

# **Shadows of Strife: The role of Environmental Law in Safeguarding People and the Environment in Times of Conflict**

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## **ABSTRACT**

### **The Power of Constitutional Rights in Resource Conflicts**

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Valle del Cura in San Juan, Argentina, is said to constitute one of the most important gold and silver districts in the world. However, despite the significant economic potential of resources in this area, projects have been mired in social conflict. This is largely because the area is also home to another invaluable natural asset, namely glaciers. Glaciers are large water reserves that contain 75 percent of the world's fresh water. The rock glaciers of the Andes Mountains are a significant source of Argentina's water supply and, therefore, critical to ecosystem survival. Over 20,000 glaciers and extensive ice-rich periglacial areas are distributed throughout what are, otherwise, some of the driest areas of the planet. Extractive methods used in gold mining are viewed as a threat to these glacial and water resources and present climate risks, but San Juan is not amongst the provinces that banned open-pit mining or the use of cyanide. This has led to protracted conflict with local communities and interest groups across the country, campaigning under the banner, 'Water is Worth More than Gold', a sentiment echoed across Latin America.

In response to public pressure and pursuant to its constitutionally mandated obligations, the national government enacted glacier protection legislation setting minimum standards for environmental protection and banning harmful activities on or near glaciers. It also authorized the development of a glacier inventory to support conservation efforts. This legislation was challenged by mining companies, but the Argentine courts relied upon constitutional environmental rights provisions to uphold the law. Moreover, constitutional environmental rights provisions empowered the judiciary to hold state actors accountable through criminal and administrative penalties. While outcomes have been mixed, the Argentine courts have on occasion taken an active role in ensuring that public officials fulfill their constitutional duties vis-à-vis the environment. The articulation of environmental values within the Constitution clarifies the minimum standard of environmental protection that is legally required and affords a powerful voice to citizens in the face of development pressures that can fill the gaps in planning measures. This, in turn, can allow for a more comprehensive dialogue about the merits of pursuing certain activities, particularly where irreparable harm to critical water resources is imminent.