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RESOURCE

The Problem of Enforcing Nature's Rights under Ecuador's Constitution: Why the 2008 Environmental Amendments Have No Bite

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Description / Abstract

In 2008, Ecuador became the first nation to give rights to nature when it ratified constitutional amendments (new articles 71-74) that grant the environment the inalienable right to exist, persist, and be respected. Environmentalists hope Ecuador’s amendments will lead to improvement in a country devastated by resource exploitation, and that other countries will follow. Yet, many wonder whether the amendments will be enforced. This comment argues that—all things considered—successful execution of the amendments is unlikely. Ecuador’s President has not demonstrated a sincere intention or ability to implement the amendments. Further, plaintiffs who sue under the amendments face significant legal barriers, such as Ecuador’s lack of a standing doctrine and a history of judicial corruption and dysfunction. To counteract these problems, Ecuador should grant lifetime tenure to its constitutional court judges, codify a standing doctrine, create an independent enforcement body, and create an independent environmental tribunal with criminal contempt power.

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