colombian colleagues to tackle the “problem of the radical anti mining groups”¹³ These facts evidence that nothing or little has been done from the state and policymakers to dialogue and review the problem from the perspective of the social actors, whose main concerns were conveyed to the government through the plaint against the mining law.

As we saw in chapter one, due to the limitations of instrumental reason and technocratic decision-making practices for supplying usable knowledge in the complex XXI century societies, policymaking process should include the values, experiences and expressive elements of people potentially affected by the policies planned. The interpretive policy approach aims to include these expressive elements of how do policies mean for people and the way it affects policy implementation, as the base for making sure that the right problems are being tackled. Within this approach, the argumentative policy analysis goal is to make interconnections between the politicians and policymakers’ technical and administrative arguments, and the public debate conformed by people experiences.

The aim of this chapter is to apply the interpretive argumentative policy analysis approach in the document of the lawsuit of unconstitutionality of the Ecuadorian mining law, for outlining a map of the conflictive situation of the policymaking process towards the concretion of the good living paradigm. Through examining into the arguments of plaintiffs and defendants, we will try to detect the main features of this policy controversy as addressed in the text

¹³ Peruvian press agency, <http://www.andina.com.pe/Espanol/noticia-correa-plantea-a-peru-colombia-y-ecuador-abordar-problema-radicales-antimineros-437131.aspx> November 2012

to be analyzed: the competing frames of the actors involved, normative and empirical assumptions, the intensity of the debate or any other element that shows up during the analysis. This will contribute to untangle the knots beneath the arguments, which is the first step for discovering the correct policy problem towards building policies closer to social shared meanings. There are several sources that can give an idea of the conflict, however we chose the mining lawsuit for it comprises the main arguments of the actors when claiming rights to the state.

The Context of the mining lawsuit and its actors

Counting with a background of the mining law is useful for carrying out an interpretive policy analysis tuned with the historical experiences that influence the rational and normative filiations of social actors. Besides the context of the mining conflict that has been already outlined on the introduction of the study, in this section we draw a brief recall of the cultural and political features of social environmental conflicts in Ecuador around oil extraction, which is the only referent of large-scale extractive economy in the country so far, and the role that social movements and state had on it.

Ecuador has been dependent on its raw materials for exportation since the early republic years, starting with cacao, then bananas and since the late 60's with the oil extraction. This industry located in the Amazon provinces, deemed as empty territories before the discover of oil fields, represented for its inhabitants, most of them indigenous groups, the first contact with the rest of the society, mainly through the foreign oil companies and evangelic groups that contributed to the companies interests (Trujillo, 1981). Suddenly those provinces became immigration poles of peasants from other parts of the country. Since then, the oil extraction has been the main income source for the state budget, and the first economical activity of the north Amazon provinces. Paradoxically, although this income brought about a modernization process, the external debt increased 14 times during the oil boom (70's)¹⁴, and the "oil provinces" are still among the poorest provinces of the country.

¹⁴ GORDILLO Ramiro, ¿El Oro del Diablo? Ecuador: historia del petróleo, Corporación Editora Nacional, Quito, 1ra edición, 2003.

Indigenous movement and ecologist groups usually remark two facts as the example of the liabilities of oil extraction in the country: the disappearance of two indigenous groups (Tetetes and Sansahuari) and the social-environmental impacts left by Texaco after 26 years of operations, whereof the integral reparation would cost 17 billion dollars¹⁵, which is more than the country external debt¹⁶. Mainly oil extraction but also other projects centered on natural resources manipulation affect indigenous and peasants groups in coast, highlands and Amazon.

CONAIE together with several non-indigenous sectors of society conforming the Ecuadorian social movement, have been always against land and natural resources privatization, and in general with the privatization wave of the neoliberal projects started in the 80's. The neoliberal times in Ecuador represented a pressure in natural resources and the extractive projects were characterized by the absence of state, not just through clear regulations but also in supplying basic services for the populations where those projects operated. This entailed a scenario where the communities had to negotiate directly with the companies that took advantage of the town life conditions to offer them some trinket or, in the best of the cases, basic infrastructure that is responsibility of the State to provide.

However, there are communities that held a sharp resistance to the entrance of oil companies to their territory, sheltered in the collective rights recognized in 1998 in the Ecuadorian Constitution and in the International legal instruments¹⁷. The emblematic case is the Kichwa community of Sarayaku community that resisted since 1996 the entrance of an oil company in their territory. In 2012 the community received a favorable decision of the Inter-American Court of Human Rights compelling the Ecuadorian State to compensate Sarayaku peoples for having given in concession their ancestral territories without a prior-free consent.

All the former influenced, among other factors, to plunge the country into a governability crisis, where 3 presidents were toppled in less than 10 years (1997-2005). Rafael Correa emerged, although without any social movement

¹⁵ It is the sanction established in February 2011 from an Ecuadorian court to the company Chevron Texaco, in the trial that indigenous and peasants carry against the company since 1993.

¹⁶ The external debt was 13.826 billion dollars up to May 2011. Since then, the debt has been constantly increasing due to credits given by China for infrastructure and mining.

¹⁷ Article 169 of ILO convention, United Nations declaration on the rights of Indigenous Peoples 2007, Inter American Court of Human Rights

trajectory, as the leader of a national coalition for “refunding” the state through structural changes, from which a new Constitution was the first step. One of the proposals in his government program 2006 was to build a “ radical, social and participative democracy”. The words of Correa on his inaugural speech in August 2009¹⁸ collect perhaps the political commitments that social movement in general aspired to: *“I want to apologize with the ancestral peoples because of this barbarity. The development is not a financial sheet of profits and loss. There are several things that have great value, but don’t have price. Peoples also live from dignity. Our revolution is the revolution of the ones that have been silent all the life, the indigenous, afroecuadorians, peasants (...) that know that the land is for those who work on it. Our revolution is for who are the motor of history: the human beings that never again will be victims, in our country, of neoliberalism and ruthless capitalism”*.

Nevertheless, in the same year, on January and September 2009, CONAIE, peasants and ecologist sectors performed hunger strikes for denouncing that the government has not taken into account their proposals and observations to the mining law, which leaves the door opened to large-scale mining. In reply to these mobilizations, the president accused CONAIE to be allied of the right wing, and attempting to destabilize the democracy in Ecuador. At the same time, CONAIE denounced the “intentions and actions of the government to encourage irresponsibly to other social sectors against indigenous peoples” and condemned “the repression and violence of state in (their) territories and wide sectors of the country when protesting pacifically for claims of national interest, once that all real possibilities of dialogue have been tried”¹⁹. Finally, Correa warned that anyone who participates on blocking streets and roads would be prosecuted. Yet, the government counts with high percentages of popular support due to, especially, the re_institutionalization of the State that unlike the past decades now has an active role planning and investing in infrastructure and social services.

Once reviewed the social environmental conflicts linked to oil extraction, as the single referent of large-scale extractive activity for the Ecuadorians so far, as well as the facts occurred in 2009 immediately previous to the mining lawsuit, we count with elements to understand the actors’ historical and conjunctural

¹⁸ After the Constitution of 2008 was approved by referendum, the mandate was to call to new elections to all authorities. Therefore in 2009 Correa was confirmed in his place of National president for the period 2009-2013

¹⁹ CONAIE declarations to ecuadorinmediato.com and europapress.com on September 28/2009

positions. This is essential at the moment of carrying out the interpretive analysis, because of the importance of the context and life experiences in shaping the frames of the actors.

Analysis of the argumentation for and against large-scale mining activities in Ecuador

It is now that we turn to examine the argumentation of plaintiffs and defendants, starting by a detection of the data as the base for the interpretive exercise. In a second section we will draw a map of the problematic situation and start looking for the frames and empirical and normative elements involved in the actors argumentation. Through this step will be possible to delve into the different values, cultural orientations and meanings that stand beneath the positions pro and against the mining law. Finally, some conclusions will be essayed about the implications of the conflictive and consensus points revealed through the analysis, which aims to contribute to the future implementation of the good living.

1. Detection of the arguments expressed in the mining lawsuit

First of all, it is necessary to detect the data; namely, an examination of the structure and form of the document itself: who claims what, to whom, and how are those claims addressed, as well as a presentation of each stakeholder's statements on context and trying to reconstruct their meaning from the words and context of utterance.

As for the lawsuit and its structure, the plaint of unconstitutionality done by social movement against the main authorities of the state, is already eloquent of the level of disagreement and the scope of action of the issue at stake. The lawsuit itself shows that the possibility of dialogue about these different perceptions has been stuck in all pertinent stages, making of the legal option the last recourse. Moreover, the magnitude of an accusation denouncing that the Constitution is being run over, communicates the perception that the democratic rights and guarantees are uncertain, at least for the sector that plaintiffs represent, since is the Constitution the maximum document called protects those rights. Such accusation also depicts much more than local discrepancies around a project, but the view that the law is not capable to prevent sensitive and unpredictable consequences likely to affect the rights of several groups.

This dispute starring by indigenous and peasants against the state also depicts some power elements, if considering that these groups that have been historically relegated from decision-making and constitute the poorest population segments in the Ecuadorian society, are now confronting a project that the government considers strategic. After reviewing the arguments we will be able to say something about the way these claims are addressed by the government authorities.

Regarding the stakeholders' statements, we have that the social movement denounces the breaching of 6 Constitutional aspects as showed in the table 3 below. Due to the character of this study is not centered in the technical- legal discussion, as much as in the elements of the lawsuit that display the assumptions regarding the good living, we will disregard the issues of "division and hierarchy of laws" and "exceptionality to private enterprise in strategic sectors", and rather focus our analysis in the 3 elements: prior-legislative consult, right to territory, rights of nature and water for these are directly related with the good living paradigm main axes as explained in chapter one, which are development, nature and plurinationality.

Table 3: Elements of unconstitutionality of the mining law according to social movement

	CONAIE	CWSA
Form Unconstitutionality	<ul style="list-style-type: none"> • Prior-legislative consult • Division and hierarchy of laws 	<ul style="list-style-type: none"> • Prior-legislative consult
Substance Unconstitutionality	<ul style="list-style-type: none"> • Right to territory • Right to prior-legislative consult 	<ul style="list-style-type: none"> • Rights of nature and water • Exceptionality to private enterprise in strategic sectors • Division and hierarchy of laws

At following it is going to be presented the statements of the plaintiffs, the defenders and the minority vote of the Constitutional Court, referring to the three elements sheltered by the Constitution, that the mining law is breaching, in the perspective of social movements.

1.1 Alleged breaching of the Prior Legislative Consult

Both plaintiffs denounce the unconstitutionality of the law by its form, pointing that a law that affects ancestral territories cannot be enacted without a previous consult to the inhabitants. They support their position on the Constitution and on the international instruments to which Ecuador is subscribed, that call to the states to apply and reinforce the rights of peoples to participate on the decisions that involve their territories²⁰. The right to the prior legislative consult has to do with the principle of plurinationality comprised in the principle of the good living, in the construction of a participative state where nationalities and peoples worldviews are part of the state design and the decision-making.

The CWSA denounces, *“When the mining law was being debated in the legislative commission, we requested the participation and the right of being consulted about it. In the particular case of Azuay, where the largest protest took place because of the mining law enactment, the CWSA was never invited to any meeting, workshop, nor to the meeting convened by the legislative commission, when visited the city, to the actors interested, where the chamber of mining was invited but the direct actors never were called to participate. We the CWSA claimed for a dialogue and just got insults, threats, prosecution, illegal arrests, and repression”*

This statement shows how peasants of the CWSA accuse an state external exertion of power, by the repressive apparatus to tackle with the opposition to the governments strategic programs. over their organization that opposes to mining activities in their territories: first, by the omissions of the state in opening participation spaces for the populations directly affected by mining policies, and, second, by actions of prosecution and repression to these populations.

CONAIE says, *“ the mining law affects the collective rights of peoples and indigenous*

²⁰ Besides mentioning the article 169 of ILO that established the prior, and the UN declaration of rights of indigenous peoples, CONAIE quotes the Inter-American Court of Human Rights : *the tight bonding of the members of indigenous peoples with their traditional lands and natural resources linked to their culture, as well as the incorporeal elements deriving of them, should be save guarded(...)* *The culture of the members of the indigenous communities corresponds to a particular way of life, of being, seeing and actuate in the world, constituted from their tight relationship with their traditional lands and natural resources, not just for being them their main livelihood, but also because are part of their world view, religiosity, and thus, of their cultural identity.* Case: Indigenous community Mayagna(Sumo) Awas Tingi vs. Nicaragua, Judgement of August 31 of 2001. Transl.by Carolina Valladares.

nationalities because the concession areas for mining activities are within their territories”, contravening the legal international instruments and the Constitution. “None prior-legislative consult was realized by the State; not to the national community nor to the indigenous nationalities of Ecuador, even when the Constitution established that they should have been consulted before the law enactment. So without the accomplishment of this requirement of consult to indigenous nationalities the law can not be adopted”

Both plaintiffs condemn the imposition of mining activities in their territories without having been consulted before the mining law enactment, and denounce prosecution and repression. Without a proper consultation process and the use of the repressive state apparatus, clearly the social movements, especially the local affected experience the imposition of a policy. This makes clear that power of the state is a transversal issue in the lawsuit that peoples and indigenous nationalities set against the mining law.

The legislative commission replies mostly referring to CONAIE accusations: *although “the plaintiffs allege the constitutional article (57.17) that establishes the right of nationalities and indigenous peoples to being consulted before the adoption of a legislative measure that could affect their collective rights, (...) besides this constitutional norm the Ecuadorian legislation has not enacted yet a law to define those “collective rights” nor a law referring to indigenous nationalities”*

The right to consultation is disregarded, first in absence of a specific law for collective rights besides the constitutional norm. The legislative refers to the fact that the mining law was published one year after the Constitution was enacted, and consequently some laws were still in the way, such as the one of collective rights.

However, the judge of the Constitutional Court, who gave the minority vote supporting the plaintiffs, replies that *“the argument of the legislative commission has not sustenance” (for) “The Constitution sets that rights are directly justiciable even if are not contained in an explicit law (...) so that the lack of a juridical norm cannot be alleged as a justification for its breaching or disregarding.*

About the judge observation there are two possibilities, either the legislative commission didn't know about this maxim for guaranteeing rights or intentional overlook of this norm. Being the legislative commission the superior country organism that discusses and enacts laws, it is likely that it is about an intentional disregard for justifying the actions.

The legislative commission continues its defense raising that *“The Constitution establishes in which cases it is applied a popular consult as referendum or plebiscite (...) It would be senseless that laws as civil code or the criminal code, or economical laws had to be consulted previously because could threat some of the indigenous collective rights; that would be threatening against the unity of the republic ” (...) the pretention of the plaintiffs would breach the principle of law generality that establishes the equality before the law and no discrimination. That the concept of unitary state presupposes also the good living and putting the general interest over the particular”.*

Following the interpretive approach that puts forth that the elements of debate are not just rational but also expressive, the language is a carrier of meanings through which it is possible to interpret what is beneath the words. Accordingly, in the former argumentation the presentation of an example out of stake, like mentioning the senseless of consulting the criminal code to the peoples, reveals an ironical attitude disregarding the plaintiffs' claim. Moreover, manifests that and specific consult to the sector they represent would jeopardize the state unity and discriminate the no indigenous population.

The judge of the Constitutional Court explains: *“The unity doesn't mean uniformity, thus it should be considered that in Ecuador inhabits culturally different peoples and communities that as much as majoritarian groups deserves protection of the Ecuadorian unitarian state.”* The judge continues, regarding the argument that the prior consent consult for indigenous groups would breach the principle of equality before the law and put the particular interest over the general, *“one of the objectives that every state aims is the well being of all its inhabitants in the extent that this interest doesn't affects the rights of other people, therefore in a weighing exercise of rights it should be established what should prevail: if a general interest of economical character or an interest associated to the defense of a collective right, for which the State would made positive discrimination measures and the principles of plurinationality and interculturality in order to guarantee the rights of some groups that deserve a particular tutelage of rights for whom the good living is understood from a particular world view were the root to their territory and natural resources, allow them not just developing their knowledge, spirituality and culture, but their existence itself”*

Interestingly, the legislative commission manifests some elements of a liberal state at the time that mentions the good living, which conversely posits a plurinational state. In its view, applying the prior legislative consult would breach the equality before the law; go against a unitarian state, and prevailing

of the general interest over the particular. While the liberal state trends to standardize population in the concept of citizenship and equality on law, the good living recognizes the diversity of the population, conformed by nationalities and peoples with different world views, and the wield of that plurality from a plurinational but unitarian state that looks after majorities and minorities in harmonic relationship with nature. For the authority, the good living shows up when it comes to the unitarian state, determining the general interest over the particular; and it has determined that large-scale mining corresponds to the general interest.

The national presidency *replies* “*the Constitution is explicit about the procedure through which citizens, individually or collectively, can participate in the process of designing a law by assisting to the National Assembly Commission. (...) The files of the legislative commission received several arguments from citizens, included CONAIE, so it is inappropriate that the plaintiffs say that an specific consult to the sector they represent should have been done*” The general state attorney puts forth that “*the National Assembly realized workshops of consult in various cities, where CONAIE also participated (...)*”

Again the government, through the president and the general attorney denies a specific consult to indigenous nationalities, and equate the right to prior legislative consult with open workshops or the possibility to assist to the assembly commission to express their views. The judge Nina Pacari recalls that the Constitution and international conventions request “*the consult to be realized in an space of deliberation among authorities both from the legislative assembly and indigenous peoples (...) so that the product of the participative process could influence efficiently in the definition of the content of the law.*” We see that what the government shows as a participative process is precisely what the social movement condemns as exclusionary and insufficient. It portrays the risks in a deliberative democracy that the participative mechanisms could fall in a mere instrumentalization, if the participation doesn't influence the contents of the policy at stake.

The aim of a plurinationality is dismissed for the conventional understanding of a central state with a standardized citizenship. Furthermore, the government suggests that the state is able to breach the rights of minorities in sake of the general interest. This means an estrangement from the good living principle, which posits that the general interest of the country is grounded in equilibrium with nature and collectivities, and also from a deliberative democracy were the policies are done through deliberation mechanisms.

1.2. Alleged breaching of the Indigenous Right to Territory

The first element why CONAIE demands a substance unconstitutionality of the mining law is the right on indigenous nationalities and peoples to their territory. This element is core in the debate around an extractivist economy and good living, for the large extension of land affected is usually in ancestral indigenous territories from which underground minerals pertains to the state. Indigenous territories have been already intervened since decades ago by oil extraction activities, and the huge negative aftermaths on people's life are undeniable, which is the main experience that defines their rejection to a new large-scale extraction industry. The government recognizes it but assures that those negative impacts won't happen again, and conversely offers that this time the local dwellers will benefit from it.

CONAIE says that the mining law *"allows displacement, division and taxation of indigenous territories, by compulsory and discretionary establishment of easements for mining activities (...) The "freedom of prospection" allows anybody to enter to our territories (...) In the perspective of indigenous peoples, the essential is the conjunction that embraces not only the wholeness of their territory, but the identification with the peoples that inhabit it (...) it is a non-exchangeable space, hence it is not conceivable a compensation for the constitution of easements to an indigenous nationality whose collective rights are wielded through the integrity of their territory."*

They condemn that the mining law *"norms have been done under the western postulate of goods trade, reasoning that is not shared by indigenous communities, whose territory is irreplaceable and much less susceptible to economic valuation".* Afterwards recall that *"Shuar and Kichwa nationalities are in a desperate situation due to the economical interests (...) and some other peoples are in serious survival problems after 30 years of oil extraction from national and foreign companies, whose operation has been questioned public and legally (Texaco lawsuit) There is no records of mining or oil companies in extractive stage that have not deteriorated in such a way the indigenous territory that has disabled it for its purposes"*

The former lines refer to the oil extraction activities started in 1964 in Ecuador, which supposed for most of the Amazon indigenous the first contact with another society group, and to the aftermaths that condemned Texaco to pay 17 billion dollars to indigenous and peasants affected for its operations. These statements show culture and ways of life and experiences determine how they

interpret policies. We see the contraposition of worldviews between indigenous nationalities that define their territory with immeasurable values of identity, rights, and survival itself, and the government whose logic is the economical compensation for the use of those territories. Moreover, the recall of the Shuar and Kichwa situation after years of oil extraction is an important precedent of the potential impacts of accepting mining extraction in their territories. The interpretation that people do of the policies is mediated on the impact to their cultures and the past experiences of these groups; we find elements of the meaning of mining for indigenous nationalities coming from their empirical knowledge but also from their cultural values.

The legislative commission denies breaching the rights to territory of indigenous nationalities *“inasmuch as it is mentioned an agreement with the landowners, so that if there is not such an agreement with the indigenous nationalities there is not easement. Easements are not possible in protected areas. However it does not mean that easements can not be established in the rest of the country with the consent of the owner, the right of property is also a right recognized in the Constitution and not just a right of nationalities and indigenous peoples (...) To consider all the Ecuadorian territory of the indigenous nationalities is to unacknowledged the right of property of more than 90% of the country inhabitants, therefore there is not affection to the indivisibility, the law is not taxative, because it is guaranteed the pre legislative consult”(...)*

“The plaintiffs don’t consider that the mining law is essentially related with environmental affection, while the prior consult implies also economical social affection...”(...) The plaintiffs have sought to hamper the constitutional right to free enterprise that can wield any Ecuadorian or foreign, for if the Constitution and law is complied, there is not impediment for mining activities. There is not limitation to the right of information of communities of indigenous for the duty of the concessionaire is to inform in every stage of the activities, therefore there is not breaching to the prior consult.”

The legislative commission notes that those easements are not valid inside protected areas; however the indigenous territories are not within this protection status. Therefore the negotiation of right of easement between enterprise and ancestral territories dwellers proceeds. Both actors in the negotiation have different power positions likely to steer the balance to the side of the enterprises for these counts with state political support as mining is

an strategic sector, economical resources, specialized personal for communication and negotiation with communities, and technical knowledge.

Again the legislative commission arguments suggest that indigenous nationalities are looking for special treatment and hence discriminating the rest of the population. First, the commission referred that applying the prior legislative consult to the plaintiffs “would breach the equality before the law for all citizens”. Now suggests that indigenous consider that just they have right to property, when thinking all the Ecuadorian territory as their, and seek to hamper the rights to free enterprise of others, which ignores the right of the majorities. This depicts reiterative accusations that indigenous and peasants are acting against the country by obstructing mining activities.

The same elements through which nationalities defend their rights are being used by the state to warn of prejudicial outcomes for the rest of the Ecuadorian population. This could be seen as a provocation for putting national opinion against the groups opposing to mining policies. These two different ways to see the same elements, evidences the existence of two different frames, and a policy controversy. We will develop this in the next section.

Additionally, the statement of this actor saying that the prior legislative consult is not suitable for the mining law because its implications are environmental and not socio-economical, tries to narrow the idea of the scope of affection of the mining activities by disregarding the role of territory in socio-economical and cultural life of local communities, and the potential pollution caused by this industry. To underestimate and deny the complexity of the issues is a strategy of policymakers to reduce tensions and the alternatives. However, this disregard of people arguments could result in deep social conflict.

The national presidency view is that *“ It corresponds to the state the right of property and the right over non -renewable resources, with the aim that mining activities allow to satisfy the general interest and, being the case, communities, peoples and nationalities should put the general interest over the particular according to the good living” “That the public utility is a measure so that the state is able to develop activities according to the collective interest” About the easements in indigenous territory , the presidency says that these “will exist after an agreement with the owner of the land , and if it is the case, after a resolution of the Agency of Mining Control and Regulation, once it is paid for the use of easements and eventual damages” Additionally, the presidency puts forth that “the*

easements don't limit at all the nationalities property of their territories, that they can continue wielding their activities inherent to the property of their lands"

The argumentation that mining represents the general interest appears over and over on the government defense. On this time, the presidency explicitly calls indigenous and peasants to leave their particular interests in benefit of the collective ones according to the good living. Whenever the authorities mention the good living, it is for bringing up the state and the general interest. First, regarding the prior legislative consult, the legislative commission mentioned that "a unitarian state and the general interest over the particular presupposes the good living", and now the presidency puts that the state property of renewable resources used being used for the general interest.

The state general attorney denies that the law at stake would allow any person to enter to indigenous territory for prospection of minerals, and indicates that "*it exists a clear exception related with protected areas and those within the limits of mining concessions, urban areas, (...) for which it is mandatory to obtain an administrative authorization.*" The judge manifests replies "*Is not accurate to conceive that protected areas are equivalent to indigenous territories (...) This confusion determines the absence in the law to protect specifically the right to territory and their development as indigenous peoples in historical continuation; therefore, the constitutional breaching is clear.*"

The judge continues "*main tension, beyond the territorial extension of the indigenous nationalities, is that the mining law has to contemplate a different procedure for the mining extraction meant in their territories, what is not contemplated in the law; conversely the broad character of the mining law, undoubtedly, affects indigenous territories that would be comprised to conflicts with the mining enterprises.*" She adds that, "*to assume that the easement does not affect the indivisibility of the territory pertains to a conventional and limited notion of land as an element of trade and production, which differs from the notion of indigenous peoples. "Being the central point of tension between indigenous and state, the decision-making regarding the underground resources in indigenous territories, the authorities shouldn't have omitted the prior-legislative consult"*

The statements of the authorities regarding the right to territory, show the omission of some aspects that are impossible to be ignored, considering that the mining projects plan to dig holes of around 1 to 2 km of diameter: that mining activities bring not only environmental impacts, but also social, economical and cultural effects; that the dimensions of the perforations and resources affect the territory; that ancestral territories are not in the category of protected areas, as national parks are. If this is ignored, much more

disregarded are the non-tangible elements such as the incompatibility of the definition and valuation of land from an economical view, when for indigenous the territory is linked to their culture and subsistence. This suggests there is a strategy for minimizing the real scope of action of the policy. The policymakers are trying to reduce controversy by denying the complexity of the potential effects of mega mining denounced by the plaintiffs. We saw that this is a trend on policymakers to set as structured a non-structured problem; action that eventually ignites social conflict.

1.3. Alleged breaching of the Rights of Nature and Water as a Human Right

The claim for these rights are, together with the plurinationality, the main principles comprised in the paradigm of good living declared in the Ecuadorian Constitution. Rights of nature is the center of the shift of paradigm, enunciates the purpose of harmonic relationships with nature, not anymore like an object to explode in sake of a western notion of development, but like a subject: Mother Nature, as called in indigenous language, will be treated responsibly so that her right to exist is respected.

The CWSA puts its complaint pointing that *“the mining law is ratified in the country with a merely authorization from a delegate of the government. This leaves the open way for the concession and then exploitation or aggression to nature, concretely in water springs. (...) The law also disrespects water; none serious and responsible studies of environmental liabilities have been done, as those presented are just adapted and copied models with small data fixed to the concrete reality (...) For the mining concession in places were underground water is born, is not even necessary an authorization”*

“Although the law disposes that all used water should be returned free of pollution to the place where it was taken from “(...) there is a contraction with other norms of this law that establish the environment will be protected, while, at the same time, allows the destruction of vegetation, and deforestation (...) The articles are openly opposed and breaching the Constitution articles that granted rights to nature and lift water up to the category of human right. The law allows the destruction of nature and water. The best guarantee for the current generation as for the next ones is to allow mining exploitation in places were nature is not affected. It should be explicitly banned this activity in highly sensitive places, among others, in water sources, wetlands and moors”

Here we see the claim for more thorough state controls to activities with potential environmental impacts. A more active role of the state is actually established in the new Constitution, as a way to prevent the experience of the neoliberalism in the country in the 80`s and 90`s. In this decades the state was reduced to a minimum, the international institutions granted huge credits for so-called ‘development projects centered on resources extraction, leaving a

huge financial, social and environmental indebtedness. Now, the social movement denounces an active role of the state but still for mediating in the same economical model.

The language used to describe these impacts like aggression to nature” and “disrespect to water” denotes the reference to nature in the sense of a subject. This can be deduced also from other parts of the plaint, *“the mining law allows the destruction of nature and her womb where life fluxes, like water which is an indispensable element for survival”*.

To the accusation of the CWSA, the legislative commission limits the reply *“ it is alleged the breaching to rights of nature, human right to water and the good living, without determining with accuracy the supposed unconstitutionality, giving environmentalist criteria anti-law in a senseless way, when the law has all the environmental controls possible” (...)* *The Constitution is a whole juridical corpus, therefore it should be excluded from the interpretation any interpretation that mislead to nullify or render ineffective to some of its norms”*

Even when the plaint achieves to convey that the mega mining projects planned endanger fragile ecosystems and water, and points the law articles condemned, the whole document is more expressive than technical and legal, which caused that most of the reasons exposed were disregarded as valid legal arguments. The document depicts that the plaint was done from the personal experience and feeling of the peasants of the communitarian systems of water. Their main resource is the local knowledge of the moors and wetlands; however, the plaint also expresses the lack of legal advice to assure their local knowledge to be considered valid in a legal complaint. The power again imposes over the population represented by CWSA. First, the communities claimed that were not invited to any consult about a megaproject in their territories, and, now, their lack of technical legal knowledge impedes them to access effectively to the legal action recourse.

Meanwhile, the presidency rejects nature rights and water affection backed upon the articles of the mining law that establishes that *“ the concession will proceed according to the banning and exception of the article 407 of the Constitution”²¹ that forbids extractive activities in protected areas unless a justified exception from the authorities. (...)* *“Concessions must accomplish with all constitutional and legal norms, especially those of the article 26 of the mining law that would prevent the state delivering the concession in case of overlooking these regulations, with a particular emphasis in environmental controls (...)* *In addition, the*

article 408 of the Constitution allows exploitation of non-renewable resources, as long as all the environmental principles of the Constitution are accomplished”

Finally, the general state attorney expresses that “ Either the Constitution and the mining law show that Ecuador is a plurinational and intercultural state, that allows the access to economical benefits of the mining activities to Ecuadorian peoples and communities. That the mining law has sought to ensure a healthy and ecological environment, the sustainability and the human right to water in permanent and safe way; that the mining law promotes also the use of clean and no-polluting technologies, through which it is guaranteed the right of Ecuadorians to the good living“

The presidency and the state attorney reinforce the trust in laws. The legal regulations applied to the enterprises are the best guarantee that mining wont cause environmental affection. The later posit that in a strict regulation of mining and use of high technology it is guaranteed the right to good living. From this can be inferred that this principle is understood by the government as an active control of the state in extractive projects, to reduce environmental harm and assure the general interest.

The attorney mentions the plurinationality and interculturality of the Ecuadorian state for putting that the peoples and communities will have access to economical benefits of mining extraction. However, the statements posited before by the plaintiffs evidence that precisely the critique is to the economical valuation of territories and resources that have immeasurable meanings for them.

2. – An argumentative policy analysis of the conflict around mining and good living.

2. 1-. Mapping the problematic situation

In the following lines we will expose the remarkable elements found on the lawsuit argumentation, so that we can approach to the features of the problem: it is a structured or unstructured problem? The conflict around the two positions is a policy disagreement or rather a policy controversy? How are the government authorities addressing this problem, and which are the consequences? By exploring these questions we will count with a general map of the situation so that we can take into account the elements and dimensions

of the conflict around good living and large-scale mining.

There is clearly a mismatch between the government definitions of the problem and how this is experienced by CONAIE and CWSA, who are directly affected by the non-consulted mining law. While these actors are claiming their right of participating in the design of the law that comprises their territories, the government authorities denies the accuracy of an specific consult for them manifesting that the law brings just environmental implications and therefore an specific consult to their sector is not accurate. Furthermore, the government posits that the plaintiffs' claims would endanger the unitarian state, the right of property, free enterprise, equality before the law of the majority of the Ecuadorian population, and affect the right of no-indigenous population to benefit from mining activities that are of general interest. The arguments of plaintiffs claiming for their rights, is used by the defendants to narrow the nationalities rights at sake of the benefits of mining activities. Such use of the same elements for the opposing purposes depicts a policy controversy, as arises from two conflicting frames (Rein and Schön, 1993). This gap between the definition of the problem done by policy makers, and how the people experience the problem (Hoppe, 2013) entails an eventual increasing and worsening of the conflict

The situations at stake have no precedents in the country for two reasons: first, due to the features of the new Constitution, which proclaims the principle of good living as the backbone of public management; declares a plurinational and intercultural state; and recognizes rights to nature, which has no precedents neither in any other Constitution of the world. Second, there are not experiences of large-scale mining so far in Ecuadorian territory. Though the main referent for suspecting what could happen is the oil extraction, mega mining has different features with more pervasive effects: tons of waste generated, vast use of water and energy, kilometers of deep perforations, and tons of toxic chemicals used.

Thus, the controversy also implies a big uncertainty not just about the social environmental consequences of mining in the Amazon and moors, but also about the will of the population to interpret and defend rights of the Constitution. To make it more difficult, there is disagreement about the scope of the new rights guaranteed in the Constitution as well. The new context situation, plus the disagreement on the norms, values at stake and the means

for dealing with it, makes of the controversy around mining an unstructured problem. The elements involved in the delineation of the problem are ambiguous and relative, like for example the testability, explanation, finality and replicability of it (Hoppe, 2011:77). In fact, the government affirmation that through large-scale mining it is possible to build a good living society lacks of a definite criteria on how it exactly would happen (testability), and clashes with a different explanation of what good living means (explanation). Yet, perhaps which turns more risky the bet for mining policies is that the project engages to the country in a dynamic where the ending point is unknown because the potential impacts imply a long-term permanent vigilance, either for preventing or reparation (finality), and is a “one-shot operation” with no space for trial error learning when it comes to the irreversible implications of clearing vast extensions of ancestral territory in jungles and moors (replicability or retractability)

Another difficulty with these newly emerging problems is not only the uncertainty and lack of agreement, but also that trend to be addressed as a structured problem. The inclination to minimize the complexity argued by other actors closes the possibility of new solutions and alternatives brought up by these actors, but also leads to design policies for solving the wrong problems. The reply of the state authorities to the plaintiff's complaint clearly denotes their attempts for disregarding the complex and controversial of the issue. While CONAIE and CSWA calls attention on the essential of the wholeness of indigenous territory for the wield of rights, the authorities say that the easements don't limit at all their property on the territory and can continue their normal lives attached to those lands. The authorities also deny that the mining activities imply economical and social affection, and address the concern about the absence of explicit banning of mining concessions on water springs and ecological fragile areas, by mentioning the articles of the law intended to control pollution. In contrast, the dimensions of the diggings that the projects plan to do in the Amazon jungle, moors and wetlands in the highlands, of 1 to 2 kms of diameter and hundreds of meters depth, the large-scale use of resources as water and energy, and toxic chemicals as cyanide, depict physical evidences that hardly can be absorbed by policymakers discourses.

The position of political parties in all this is almost absent. The political parties can be roughly divided in the leftist officialist party in one side, and the opposition conformed by populists, conservatives and the left alliance that

broke with the government years ago. Therefore, the populists and right wing are interested in the conflict as it undermines the legitimacy of the leftist government.

Furthermore, the menace of increasing confrontation lies also in the attempt of, reducing the complexity of the problem as defined by social movement, dismissing the rights of nationalities and peoples as minorities, that happen to be the direct affected of the mining policy.

2. 2. – Contending Frames about Mining and Good Living

Frames are the glasses through which we interpret the reality (Rein and Schon, 1993). That is why in this interpretive policy analysis, the frames study will help us to determine which are the world views, values, meanings, assumptions and contexts mediating beneath the positions pro and against the mining law. Understanding this frames are also useful for the analyst trying to make sense and define better an unstructured problematic situation.

In table 4 there are summarized the main arguments contending in the unconstitutionality lawsuit of the mining law, to make easier to reveal the clashing positions. The yellow strips represent the frames that mediate in the definition that each actor makes of the mining activities. The letters in bold stresses the statements where the government refers explicitly to the good living. The bottom right corner is empty since the judge didn't shed specific comments on it. This can be explained by the presentation of the CWSA plaint that lacks of a legal argumentation structure.

**Table 4.- Main arguments of the lawsuit
CONAIE & CWSA**

		Government	Dismissing vote
prior legislative consult	Peoples were not consulted before the mining law that affects their territories was enacted. Some were prosecuted	Due to the absence of law about the consult, workshops and meetings were realized Specific consult against the unitarian state, and the general interest over the particular that presupposes the good living	The lack of law does not justify the overlook of rights guaranteed in the Constitution The Ecuadorian is a plurinational and intercultural state. The unitarian state includes the diversity, it does not mean uniformity
Right to territory	Free entrance to indigenous territories Not economical valuation of territories Wholeness of territory is the base of existence of indigenous nationalities	Entrance depends on the agreement between enterprise and dwellers. Entrance not allowed in protected areas The country is not just of indigenous nationalities. Respect rights of property and free enterprise of the 90% of the Ecuadorian State owns the underground of territories. Communities, peoples and nationalities should put the general interest over the particular according to the good living The explore of underground does not prevent nationalities to use their territory	Indigenous territories are not protected areas Positive discrimination for protecting minorities for whom the good living is understood from a particular worldview were territory and natural resources, allow them their existence itself" Law is broad and ambiguous about indigenous territories, hence entails conflicts among dwellers and enterprises
Rights of nature and water	Law should explicitly ban mining in moors, watersprings and waterlands Allowing mining allows deforestation, water pollution	Law has all the environmental controls and requires clean technology, through which it is guaranteed the right of Ecuadorians to the good living" The plurinational and intercultural state allows nationalities to have access to economical benefits of mining	

In a very synthesized way, the plaintiffs denounce that the law was enacted without a prior legislative consult to the peoples and nationalities affected by the law; affects their territory, which according to their worldview is the base for the wield of all their rights and existence itself; and harms ecological sensitive areas and water. In their defense argumentation, the government authorities reiterate the concept of unitarian state and general interest for the good living, at the time that show ambiguity for justifying the lack of consultation to indigenous peoples and how the law would guarantee the protection of those areas. Accordingly, the reasoning by them exposed can be summarized in a main statement: *The unitarian state, who owns the minerals of the territories, defines large-scale mining of general interest; therefore communities, peoples and nationalities should put the general interest over the particular according to the good living, while the state will guarantee the environmental control and social investment of those incomes.*

This statement comprises a lecture of the good living differently from that understood by social movement and gleaned in the Constitution. Now we see that the principle of good living is being filled of content at the moment of policymaking. Within this mismatch of meanings around the good living from social movement and governments, influence the values, beliefs, experiences of the actors, as well as the collective or institutional affiliations.

In the side of the social movement, mainly conformed by middle and low class, indigenous nationalities and rural population it influences their story of social struggle linked with access to land, natural resources protection, social justices and effective participation in public decisions. Hence, their proposals to lift the good living principle to a Constitutional level as a historical claim. In the specific case of indigenous nationalities, peoples and communities, their worldview and culture are linked to their territory and natural resources. The words of the Inter-American Court of Human Rights quoted by CONAIE in the lawsuit at stake²², explain it "*their culture corresponds to a particular way of life, of being, seeing and actuate in the world, constituted from their tight relationship with their traditional lands and natural resources, not just for being them their main livelihood, but also because are part of their world view, religiosity, and thus, of their cultural identity*"

Such intangible values of indigenous peoples have been openly clashing since centuries with the economical valuation of land, resources, and nature, in general. As a result indigenous have either disappeared, been assimilated or marginalized. How could a modern western or westernized person take seriously that in some places nature is worshiped as a mother, and now has rights guaranteed in a country Constitution? Referring to oil extraction, amazon nationalities have said that oil is the blood of Earth, however what counts is the price that the global market would pay for each oil barrel. Now, regarding mining, the frame of peoples and nationalities that make them defend their territories as the base of their culture identity and material existence is also mediated by the experience they have with oil extraction. Audiences interpret policies in the base of how can it affect their life and culture; thus, their opposition is unsurprisingly after the aftermath of the oil industry, where two peoples disappeared and others are in survival conditions.

²² See footnote 18

In the side of the government, from the reiterative manifestation of the unitarian state and the general interest, we can say that its frame is mediated by institutional top-down rationality and political aspirations. The government supports its popularity on the outcomes of the economical liquidity given by the high prices of oil and the social investment done within the Latin American wave of modernization state-led. Therefore, mining revenues would allow the continuation of the government program. The role of public authorities and their actions are backed up on the fact of being representatives of the state, Thus, even when the design of policies for the public interest, is supposed to be participative, the policymakers definition of what is public interest has a great influence on the definition of policies.

Although it is a matter of debate which actually is the power of states nowadays, its role is always more than significant, even in neoliberal models, when it is needed the action of the state for reducing itself to a minimal expression or rescuing banks, lately in trend in the European crisis, or in times of governance, when the state is supposed to share power with other actors. In Latin America, the wave of left governments in the last decade evidences the will of the populations to have an active state that looks after the endogenous well being of its inhabitants and of the region. Likewise, after the repercussion of neoliberal policies in Ecuador, the population voted for an active state that pursues endogenous good living rather than resources extraction for global market.

This active role was not supposed to be central, but shared with citizens, nationalities, and peoples through decentralization and participation mechanisms and institutions. However, in the mining lawsuit argumentation it is revealed that the state is centralizing the definition of general interest, it is good living, emphasizing the outcome legitimacy of the policies enacted, in detriment of the input legitimacy that cares about the process in which problems are defined and the solutions designed. This is evidenced in the repression to the opponents to the mining law enactment, the ambiguity for overlooking the rights of those directly affected by these policies at sake of the economical benefits that those projects would bring. The argument of the state attorney is eloquent of it: *Either the Constitution and the mining law show that Ecuador is a plurinational and intercultural state, that allows the access to economical benefits of the mining activities to Ecuadorian peoples and communities (...) that the mining law promotes also the use of clean and no-polluting technologies, through which it is guaranteed the right of Ecuadorians to the good living“*

The adjective of plurinationality and interculturality shows up when it comes to the benefit of the revenues of the projects that the government defined will contribute to the good living. This principle for the government is not about an

effective construction of plurinationality, and not about conceiving nature as a subject. We saw in the statements how the claim of nationalities is disregarded for being minorities and even denounced to be against the interest of the non-indigenous population. That nature is now a subject of rights in the Constitution is by far ignored in the government argumentation on the lawsuit. Considering that it is replying a lawsuit of unconstitutionality were one of the complaints is having approved a law that breaches the rights of nature, the couple of times that authorities named something closer were with broad and vague words like “ *healthy and ecological environment*” or “*sustainability*”

The state for this government is a central state that exerts policy as power, and where the exploitation nature is as a condition for reaching development. Development is still seen in the way were a great pressure over resources for supplying global market will deliver revenues, that even if invested in social issues is not comparable with the real non-monetary loss for the long-term. We saw that the issue at stake for the nationalities is about their rights and identity attached to their territories and resources.

Given the complexity of the issue and the intensity of the debate, a strategy of policymakers is to reframe the problem at stake. Initially the government seemed to share with the social movement the same perspective about good living; nonetheless, policies such as the approval of large-scale mining made social movement to denounce the government attempts to empty of content this concept, when governmental propaganda promote “Mining for the Good living”. The government is precisely trying to reframe the concept of good living, forcing it to embrace such a different perspective than that of the Constitution, and denounced by the plaintiffs of the mining lawsuit. The frame shift the government is trying to do for joining such opposed concepts like good living and extractive economy is expected to be unnoticed because of the “stolen rhetoric”(Hoppe, 2012), while spreading a new sense to subtle be accepted by people.

The government puts forth that the path towards the good living is the general benefit the country would obtain through mining and oil extraction. The nature as subject, which is one of the axis of the good living is undeniable cleared from the policy purpose. At the same time makes clear that the central state is the one that defines which is convenient for the country, by reducing participation and dissent. Moreover, the government statements try to set in the country imaginary that the indigenous nationalities claims go against the interest of most part of Ecuadorians, by hampering their right to property, free entrepreneurship, and asking for privileges such as specific consults of laws. Such discourse clearly undermines another axis of the good living, which is the

plurinationality, but worst attacks the legitimacy of CONAIE, essential actor of Ecuadorian social movement.

It is clear that the way the government is filling the content of good living from its public policy and discourse trends to build a conception of the good living far from the original, for backing the lack of input and process legitimacy in the outcomes. This stolen rhetoric and framing-control is also a channel for exerting power by influencing from a public sphere to the public opinion in such a way that the values and meanings of people tune with the lines of the government programs and policies.

2.4. – Power Exertion in Mining Policymaking process

Power is clearly an issue in the conflict around good living and mining, hereby we will review why. We adhere to the notion of power discussed by Hoppe (2011) where “ the capacity of some persons to produce intended and foreseen effects on others” (Wrong, 1979 in Hoppe, 2011:252) for considering this definition as the one that shelters most of the ways of power seen in political sciences regarding the control over decision making, agenda setting and even over beliefs and self identity. Additionally he stresses that power is not just constraining domination but also can be exerted also by influencing the other’s perceptions by argumentation, either by *puzzling* as making sense from the internal power of the arguments, or by *powering* where it counts the external power of who utters it. Power sways between reasoning and imposition, enabling and constraining, as productive and negative power.

In the text analyzed power is present through the inquiry of a policy that while social movements feel as an imposition for the absence of proper spaces of participation, the government essays to argumentation and negative power. Policymaker are addressing this controversy moving between powering through arguing the benefits of the policy defined by the central state, and perhaps trying to puzzle when spreading over society the meanings of the good living reframing the Constitutional meanings with the governmental ones. Powering can be also found in the Court judgment that dismissed the lawsuit through an interpretation that closes the option of further examinations; as it appeals to power of who utters that argument. However, according to the argumentation of CWSA there is use of negative power comprised in the repression from the state to the opposition.

Furthermore, this top-down power exertion is being done with a policy of large-scale implications, that barely allow trial- error learning once executed. Via such a power exertion the government is closing the process of social learning through considering the voices coming from all policies arenas and actors. Complex problems can be better addressed by “puzzling” (Hall, 1993; Hoppe, 2011), which allows the state to place the elements of the problems in larger interpretive context instead of limiting the search of solutions inside an alleged state autonomy. However, the implications of mining policies spill outside the state discussion generating societal pressure to the policymakers.

This paradigm of an alternative to development is certainly controversial because of the structural changes it demands at national level and the interpretation it does of the global level. As such, the good living entails a change of the set of ideas, goals, instruments and problem based in an specific read of the reality. However, here the exertion of power, together with the resources and the position of the actors in the institutional framework will determine how far can that paradigm arrive.

Power is in the interplay at all levels of the endeavors of building a good living society, if considering that the concretion of a politic project entails also arguments and persuasion so that there are shared meanings in the society. This shared meanings have to start from questioning the common sense and cultural patterns to understand that development, in the conventional notion, is not the right way, or that nature is a subject of rights, but also macro relationships from state and even supranational structures (global market, for instance). A different body of knowledge requires of different institutions, and this can be seen in the difficult of placing the plurinationality demands in the current state structures.

We have seen that even when the good living principles are gleaned in a Constitutional level, and applied already in some practices and discourses, the main challenge, is the public management of those principles, and hence the state structures, perhaps because this structures are and obstacle. The state structures could not be coherent with the aim of a plurinational state of harmonic relationships with nature and priority of people over markets, when they embody and are entangled in capital reproduction, with the interplay of global markets. The challenge lies on thinking what can be constructed alternative to those structures, discovering new ways of leading policy or maybe recovering old ones. What cannot be overlooked is that the effective build of

such policy project crosses by empowerment and debate about the meanings of good living from the bottom up. In this extent, the political epistemology of collective reasoning, where meanings and values count on policy, could be the start of this seek.

2. 5. - Empirical and Normative Elements in the Argumentation

At following we will carry out an interconnection of the empirical data with the values that shape the understanding of the social world. This is the proposal of an argumentative policy analysis, the can help to tackle policy controversies when grasping the variety of perspectives involved. Such interconnection is particularly useful given the intensity of the controversy around mining and good living that spreads out in several arenas (Hoppe, in-press). From the statements of plaintiffs and defendants in the mining lawsuit, we saw that the controversy implies discussions on the economical, environmental, legal, political, cultural arenas, and even religiosity and spiritual if considering the worldview of nationalities linked to their territory. Therefore, the debate counts with a wide range of elements that can be explained and defended from the empirical and normative reasoning, and that are actually addressed from several discourses simultaneously, given the complexity of the issue.

In the empirical level, it is the facts related with the concrete situational context, the plaintiffs talk about the affection to their territories derived from the entrance of mining enterprises with the consequently depletion of resources and pollution of water, specially influenced by the experiences of the burden of oil extraction in their lands. It is also a fact for them that the intervention on their territories threatens their survival as human beings and cultures, and that for preventing it to happen they count with the right of being consulted. Whereas, the government authorities stress the economical benefits that would be obtained from the mining projects, puts that its implications are strictly environmental, and stresses the regulations of the law for preventing ecological damage. The discourse used when referring to the facts are for alluding the circumstances that surround the application of mining policies, the situations that have brought about so far and those that potentially can happen.

On the normative level, regarding the norms and values of the societal context as a whole, through the claim for their rights the plaintiffs claim a democracy

that includes effectively the worldviews and knowledge of indigenous nationalities, and the respect of nature as a subject rather than a commodity. Whereas, the state manifests the role of a unitarian state that defines the general interest, which prioritizes the exploitation of nature for procurement of economical benefits. The discourse in the normative level have to do with an ideological discourse, it is with the ideas that each actor defends should organize the society; through them both convey their ideal society, which both allege is that of the good living principle recognized in the Constitution.

For trying interconnections among the normative and empirical arguments of the actors, we confront them by proposing some questions in order to see how good those arguments bear the mutual concerns conveyed. The first question is whether the income resulting from mining projects is enough for assuming the uncertainty of the collateral effects of endangering cultures, large-scale environmental affection of fragile areas, and skipping the participation of the local affected ones, and still have profit. Even if assuming that the mining law will be strictly obeyed and environmental affection will be minimum, the law already allowed mega mining in ancestral territories without proper consult of the affected, therefore, it can not be guaranteed the protection of the indigenous nationalities whose territory will be intervened. There would be non-monetary losses not compensable with the alleged economical revenues coming from the mining projects, entailing even the live of human collectives. Moreover, the costs of environmental reparation would be higher than the revenues, according to the analysis of the economist Alberto Acosta, one of the persons to which the Constitutional Court asked for technical opinion in the process of study of the mining lawsuit.

Could the revenues from exploitation of nature assure the effective participation of nationalities in the state policy making? In other words does the economical benefits of the exploitation of ancestral territories, without their approval, enforce the plurinationality? Here we can see a contradiction, being the plurinationality and equilibrium with nature the main axes of the good living, it is not possible to accomplish it through skipping its backbone principles. The state attorney argumentation puts that the plurinationality is to guarantee to indigenous nationalities and peoples the access of those economical benefits; then, one wonders how and in which conditions could the indigenous nationalities be benefited of the revenues of the exploitation of their territories, which they didn't authorized?

In the search of the common goals of both actors, we start by considering that the government discourse that good living will be accomplished by the reactivation of the national economy stuck in raw materials exportation, and effective social investment, is also shared by the social movements now opposed to large-scale mining. What seem to be the problem here is that in the pursue of those goals the government is resorting to the opposed means, such demobilizing participation and deepening the primary economy, and through this is reframing the notion of good living far from the aim that was initially gleaned on the Constitution.

Now, it is accurate to question if it is worthy the costs that the society and environment have to bear at sake of a modernization program, considering that the country already experienced the failure of that social order based on the premises of the traditional development. Furthermore, the failure of that social order to create good living conditions was precisely what triggered the new social and political re organization of the country, that led to the elaboration of a new Constitution where the good living was supposed to lead policymaking. Therefore, if there are still some common goals between the government and social movement, such as social investment and moving from a primary economy, the social order that the good living aims presents relevant alternatives for approaching to those goals effectively while avoiding conflict and social and environmental costs. A social and solidary economy is one of the alternatives, just for mentioning that there are alternatives proposed in the Constitution for assuring economical resources to the country without social and environmental sacrifices.

However, the aim of this policy analysis is to contribute to make less unstructured this unstructured problem, thus, the good living has not to be an self-referential conclusion of this analysis. We are not positing merely that the best way for the government to approach the objectives of overcoming an extractivist economy and have social investment is to follow the original principles to the good living, but demonstrating that the mega mining consequences don't offer positive outcomes even for the good living in the terms reframed by the government. The several empirical consequences and risks of unknown scope overwhelm the state solving capacity independently from the economical situation. The immeasurable loss for the long-term would represent also economical damages; but furthermore, the uncertain

consequences related with the immediate context of the physical affection of ancestral territories, bring about implications at a societal or normative level where the Ecuadorian state would keep the colonialist state exertion of power over indigenous nationalities.

3. - Conclusions:

After the interpretive policy analysis of the mining lawsuit, we are able to answer our research sub questions. First, regarding the *way that the elements of the good living paradigm are translated into key policy documents by the government and social movement*, we can say that because of the different framings, namely the different meanings that social movement and government give to good living, the policy document reflects not just the confrontation of meanings but the dispute for place them in the public opinion. The document itself presents the exertion of power from the state for socializing the government definitions of good living, mainly focused obtaining funding for infrastructure and social investment, that sets also the scope of rights wield.

This forwards us to the second sub question, where the former question is also broadened, when trying to explain *how is it that the large scale mining policies can be understood for and against the "good living" at the same time?* We learned that the dispute around mega mining and good living is about a policy controversy where the same elements are used to defend totally different purposes. While the social movement defends the good living as an alternative to the notion of development as economical growth, with a plurinational state and the respect of the right of nature to exist, the government attempts to build a different discourse of this principle. The good living for the government is grounded on a central state that defines general interest, and procures economical revenues for social investment. This goal lacks of input and process legitimacy as entails reducing social participation, and even prosecuting those who opposed to the general interest defined by the state; therefore, besides backing the legitimacy on the outcomes of those policies in social investment, the government needs to avoid social conflict through the frame control to make sure the population agrees on the social and environmental costs of that so called collective interest.

The mining policy means differently for social movement and government because each one read it from their different values, experiences and even

institutional filiations. The former reads the mining policy from the affection it could have to their territories as the existence of indigenous nationalities is linked to nature for the reproduction of their culture, spirituality and material subsistence; they read threatens on mega mining through the devastating experience of oil extraction for indigenous peoples in the country. Whereas, the latter reads the mining policy through the glasses of politic aspirations and top down rationality, where centralizing the definition of problems will give them more scope maneuver for continuing in the wave state-led modernization in America Latina. Its bet lies on the outcome legitimacy, and for assuring that conflicts won't affect the implementation of those policies the government is aiming to reduce the complexity of the situation by denying that mega mining will bring impacts and trying to close the gap between the experienced by people, especially the local affected population, and the policymaking.

However, the dimensions of the mining policy represent a complex unstructured problem with high uncertainty of those consequences, especially when this extractive activity has no precedents in the country and when the Constitution recognizes broad guarantees for people and nature. Therefore, the overlooking and underestimating that the government is doing of the mismatch between its policies trends to increase the conflict, hampering, thus, the policy implementation and outcomes, which are the bet of the government for compensating the mining input legitimacy of the mining policy.

Delving on the empiric and normative features of the actor's argumentation about mining we find the conflict elements aforementioned, but also perhaps a seed of consensus. It shouldn't be that hard if considering that at the beginning of the government on 2007 there was a strong agreement with the social base. Both actors claim that Ecuador need to overcome a raw material economy and the need social investment, but they disagree on the means for achieving it. The way of the government of pursuing it with the opposite recipes, is sacrificing the social and political tissue that brought it to power and hence risking also the implementation and outcome legitimacy. The government is trying to tweak the values and believes of a new social order, in the figure of good living, to a contextual short or mid term goals that go back to the social order it was supposed to overcome.

CHAPTER 4

General Conclusions

The general conclusions of the study will be presented in the discussion of our main research question, which wonders about the *implications of the Ecuadorian Constitution's endorsement of the good living paradigm for environmental policymaking*. In this regard we would like to remark five important findings delivered in the former pages, which contributes to reveal the main tensions and challenges of continuing with this policy project.

Through the interpretive and argumentative policy analysis of the policy paradigm of good living we endeavored to reveal the importance for the Ecuadorian policymaking process to striving to process the realities that are outside the state and government logic; especially when the paradigm itself comprises to include the diversity of worldviews existing in the country. The core issue in the controversy around the mining policy lays on the different meanings about nature, territoriality, state and development, to which the good living gives a different definition not as a mere re-signification but in the extent that those meanings order the reality of part of the indigenous groups that conform the Ecuadorian population. This raises some elements that are detailed below:

- Putting aside of the environmental policymaking process to the meanings of nature and territory for peasants and indigenous, ignite social conflict and affects the policy implementation. Given the disagreement of norms and values regarding large-scale extractive activities in ancestral territories, and the uncertainty of their scope of affection, a closed and hierarchical decision-making risk to a mismatch with how the people experience and define it in the daily life. Conversely, the more disagreement and uncertainty in a problem is better addressed through an open social learning process where all the actors involved “make sense together” from the deliberation and discussion of the complex elements and influence the decision-making process.

- The effective implementation of the good living as a policy paradigm requires more than a Constitutional statement. It requires the replacement of the set of ideas, goals, instruments and definition of problems (Hall, 1993) that the state uses for building development policies. Otherwise, what is happening is a reorganization of the priorities of the State, amendments on the instruments and/or the settings for delivering policies that although keeping the old idea of development, assure the government legitimacy based on the immediate outcomes. This government action is backed in the fact that the main failures that triggered the political crisis previous to its arrive to power, came from the consequences of the retreat of the state and a market regulated economy. In this sense, the policy paradigm of the good living in the view of the government is embodied in the return of the state for procuring social investment. As it is already happening, this supposes new pressures over nature for financing the government social programs and a reframing of the good living principles.
- The replacement of the paradigm of development for the one of the good living depends on power issues between state and social movements, but also of the former with the larger world system. The state is using its institutional power in the decision-making process, its resources and its capacity of powering when reframing and socializing the concept of good living to shelter a definition that legitimizes its policy programs. This shows also that the framing control power is accompanied with “puzzling” strategies when persuade some sectors with the argumentation that extractivism responds to the collective interest of society (Hall, 1993; Hoppe, 2011). However, there is also negative power exertion through repression to those who oppose to extractive projects. Social movements count with the capacity of mobilization and the Constitutional guarantees and had show to be alert of the instrumentalization of participation and deliberation in these kind of projects. It is to be seen up to what extent the societal pressure will influence the decision-making process regarding environmental policies.

Moreover, the paradigm of development is legitimated as an almost taken-for-granted historical aspiration shared worldwide. The global market, the main engine of that development, puts pressure on the states dependent on raw material as Ecuador is. Hence, the same structures of the state would need to be changed, if possible. The good living

comprises a new institutionality, but above all cultural changes, a socialization of the meanings in the society independently of the state public policy. This is the great challenge of social movements, but with the additional difficulty that now their collective action is against a government that functionalizes their discourse of social change in the figure of the good living, which already has demobilized some sectors.

- Policymakers conceive the plurinationality and collective rights as the main barrier for environmental policies aiming to large-scale exploitation. It is also the main tool of social movements to debate the legality of this kind of projects. Nevertheless, even when the recognition of the nationalities inside the Ecuadorian national state entails their active participation and influence in the decision-making of the resources underground ancestral territories, their argumentation is seen as “romantic” opposed to the pragmatic reasons for exploiting nature. As Berger and Luckmann (1966) explain, the distribution and specialization of knowledge brought about a diversity of *subuniverses of meaning* far from the official knowledge. In this case, the official knowledge perceived as an objective reality is the fact that nature exploitation enables economical growth and economical growth leads to development²³ Opposed to it, indigenous knowledge conceives nature as a mother and the human being not as central creature but part of it engaged in a reciprocity relationship for living well.

The challenge for the materialization of good living depends on the process of social organization that contends the taken-for-granted meanings of development at the time that builds common meanings for sheltering indigenous and non-indigenous meanings of good living inside the Ecuadorian society. Both come different historic process but also share a common one as a country, therefore an open social learning process is necessary for searching a comprehensive integration of common aspirations. This is a duty not only of policymakers, but and especially of the society.

²³ This happens even in postindustrial societies where the level of consumption or technological development exports the nature exploitation requirements to the peripheries.

- Beyond the difficulties for the fully implementation of the good living as a policy paradigm, it already depicts a social organization process that put into debate a new body of knowledge coming from the indigenous worldview so far disqualified or ignored for not being scientific. That is why this paradigm can be located into a Southern epistemology as an attempt for institutionalizing the social world of societies whose knowledge was dismissed by colonialism, at the time that enter in dialogue and learning with other cultures. As Berger and Luckmann put (1966) puts, social change is the history of ideas, and indigenous organizations and social movements have already gotten to put in the public debate ideas that contend the hegemonic realities.

Afterword:

It is necessary to mention two facts that occurred during the final stage of this study, which gives new elements to of analysis regarding this policy controversy. In January 15th indigenous movement and social sectors²⁴ put a protection demand for the rights of nature regarding the mega mining in Cordillera del Condor, which is a legal resource for claiming the accomplishment of the Constitutional rights. The Ecuadorian present has mentioned that it is necessary to restrict this law due that its abusive use hampers the public management.

On February 17th Rafael Correa is reelected president with more that 50% of votes. It seems that the unsteadiness of the social movement to the extractivism is not felt by the wide society as a main issue. What counts for most part of the population is institutionalization of State after the neoliberal disablement suffered, meanwhile the capital fluxing helps to show infrastructure advances, unlike the past decades. The long term and structural changes seem not to determine the vote intention.

This raises some questions for think about: Is there a mismatch of meanings between social movements and the rest of the population,

²⁴ CEDHU, INREDH, Fundación Pachamama, Cedenma, Acción Ecológica, Centro Lianas, CONAIE, ECUARUNARI, la Asamblea de los Pueblos del Sur, and areas directly affected by El Mirador mining project

rather than between the government and the latter? Is the Ecuadorian society sensitive with the indigenous claims? Does the president reelection mean a green light for extractivism? Meanwhile, the mobilizations continue against mega mining and oil extraction, the scope of the conflict is still uncertain.

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Credits of the cover pictures: 1) Mining for the Good living: Banner placed on the Provincial direction of non-renewable resources in Zamora Chinchipe. Picture taken by Adolfo Maldonado from Clínica Ambiental. 2) Rights of Nature. Ecuador without

mining. Picture taken from <http://pachamama.org.ec/?p=4669> Acción de protección por los derechos de la naturaleza 18-01/2013